

# AGENDA

## JAMES CITY COUNTY PLANNING COMMISSION

DECEMBER 8, 2003 - 5:30 P.M.

1. ROLL CALL
2. MINUTES (UNDER SEPARATE COVER)
  - A. November 3, 2003
  - B. September 8, 2003
3. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee Report 3
  - B. Policy Committee – By-law Changes 7
  - C. Other Committees
4. PUBLIC HEARINGS
  - A. Z-9-03 - Williamsburg Community Chapel Rezoning 13  
Z-12-03 - Jamestown Hundred Proffer and Master Plan Amendment  
SUP-20-03 - Jamestown Hundred Master Plan Amendment
  - B. Z-11-03 & MP-11-03 – Stonehouse Modifications 15
  - C. Z-10-03 & MP-10-03 – Hiden Property Proffer & Master Plan Amendment 17
  - D. SUP-19-03 – Christian Life Center 43
  - E. SUP-22-03 – Busch Oktoberfest Expansion 51
  - F. SUP-21-03 – Milanville Kennel 59
  - G. SUP-16-03 Williamsburg Winery - Gabriel Archer Tavern 67
  - H. Z-8-03 & MP-9-03 - Norge Neighborhood 75
5. PLANNING COMMISSION CONSIDERATION
  - A. 2004 PLANNING COMMISSION CALENDAR 107
6. PLANNING DIRECTOR'S REPORT 109
7. ADJOURNMENT

**JAMES CITY COUNTY  
DEVELOPMENT REVIEW COMMITTEE REPORT**

**FROM: 11/1/2003**

**THROUGH: 11/30/2003**

**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 Ph. 3 at Jockey's Neck
SP-089-01	Ewell Station Storm Water Management Fac. Mod.
SP-109-01	Monticello Avenue Extended - SP Amendment
SP-116-01	Powhatan Secondary - Ph. 7, Sanitary Sewer Ext.
SP-112-02	Ford's Colony Recreation Park
SP-030-03	Old Capitol Lodge Site Plan Amendment
SP-045-03	Noah's Ark Vet Hospital SP Amendment
SP-052-03	Kingsmill Access Ramp for Pool Access Bldg.
SP-056-03	Shell Building - James River Commerce Center
SP-063-03	District Park Sports Complex Parking Lot Expansion
SP-077-03	JCC Courthouse Bioretention Demonstration Project
SP-079-03	Tequila Rose Walk-in Cooler
SP-082-03	Williamsburg Winery-Gabriel Archer Tavern
SP-086-03	Colonial Heritage Golf Course
SP-087-03	Busch Gardens Maintenance Storage Building
SP-095-03	KTR Stonemart
SP-097-03	Colonial Heritage Boulevard, Ph. 2
SP-105-03	Colonial Heritage Construction Office
SP-108-03	Fieldstone Parkway Extension
SP-118-03	New Town Block 2 Amendment
SP-127-03	New Town - Old Point National Bank
SP-129-03	Busch Gardens Oktoberfest Expansion
SP-131-03	Colonial Heritage Ph. 2, Sec. 1
SP-132-03	Windy Hill Market Gas Pumps & Canopy SP Amendment
SP-134-03	Ironbound Center - 4
SP-135-03	Custom Culinary Connections
SP-136-03	GreenMount Industrial Park Road Extension
SP-137-03	Williamsburg Winery Sewer Collection System
SP-138-03	New Town - Prudential-McCardle Office Building
SP-139-03	New Town Block 8, Ph. 1

**B. PENDING FINAL APPROVAL**

		<b>EXPIRE DATE</b>
SP-027-02	120' Stealth Tower--3900 John Tyler Highway	6/13/2004
SP-061-02	Powhatan Plantation Recreation Bldg Amd	6/18/2004
SP-144-02	J.W. Crossing, Ph. 2	2/20/2004

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SP-005-03	Hankins Farm Water and Sewer Extension	5/27/2004
SP-009-03	Energy Services Group Metal Fabrication Shop	11/14/2004
SP-015-03	Monticello Woods Community Center	4/10/2004
SP-035-03	Prime Outlets, Ph. 5-A & 5-B - SP Amendment	4/30/2004
SP-049-03	James River Commerce Center Columbia Drive	5/19/2004
SP-050-03	Wmbg-Jamestown Airport T-Hanger & Parking Exp.	7/29/2004
SP-053-03	George Nice & Sons Fill Project	8/ 8/2004
SP-066-03	Colonial Heritage Ph. 1, Sec.1, SP Amendment	6/20/2004
SP-075-03	James City County Fire Station No.2	7/14/2004
SP-089-03	Ford's Colony - Country Club Redevelopment Plans	8/ 4/2004
SP-091-03	Colonial Heritage Ph. 1, Sec. 5	8/ 4/2004
SP-092-03	Ford's Colony - Westbury Park, Recreation Area #2	9/ 8/2004
SP-107-03	Colonial Heritage Golf Maintenance Facility	9/24/2004
SP-112-03	Faith Baptist Church Recreation Building	11/19/2004
SP-113-03	Penske Maintenance and Service Center	9/26/2004
SP-114-03	Thayer-Smith Self Storage	10/ 2/2004
SP-116-03	Kingsmill - Armistead Point	11/19/2004
SP-122-03	St. Bede's Catholic Church Prayer Garden	11/20/2004
SP-126-03	Busch Gardens - Italy Bridge Renovation	11/19/2004
SP-128-03	Monster Storage	11/20/2004
SP-130-03	Wythe-Will Distributing Company, LLC	11/12/2004
SP-133-03	CoreSix Precision Glass Employee Recreation Area	11/18/2004

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

#### **DATE**

SP-033-03	The Colonies at Williamsburg Entrance Road	11/26/2003
SP-093-03	New Town - WindsorMeade Way	11/ 5/2003
SP-110-03	Colonial Heritage Ph. 1, Sec. 2 Parking Amendment	11/18/2003
SP-125-03	Whitehall Restaurant	11/26/2003

#### **D. EXPIRED**

#### **EXPIRE DATE**

## 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, Sec. 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-008-02	James F. & Celia Ann Cowles Subdivision
S-031-02	Bruce's Super Body Shop, Lot 2 subdivision
S-086-02	The Vineyards Ph. 3 BLA Lots 1, 5-9, 52
S-008-03	Norge-Fenton Mill BLA
S-056-03	Colonial Heritage Ph. 1, Sec. 4
S-058-03	Ford's Colony - Sec. 10, 171-172
S-062-03	Hicks Island - Hazelwood Subdivision
S-063-03	102 Lands End BLA + BLE
S-066-03	Stonehouse, BLA & BLE Parcel B1 and Lot 1, Sec. 1A
S-067-03	Ford's Colony Sec. 33, Lots 1-49
S-068-03	Williamsburg Farms
S-071-03	Fire Station 2 BLE
S-083-03	Columbia Drive Subdivision
S-086-03	James River Commerce Center Stormwater Mgt.
S-091-03	Village Housing at the Vineyards Ph. 3, Lot 36- 37
S-094-03	Brandon Woods Parkway ROW
S-097-03	Stonehouse Community Recreation Center II-D
S-098-03	Stonehouse Glen, Sec. 1
S-099-03	Wellington, Section 5
S-100-03	Colonial Heritage Ph. 2, Sec. 1
S-101-03	Ford's Colony - Sec. 35
S-104-03	P.W. Development, Inc., Sec. 3

### B. PENDING FINAL APPROVAL

	EXPIRE DATE	
S-037-02	Village Housing at the Vineyards, Ph. 3	5/ 5/2004
S-039-02	Powhatan Secondary, Ph. 6-C	5/ 8/2004
S-052-02	The Retreat--Fence Amendment	6/18/2004
S-076-02	Marion Taylor Subdivision	10/ 3/2004
S-094-02	Powhatan Secondary Ph. 7-C	12/30/2003
S-107-02	Greensprings West, Ph. 3-C	4/18/2004
S-108-02	Scott's Pond, Sec. 3	1/13/2004
S-112-02	Kensington Woods	2/ 6/2004
S-015-03	Season's Trace Winter Park Lots 51-74	4/15/2004

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S-021-03	Stonehouse Sec. 2-C Easements	5/ 2/2004
S-033-03	Fenwick Hills, Sec. 2	10/31/2004
S-041-03	Williamsburg Physicians Center - Parcel D	6/25/2004
S-044-03	Fenwick Hills, Sec. 3	6/25/2004
S-049-03	Peleg's Point, Sec. 5	7/ 3/2004
S-055-03	Colonial Heritage Ph. 1, Sec. 5	8/ 4/2004
S-057-03	Ford's Colony - Sec. 34	8/19/2004
S-059-03	Colley Avenue Associates, LLC (Green Cove)	10/ 2/2004
S-073-03	Colonial Heritage Ph. 2, Sec. 2	10/ 6/2004
S-076-03	Wellington, Sec. 4	11/ 3/2004
S-077-03	James Terrace, Sec. 10, Lots 4-6	10/ 1/2004
S-078-03	Monticello Woods - Ph. 2	11/ 3/2004
S-082-03	Monticello Woods - Lots 6-18, 31-38, 113 & 130	10/ 9/2004
S-084-03	Stonehouse at Williamsburg, LLC	10/23/2004
S-085-03	Liberty Property Limited Partnership	10/23/2004
S-092-03	Plat of Subdivision and BLA Ford's Colony	11/ 4/2004
S-096-03	James F. Cowles Subdivision Plat 1	11/20/2004
S-103-03	903 Penniman Road BLA	11/19/2004

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

#### **DATE**

S-101-01	Greensprings West, Ph. 4A	11/ 7/2003
S-101-02	Sheldon Properties, L.L.C.	11/12/2003
S-053-03	Hollinger Family Subdivision	11/14/2003
S-079-03	Richardson's Mill - Sec. 1, Lots 32 and 33	11/ 3/2003
S-088-03	Woodland Farms Lot 4, Sect. 5	11/25/2003
S-095-03	Kingsmill River's Edge Ph. 4	11/24/2003
S-102-03	Richardson's Mill - Sec. 7A, Lot 28	11/ 7/2003

#### **D. EXPIRED**

#### **EXPIRE DATE**

**DEVELOPMENT REVIEW COMMITTEE ACTION REPORT**  
**Meeting of December 3, 2003**

**Case No. S-099-03 Wellington, Section 5**

Mr. Jason Grimes, on behalf of Wellington LLC, submitted a subdivision plan proposing the creation of 68 lot single-family residential lots within the Wellington subdivision. The proposed lots are located off Rochambeau Drive in Stonehouse. The parcel is further identified as parcel (1-12) on James City County Tax Map (13-3). The Zoning Ordinance requires that major subdivisions of fifty or more lots be reviewed by the DRC.

**DRC Action:** The DRC deferred consideration of this case until the January 7, 2004, DRC meeting.

**Case No. SP-131-03/S-100-03 Colonial Heritage, Phase 2, Section 1**

Mr. Chris Mulligan of AES Consulting Engineers, on behalf of U.S. Homes, submitted a subdivision plan proposing 138 dwelling units within Colonial Heritage. These 138 units are broken down into sixty Single Family Attached Units and seventy-eight Condominium units. The parcel is on Richmond Road and is further identified as parcel (1-32) on James City County Tax Map (37-4). The Zoning Ordinance requires that major subdivisions of fifty or more lots be reviewed by the DRC.

**DRC Action:** The DRC voted unanimously to recommend preliminary approval be issued for this project subject to all agency comments being addressed.

**Case No. SP-127-03 New Town - Old Point National Bank: Request for Modification to Perimeter Setback**

Mr. Shawn Lemon, on behalf of Old Point National Bank, submitted a site plan proposing the construction of a bank building in New Town. The parcel is located at 4139 Ironbound Road and is further identified as parcel (1-42) on James City County Tax Map (39-3). DRC review is necessary because Section 24-527(b) of the Zoning Ordinance states that a setback of 50' shall be maintained from the perimeter of a mixed use district. While this site plan currently meets the requirement, the future realignment of Ironbound necessitates an exception to the requirement.

**DRC Action:** The DRC approved the request for modification.

**MEMORANDUM**

**DATE:** December 8, 2003  
**TO:** The Planning Commission  
**FROM:** O. Marvin Sowers, Jr. Planning Director  
**SUBJECT:** By-Law Amendments

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Attached is a revised copy of the Planning Commission's By-Laws. The amendments, which address the structure of the Commission's Nominating Committee, will be presented at the December meeting by Commissioners Kale and McCleary. Commissioner Kale requested that the amendments be circulated at this time to accommodate the required 30 day notice period prior to the Commission's January, 2004 meeting when the item will be on the agenda for action.

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O. Marvin Sowers, Jr.

Attachment

## B Y L A W S

### PLANNING COMMISSION

#### COUNTY OF JAMES CITY, VIRGINIA

##### ARTICLE I. OBJECTIVES

This Commission was established by the Board of Supervisors of James City County on April 13, 1953, to direct the development of James City County and ensure its prosperity, health, safety, and general welfare, in accordance with the provision of Chapter 22, Title 15.2, Article 2, Code of Virginia, and all amendments or changes.

##### ARTICLE II. MEMBERSHIP

The Planning Commission shall consist of 7 or 9 members, each appointed by the Board of Supervisors for a term of four years.

##### ARTICLE III. MEETINGS

1. All regular meetings of the Planning Commission of James City County shall be open to the public.
2. Regular meetings of the Commission may be called by the Chair or by two members upon written request to the Secretary. The Secretary shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time, place and the purpose of the meeting.
3. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or at a previous special meeting at which all members were present.
4. The Planning Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the Order of Adjournment. When a regular or adjourned regular meeting is adjourned as stated in this paragraph, the resulting adjourned meeting is a regular meeting for all purposes. When an Order of Adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. Adjourned special meetings will be considered special meetings for all purposes and all regulations concerning special meetings must apply.
5. A quorum of the Commission shall consist of a majority of the members of the Commission. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
6. The annual meeting for the election of officers (Chair and Vice Chair) shall be held at the regular meeting in February of each year and the newly elected officers shall preside at the regular meeting in February. Prior to the February meeting, the Nominating Committee shall propose nominations for Chair and Vice Chair. Additional nominations may be made during the election process at the February meeting. When a vacancy occurs for the Chair or Vice Chair, an election shall be held on the next regular meeting date.
7. All minutes and records of the Commission of its meetings, resolutions, transactions and votes, shall be kept by the Secretary. The Secretary shall be from the Planning Division.



#### ARTICLE IV. MATTERS PENDING BEFORE THE COMMISSION

1. All matters which require an advertised public hearing in accordance with Section 15.2-2204 of the Code of Virginia, as amended, and which meet submittal requirements filed at least six weeks before the regular meeting in the Planning Division, are to be placed on the agenda for the advertised public hearing. All other matters filed at least 15 days before the regular meeting in the Planning Division are to be placed on the agenda. Any matter not placed on the agenda can be considered at the meeting by a majority vote of the Commission.
2. For each public hearing notices shall be forwarded to the Commission members 15 days prior to the public hearing.

#### ARTICLE V. HEARINGS

1. Advertised public hearings shall be scheduled during a regular meeting, except in the event of a joint public hearing between the Planning Commission and the Board of Supervisors.
2. For each public hearing item, it shall be the policy of the Commission that presentations by staff, applicants, individuals or groups be limited as follows:
  - a. Presentations by staff and applicants should be limited to 15 minutes each;
  - b. Comments by individuals should be limited to 5 minutes each;
  - c. Comments by citizen groups should be limited to 10 minutes each; provided, however, citizen groups, staff, and applicants may speak for more than 15 minutes with approval of the Chairperson of the Planning Commission at least one week in advance of the meeting; and
  - d. At a meeting, the above time limits (a, b & c) may be extended by approval of at least two-thirds of the commission members present.

#### ARTICLE VI. VOTING

1. No member present shall abstain from voting on a roll call vote unless a member has a conflict of interest in the matter being voted upon.
2. In reporting a vote to the Board, the Secretary shall indicate (in writing) the recorded roll call vote.

#### ARTICLE VII. DUTIES

##### A. CHAIR

The Chair shall have the following duties:

1. Preside at meetings and hearings of the Commission;
2. When authorized by the Commission, the Chair shall execute in its name all its obligations;

3. The Chair or his designee shall represent the Commission and keep them informed when not in session;
4. The Chair shall nominate all members of committees and subcommittees; and
5. The Chair or his appointee shall act as liaison with the Williamsburg and York County Planning Commissions.

**B. VICE CHAIR**

The Vice Chair shall perform the duties of the Chair during the absence or disability of the Chair.

**C. SECRETARY (Director of Planning)**

The Secretary shall have the following duties:

1. Keep a record of all regular, adjourned regular, special, and adjourned special meetings and public hearings and transcribe in a minute book of the Commission;
2. Make all notices of all meetings required to be sent under these Bylaws to Commission members;
3. Have charge of all official books, papers, maps, and records of the Commission and shall conduct all official correspondence relative to hearings, meetings, resolutions, decisions, and other business of the Commission;
4. Receive minutes of all committee meetings and preserve these as records of the Commission; and
5. The Secretary shall notify the Vice Chair, by telephone or in person, on the day the Chair informs him that he will not be present at a scheduled meeting. It is the duty of the Secretary to brief the Vice Chair on items to come before the Commission when he presides.

**D. MEMBERSHIP**

Members of the Planning Commission shall have the following duties:

1. Attend regular, adjourned regular, special and adjourned special meetings and public hearings;
2. Attend regular committee meetings to which the member is appointed;
3. Represent the Planning Commission at Board of Supervisors meetings in rotation; and
4. Attend ad-hoc committee meetings as agreed to by the Planning Commission.

**ARTICLE VIII. COMMITTEES**

1. The Director of Planning or his designee shall serve as an ex officio member of all standing and special committees.

2. All committee reports written or oral are considered a permanent record of the Commission.
3. The following committees and their Chair shall be appointed by the Chair within sixty days after the Chair takes office:
  - a. Development Review Committee. This Committee shall be composed of at least four members and have the following responsibilities:
    1. Review those applications for subdivisions which must receive Commission approval, receive and review staff reports on them, and make recommendations to the Commission; and
    2. Review those site plan applications which must receive Commission approval, receive and review staff reports on them, and make recommendations to the Commission.
  - b. Policy Committee. This Committee shall be composed of at least four members and shall have the following responsibilities:
    1. Address long-range planning goals and explore strategies for achieving them; and
    2. Address ways to maintain and improve working relationships between the Commission, other County organizations, as well as with surrounding jurisdictions and organizations involved in planning initiatives.
  - c. Leadership Committee. This committee shall be composed of four members, including but not limited to the Chair and Vice Chair of the Planning Commission and the Chair of the Development Review Committee and Policy Committee. The Leadership Committee shall have the following responsibilities:
    1. Review policies and procedures under which the Planning Commission operates and recommend changes to make the Commission more effective, efficient, and better recognized by the public and elected officials; and
    2. Review concerns raised regarding the conduct of the Commission.
  - d. **Nominating Committee. This Committee shall be comprised of four members headed by all members of the Planning Commission, excluding the Chair, who shall not be eligible for membership on the Nominating Committee. The Vice-Chair of the Planning Commission shall be Chair of the Nominating Committee. , and the Chair of the Development Review Committee, the Chair of the Policy Committee, and one other member elected by the full Planning Commission. The Chair of the Planning Commission shall not be eligible for membership on the Nominating Committee.**

#### ARTICLE IX. PARLIAMENTARY AUTHORITY AND ORGANIZATIONAL PROCEDURE

The rules contained in the last revised edition of Robert's Rules of Order to the extent that such rules are not

in conflict with these Bylaws shall apply at all meetings of the Commission and its committees.

#### ARTICLE X. AMENDMENT

Amendments may be made to these Bylaws by a two-thirds (2/3) vote of the voting members only after a minimum 30 days' prior notice is given and only at a regular scheduled meeting.

Adopted November 28, 1978

Amended July 10, 1990

Amended May 12, 1992

Amended March 8, 1994

Amended May 4, 1998

Amended June 1, 1998

Amended June 3, 2002

Amended August 5, 2002

Amended December 8, 2003

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A. Joe Poole, III, Chair  
Planning Commission

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**REZONING 9-03/REZONING 12-03/SPECIAL USE PERMIT 20-03. Williamsburg Community Chapel Rezoning/Jamestown Hundred Proffer and Master Plan Amendment  
Staff Report for December 8, 2003, 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: November 3, 2003 - 7:00 p.m. Building C Board Room (deferred)  
December 8, 2003 - 5:30 p.m. Building C Board Room  
Board of Supervisors: January 13, 2004 - 7:00 p.m. Building J Board Room (tentative)

**SUMMARY FACTS**

Applicant: Craig G. Covey, Hening-Vest-Covey-Chenault  
Land Owner: Williamsburg Community Chapel  
Proposed Use: Infill development of four single-family residential lots in the Jamestown Hundred Subdivision  
Location: 3899 John Tyler Highway; Berkeley District  
Tax Map/Parcel No.: (46-1)(1-2A)  
Primary Service Area: Inside  
Parcel Size: 1.21 acres out of 15.12 total acres  
Existing Zoning: R-8, Rural Residential  
Proposed Zoning: R-2, General Residential, Cluster with Proffers  
Comprehensive Plan: Low Density Residential  
Surrounding Zoning: North (across John Tyler Highway): R-8, Rural Residential  
South and West: R-2, General Residential  
East: R-1, Limited Residential  
Staff Contact: David Anderson Phone: 253-6685

**STAFF RECOMMENDATION:**

The applicant has requested that the Planning Commission defer this case until the January 12, 2004 Planning Commission Meeting in order to allow more time to resolve outstanding issues between the residents of Jamestown Hundred, the Williamsburg Community Chapel, and Hampton Roads Development, Inc. Staff concurs with the request.

## **Z-11-03 & MP-11-03. Stonehouse Planned Community**

### **Staff Report for the December 8, 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**

County Government Complex  
Planning Commission: December 8, 2003, 5:30 p.m. Building C Board Room  
Board of Supervisors: January 13, 2004, 7:00 p.m. Building J Board Room (Tentative)

#### **SUMMARY FACTS**

Applicant: Mr. Alvin Anderson, Kaufman & Canoles

Land Owner: Ken McDermott, Stonehouse at Williamsburg, LLC

Proposed Use: To amend the master plan and proffers for the Stonehouse Planned Community by realigning Fieldstone Parkway, shifting residential densities and rezoning some landbays to residential. There is no proposed increase to the total number of approved residential units within the Stonehouse Planned Community.

Location: 9235 Fieldstone Parkway & 9186 Mount Zion Road  
Stonehouse District

Tax Map/Parcel: (4-4)(1-29) and a portion of (6-4)(1-1)

Primary Service Area: Inside

Parcel Size: 209 acres out of 2,182 acres

Existing & Proposed Zoning: Planned Unit Development Residential & Commercial with Proffers

Comprehensive Plan: Low Density Residential & Mixed Use

Surrounding Zoning: North & East: New Kent County—Agricultural Zoning  
James City County rural lands zoned A-1  
PUD-R: Stonehouse  
South: PUD-R: Stonehouse  
West: Interstate 64 and  
PUD-C: Stonehouse Commerce Park

Staff Contact: Karen Drake - Phone: 253-6685

#### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission defer this case until the January 12, 2004 Planning Commission Meeting. This deferral will provide staff and the applicant additional time to resolve outstanding issues regarding:

1. The Stonehouse Master Plan
2. The Stonehouse Stormwater Management Master Plan
3. The Stonehouse Master Water & Sewer Plan
4. Ensure coordination of responsibilities between the two primary property owners (Stonehouse at Williamsburg & Stonehouse Development Company) of the Stonehouse Planned Community.

**Rezoning 10-03; Master Plan 10-03. Hiden Property Proffer and Master Plan Amendment**  
Staff Report for the December 8, 2003, 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:**

County Government Complex

December 8, 2003 - 5:30 p.m., Building C Board Room

**Board of Supervisors:**

January 13, 2004 - 7:00 p.m., Building F Board Room (Tentative)

**SUMMARY FACTS**

**Applicant:**

Mr. V. Marc Bennett of AES Consulting Engineers

**Land Owner:**

Powhatan Crossing, Inc.

**Proposed Use:**

These applications seek to amend the existing proffers and master plan to redefine the road alignment and acknowledge all streets as private in Area 2 for the development of 400 age-restricted residential units.

**Location:**

4100 Monticello Avenue; Powhatan District

**Tax Map and Parcel Nos.:**

(37-4)(1-9) and (37-4)(1-10)

**Primary Service Area:**

Inside

**Parcel Size:**

± 218.3 acres

**Existing Zoning:**

PUD-R, Planned Unit Development, Residential, with Proffers

**Proposed Zoning:**

PUD-R, Planned Unit Development, Residential, with amended Proffers

**Comprehensive Plan:**

Low Density Residential; Conservation Area

**Surrounding Zoning:**

North: Monticello Woods, PUD-R

South: undeveloped land, R-8

East: Powhatan Plantation, PUD-R; Powhatan Crossing, R-1

West: Greensprings Plantation, R-4

**Staff Contact:**

Christopher Johnson

Phone: 253-6685

**STAFF RECOMMENDATION:**

Staff finds the revised proffers and master plan are consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of the master plan changes and acceptance of the amended proffers.

**Project Description**

Mr. Marc Bennett of AES Consulting Engineers has applied on behalf of Powhatan Crossing, Inc. to rezone the Hiden property from PUD-R, Planned Unit Development, with proffers, to PUD-R, Planned Unit Development, with amended proffers. The request seeks to amend the proffers and master plan to redefine the road alignment and acknowledge all streets as private in Area Two for the development of 400 age-restricted units. The Hiden property is generally located at 4100 Monticello Avenue, directly south of the Monticello Woods subdivision and is designated as Parcels (1-9) and (1-10) on James City County Tax Map (37-4).

## **History**

On November 27, 1997, the Board of Supervisors approved a rezoning of the 338-acre Hiden property from R-8, Rural Residential, to PUD-R, Planned Unit Development, Residential, with proffers. Construction of Monticello Avenue bisects 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 proffers adopted in 1997 allowed for the construction of 350 timeshare units on the southern property. On July 8, 2003, the Board of Supervisors approved a rezoning and master plan amendment which permitted the development of 400 age-restricted units on the southern portion of the property in place of the approved 350 timeshare units.

## **Surrounding Development and Zoning**

The property is surrounded by a mixture of residential development and undeveloped parcels. The Monticello Woods subdivision, which was part of the original Hiden rezoning, is located north of the property across Monticello Avenue and is zoned PUD-R, Planned Unit Development, Residential. This is referred to as Area One in the master plan and proffers. Powhatan Plantation timeshares are located due east of the property and are also zoned PUD-R. The Powhatan Crossing subdivision, zoned R-1, Limited Residential, is located on the southern end of the property's eastern boundary. The property to the west across the mainstem of Powhatan Creek is part of Greensprings Plantation, zoned R-4, Residential Planned Community. The southern portion of the property is adjacent to undeveloped land zoned R-8, Rural Residential.

## **Powhatan Creek Watershed**

The James City County Environmental Division has reviewed the amended proffers and master plan and continues to agree that the proposal meets the objectives of the Powhatan Creek Watershed Study. The environmental protections provided by the proffers exceed those which were provided under the original approved plan. The current applications do not propose any alteration of the 300-foot RPA buffer along Powhatan Creek or the 100-foot buffer previously proffered between the southern boundary of the property and the Powhatan Crossing subdivision.

The applicant has proposed to redefine the road alignment within Area 2 of the property. The adopted master plan identified a wetlands crossing for the entrance road on the western side of the property adjacent to the proposed recreation facility. The current application proposes a modification of the wetlands crossing approximately 665 feet to the east of the original roadway. The modification has already received the approval of the U.S. Army Corps of Engineers. The roadway realignment would result in minor changes to the multifamily and single-family land bays and the recreation area in Area 2. Staff does not feel that the proposed realignment will create any additional impacts on the adjacent properties.

## **Proffers**



The applicant has proposed two changes to the proffers which were accepted by the Board of Supervisors in July 2003 with Case Nos. Z-2-03/MP-1-03:

1. Proffer No. 4, Monticello Avenue Greenbelt. The applicant has revised the proffer to allow selected hand clearing and trimming of trees and other plants, the planting of new landscaping, and installation of landscaped berms within the 150-foot greenbelt buffer subject to the approval of a landscape plan by the Planning Director. The revised proffer continues to state that the Planning Commission may allow disturbance of the 150-foot greenbelt buffer for the location of utilities, drainage improvements, community entrance roads, pedestrian/bicycle trails, lighting, and entrance features and signs.
2. Proffer No. 15, Private Streets. In accordance with County Code, the applicant has included a note on the master plan and provided a proffer to indicate that all streets within Area 2 of the property shall be private and conform to VDOT construction standards.

Staff finds that the voluntary proffers offset potential impacts and recommends their acceptance.

### **Comprehensive Plan**

The James City County Comprehensive Plan Land Use Map designates these properties as Low Density Residential and Conservation Area. 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 land development, physical attributes of the property, buffers, the number of dwelling units, and the degree to which the development is consistent with the Comprehensive Plan. Conservation areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands designated for conservation are intended to remain in their natural undisturbed state.

The Comprehensive Plan also designates Monticello Avenue as a Community Character Corridor. Previous rezonings of the property provided proffers which provide the recommended 150-foot greenbelt along both sides of Monticello Avenue.

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

### **Recommendation:**

Staff finds the revised proffers and master plan are consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of the master plan changes and acceptance of the amended proffers.

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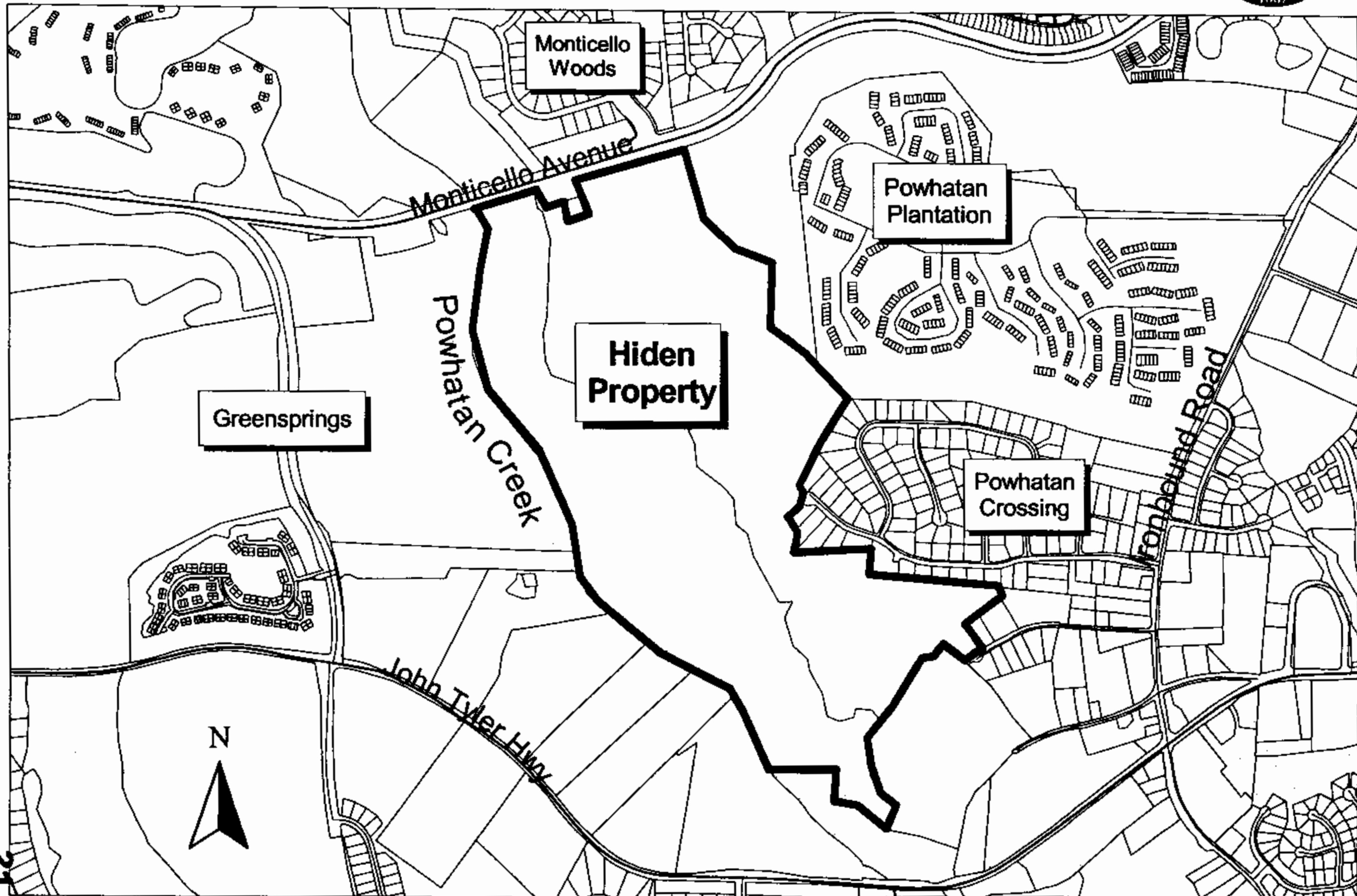
Christopher Johnson

Attachments:

1. Location map
2. Master Plan (provided under separate cover)
3. Proffers

Z-10-03/MP-10-03

# Hidden Property Proffer Amendment



SECOND AMENDED AND RESTATED

HIDEN PROPERTY PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made as of this ~~26<sup>th</sup>~~ day of November, 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. In 2003 the Owner applied for and the County granted approval of a master plan and proffer amendment for the Property. In connection therewith, Owner submitted and the County approved an amended Master Plan in accordance with the County Zoning Ordinance 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 "Approved Master Plan") and Amended and Restated Proffers dated July 8, 2003 and recorded in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 030021212 (the "Approved Proffers").

D. Owner has now applied for an amendment to the Approved Master Plan for the Property pursuant to the County Zoning Ordinance and, in connection therewith, desires to amend and restate the Approved 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 in accordance with

Section 24-497(d) of the Code of James City County, 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, if applicable, 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, except as permitted below, shall be undisturbed. With the prior 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 may be located in the greenbelt buffer. A landscaping plan for the greenbelt buffer which may include, without limitation, select hand clearing and trimming of trees and other plants, planting of new landscaping, including trees and shrubs, and installation of landscaped berms, submitted to and approved by the Director of Planning may be implemented.

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 County Engineer 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 JCSA may use these funds for development of alternative water sources or any project related to improvements

to the JCSA 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

JCSA 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 JCSA 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. Private Streets. All streets (as defined by the County Code) within Area 2 of the Property shall be private and shall conform to VDOT construction standards. All private streets shall be certified to the satisfaction of the County Engineer as required by Section 19-49 of the County Code.

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

17. 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.

By: 

Title:

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

The foregoing instrument was acknowledged before me  
this 26 day of NOVEMBER, 2003 by C. LEWIS VAUCLIFF, as  
PRESIDENT of Powhatan Crossing, Inc.

  
NOTARY PUBLIC

My commission expires:

9/30/07

**SPECIAL USE PERMIT 19-03. CHRISTIAN LIFE CENTER**  
**Staff Report for the December 8, 2003, 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

December 8, 2003, 7:00 p.m.

Board of Supervisors:

January 13, 2004, 7:00 p.m. (Tentative)

**SUMMARY FACTS**

Applicant:

Mr. Marc Bennett of AES Consulting Engineers

Landowner:

Mr. Thomas M. Wells, Trustee of Christian Life Center

Proposed Use:

Expansion of a House of Worship & Construction of a Youth Fellowship Hall

Location:

4451 Longhill Road, Powhatan District

Tax Map and Parcel No.:

(32-3)(1-3)

Primary Service Area:

Inside

Parcel Size:

18.879 acres

Existing Zoning:

R-8, Rural Residential

Comprehensive Plan:

Low Density Residential and Conservation Area

Surrounding Zoning:

North: R-2, General Residential & Lafayette High School  
East & South: R-2, General Residential; Windsor Forest  
West: R-2, General Residential; Longhill Gate Subdivision  
R-8, Rural Residential; James City County Property

Staff Contact:

Karen Drake - Phone: 253-6685

**STAFF RECOMMENDATION:**

Staff finds the Christian Life Center's proposed expansion to be consistent with the existing church, surrounding development, zoning and the 2003 Comprehensive Plan. Staff recommends the Planning Commission approve this Special Use Permit application with the conditions listed in the staff report.



### ***Project Description***

Mr. Marc Bennett of AES Consulting Engineers has applied on behalf of the Christian Life Center for a Special Use Permit to allow for a two phased expansion of the church's facilities. A Special Use Permit is required for houses of worship in R-8, Rural Residential Districts.

Located at 4451 Longhill Road, the Christian Life Center is currently housed in a three story building with a maximum of 21,218 square feet/floor. The Phase I expansion includes the construction of a separate two story, maximum 5,000 square foot/floor building for youth fellowship. Phase I also includes constructing thirty-one additional parking spaces and a second exit from the property onto Longhill Road. The Phase II expansion includes a three story, maximum 20,244 square foot/floor expansion of the existing three story church facility where the main sanctuary is located. The Phase II building expansion would provide additional classroom, nursery and fellowship space.

### ***History***

The Christian Life Center was launched in May 1994. Prior to occupying the current site, the Christian Life Center was located in the old "Bonanza" steak restaurant, located on Richmond Road in the City of Williamsburg. The Christian Life Center has occupied their current facility on Longhill Road since March 2000.

The original site plan for the current three story Christian Life Center sanctuary was approved by the Planning Division in November, 1998 and amended in March, 1999 before a Special Use Permit was required. The James City County Zoning Ordinance was amended in December 1999 to require a Special Use Permit for houses of worship on R-8 Zoned Property.

The current size of the Christian Life Center congregation is 525 people, increasing 10% a year since locating on Longhill Road. Worship programs are held Sunday mornings, with special Christian Life Center groups meeting Monday, Wednesday and Friday evenings. During the week, in addition to the Christian Life Center activities, the site is used occasionally for meetings by groups not affiliated the Christian Life Center.

### ***The Site***

The property, which is triangular in shape, is located on the south side of Longhill Road. Lafayette High School is located on the opposite side of Longhill Road. To the East and zoned R-2, General Residential, the Christian Life Center and the Windsor Forest subdivision is buffered by the undeveloped Hornsby property. To the west, the Christian Life Center is adjacent to undeveloped James City County property and the Longhill Gate community.

The Christian Life Center is located inside the Primary Service Area and is served by public water & sewer.

The Christian Life Center property itself is environmentally sensitive with wetlands and resource protection areas of the Longhill Swamp that dictate the Christian Life Center building locations. A conservation easement dedicated to James City County already exists on the property. The Christian Life Center is located within the Powhatan Creek Watershed. A special use permit condition has been added to ensure that the existing stormwater management pond is upgraded to meet current standards as well as the goals of the Powhatan Creek Watershed Plan.

### ***Traffic/Access***

The Christian Life Center currently has one entrance/exit onto Longhill Road. A center turn lane already exists on Longhill Road to access the site. A traffic study was submitted with the special use permit application documenting that the proposed Christian Life Center expansion does not affect the level of service on left turns to any great extent. The existing center left turn

lane on Longhill Road can accommodate future left turns generated by the expansion of the Christian Life Center. VDOT and staff concur with the traffic study results.

It should be noted that the traffic study submitted for the Christian Life Center addresses traffic based on the current usage of the site as a house of worship. If the Christian Life Center wishes to expand their program offerings in the future to include adult day care, child day care, pre-school and/or a school that would operate Monday through Friday as an additional use of the property, a separate special use permit would be required. Staff is very concerned about the safety and traffic impacts on Longhill Road should the fundamental use of the Christian Life Center expand from the original use as a house of worship. Staff is not concerned if the Christian Life Center provides child care or study groups typically offered during the main worship services.

To facilitate traffic movement within the Christian Life Center's expanding congregation, a second exit is proposed that would be aligned with the existing exit for Lafayette High School. The second exit would be constructed with the Phase I expansion of the Center and would be a one-way driveway for right turns onto Longhill Road. A special use permit condition is proposed that the driveway would be engineered to meet VDOT standards, of a narrow width to provide a one way, right turn only exit out of the Christian Life Center, with no possibility of a left turn from this exit or used as a second entrance.

### ***Comprehensive Plan***

The 2003 Comprehensive Land Use Map designates the Christian Life Center as Low Density Residential. 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. Non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located and should have traffic, noise, lighting and other impacts similar to surrounding or planned residential uses. Very limited commercial establishments, schools, churches, and community-oriented facilities should generally be located on collector or arterial roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area. Staff finds the Christian Life Center to be consistent with the 2003 Comprehensive Plan land low density residential land use designation.

Additionally, the Christian Life Center is located on the Longhill Community Character Corridor. To ensure that the Community Character Corridor goals are met with the expansion, a special use permit condition is proposed to provide enhanced landscaping around the buildings and along Longhill Road to help mitigate the impact and scale of the existing facility and the proposed expansion.

### **Recommendation:**

Staff finds the Christian Life Center's proposes expansion to be consistent with the existing church, surrounding development, zoning and the 2003 Comprehensive Plan. Staff recommends the Planning Commission approve this Special Use Permit application with the conditions listed below:

1. Master Plan: The Christian Life Center expansion shall be built in accordance with the submitted binding schematic plan for the "Christian Life Center" dated September 17, 2003. The Phase I building expansion shall be limited to a 5,000 square foot/floor separate building that shall be located at least 10 feet from the Resource Protection Area Buffer, construction of additional parking spaces and a right-only exit driveway. The Phase II

building expansion shall be limited to a three story 20,250 square foot/floor expansion attached to the existing three story 21,418 square foot/floor existing building.

2. Traffic: The second driveway exit shall be constructed and completed prior to the final certificate of occupancy of Phase I of the Christian Life Center expansion. The second exit shall be engineered to meet VDOT standards, of a narrow width to provide a one way, right turn only exit out of the Christian Life Center, with no possibility of making a left turn from this exit or using it as a second entrance.
3. Architecture: Prior to final site plan approval for Phase I, the Planning Director shall review and approve the final architectural design of the new building and the expansion of the existing building. For the expansion of the existing main building, the building materials, scale, and colors of the addition shall be compatible with that of the existing structure. For the new two story building, the building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled "Christian Life Center Youth Fellowship Building" submitted with this special use permit, dated September, 2003 and drawn by Guernsey/Tingle Architects.
4. Landscaping: Prior to final site plan approval for Phase I, the Planning Director shall review and approve the proposed landscaping plan for the entire property. To mitigate the impact of the Church expansion on the Longhill Road Community Character Corridor, enhanced landscaping shall be provided around the main building, the front and sides of the new youth fellowship hall and along Longhill Road, in particular between the two driveways and in front of the existing building. Enhanced landscaping shall be defined as 133 percent of the County's Landscaping Ordinance requirements with a minimum of 33 percent of the required number of trees being evergreen, and a minimum of 50 percent of the total number of the trees of a species that will reach a minimum height of 60 feet at maturity, with such trees planted along Longhill Road. All dumpsters and heating and cooling units shall be screened from sight by landscaping or fencing as approved by the Planning Director.
5. Lighting: Prior to final site plan approval of Phase I, a lighting plan shall be submitted to the Planning Director for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall occur outside the property lines.
6. Water: Prior to final site plan approval for the Phase I expansion of the Christian Life Center, the owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
7. Commencement of Construction: If construction of Phase I of the Christian Life Center expansion has not started within thirty-six months or Phase II of the Christian Life Center expansion has not started within sixty months from the date of issuance of this special use permit, this permit shall become void. Phase I expansion shall include the two story, 5,000 square foot/floor separate building, parking lot addition and second entrance. Phase II expansion shall include the three story 20,500 square foot/floor expansion attached to the main building. Construction shall be defined as obtaining permits for building construction,

clearing and grading and approval of building inspection for installation of footings and/or foundations.

8. Hours of Construction: All construction activity on the Christian Life Center expansion, Phase I & Phase II, shall occur between 7:00 a.m. and 6:00 p.m., Monday through Friday.
9. BMP: Prior to final site plan approval of Phase I, the Environmental Director shall review and approve modification plans to add a forebay in the upper end of the basin of the existing BMP.
10. Preschool/School: This Special Use Permit shall not allow for the operation by the Christian Life Center or organization of an adult day care, child day care, pre-school and/or school on the premises that would operate Monday through Friday as an additional use of the property to the primary use of the site as a house of worship.
11. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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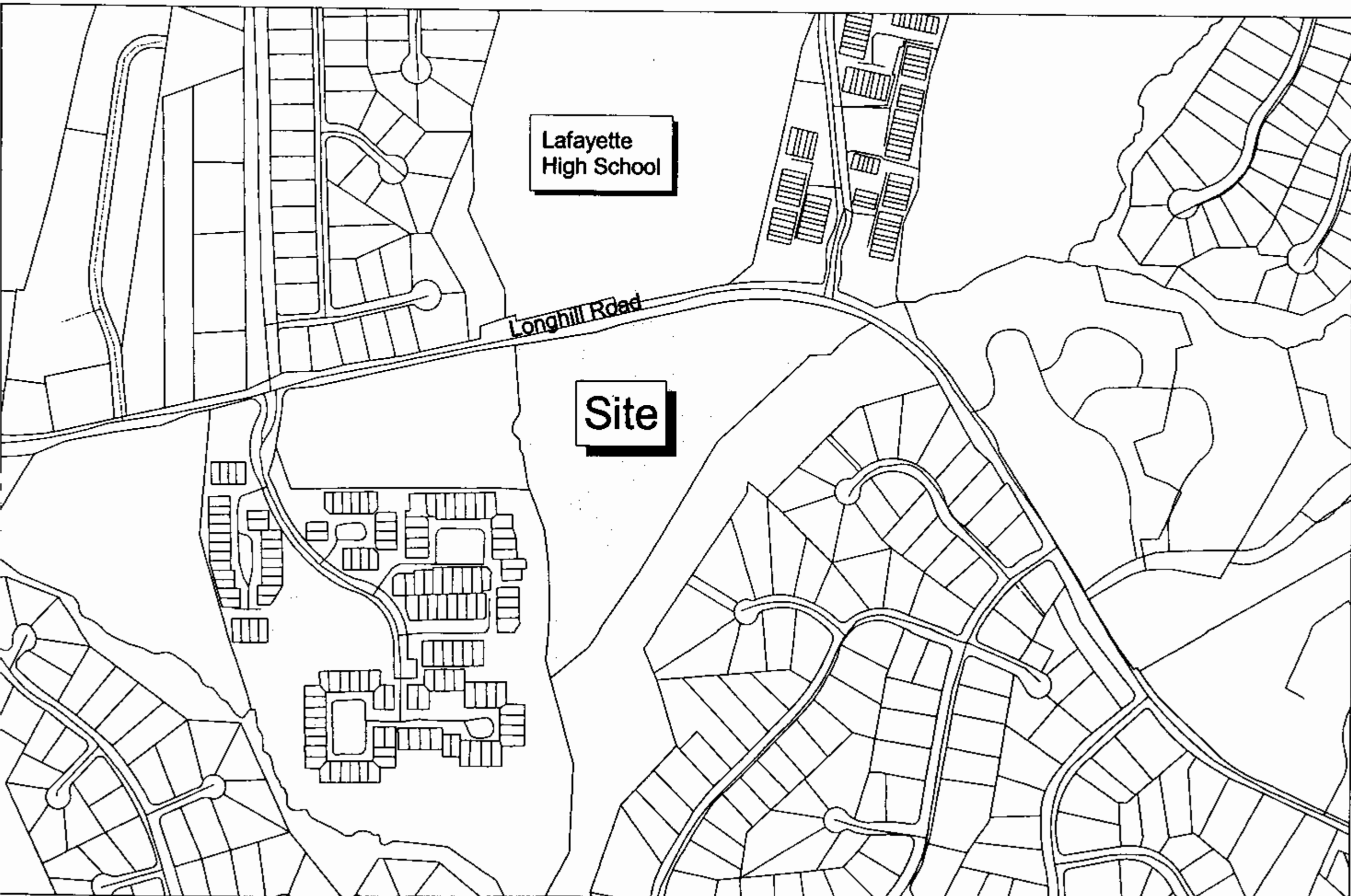
Karen Drake  
Senior Planner

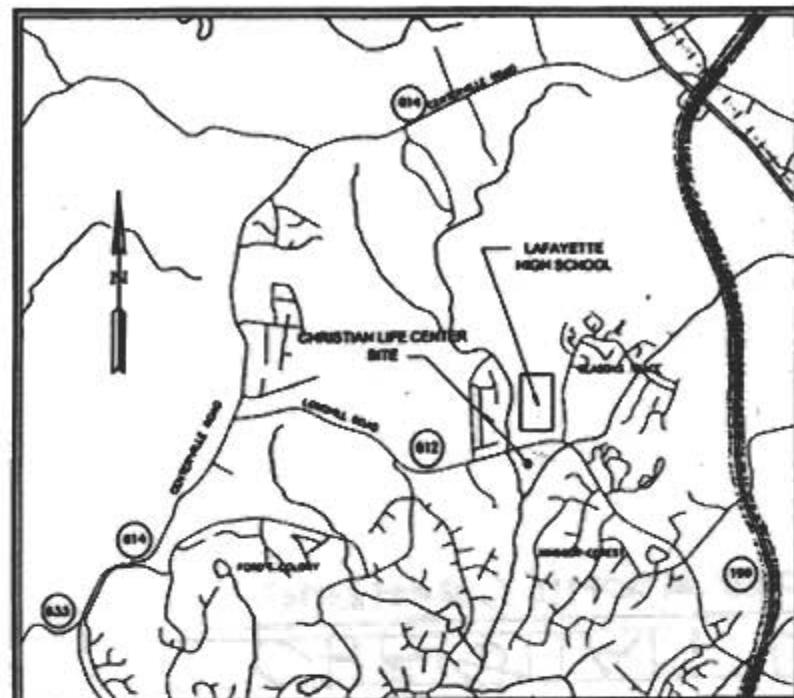
Attachments:

1. Location Map
2. Christian Life Center Schematic Plan dated September 17, 2003.
3. Christian Life Center Youth/Fellowship Building Elevation dated September, 2003.

Case No. SUP-19-03. Christian Life Center  
4451 Longhill Road

0 200 Feet



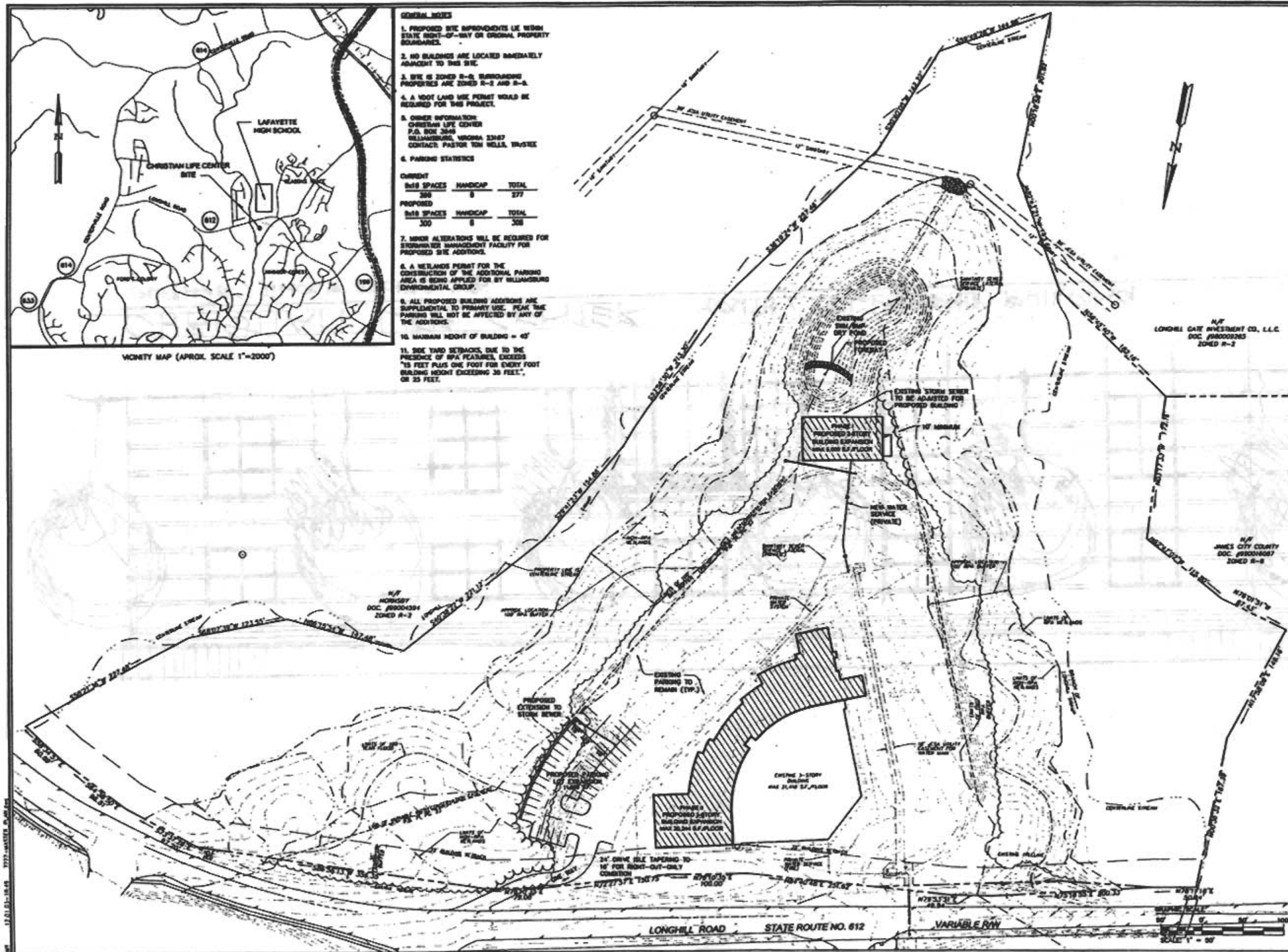


WORTHY MAP (APPROX. SCALE 1"=2000')

# GENERAL NOTES

1. PROPOSED SITE IMPROVEMENTS LE WITHIN STATE RIGHT-OF-WAY OR ORIGINAL PROPERTY BOUNDARIES.
2. NO BUILDINGS ARE LOCATED IMMEDIATELY ADJACENT TO THIS SITE.
3. SITE IS ZONED R-2. SURROUNDING PROPERTIES ARE ZONED R-2 AND R-2.
4. A WOT LAND USE PERMIT WOULD BE REQUIRED FOR THIS PROJECT.
5. OTHER INFORMATION: CHRISTIAN LIFE CENTER P.O. BOX 3848 WILLIAMSBURG, VIRGINIA 23187 CONTACT: PASTOR TOM WELLS, TRUSTEE
6. PARKING STATISTICS:
 

CURRENT	PROPOSED
200	300
5	5
205	305
7. MINOR ALTERATIONS WILL BE REQUIRED FOR STORMWATER MANAGEMENT FACILITY FOR PROPOSED SITE ADDITIONS.
8. A WETLANDS PERMIT FOR THE CONSTRUCTION OF THE ADDITIONAL PARKING AREA IS BEING APPLIED FOR BY WILLIAMSBURG ENVIRONMENTAL GROUP.
9. ALL PROPOSED BUILDING ADDITIONS ARE SUPPLEMENTAL TO PRIMARY USE. PEAK THE PARKING WILL NOT BE AFFECTED BY ANY OF THE ADDITIONS.
10. MAXIMUM HEIGHT OF BUILDING = 45'
11. SIDE YARD SETBACKS, DUE TO THE PRESENCE OF RPA FEATURES, EXCEEDS 75 FEET PLUS ONE FOOT FOR EVERY FOOT BUILDING HEIGHT EXCEEDING 30 FEET, OR 25 FEET.



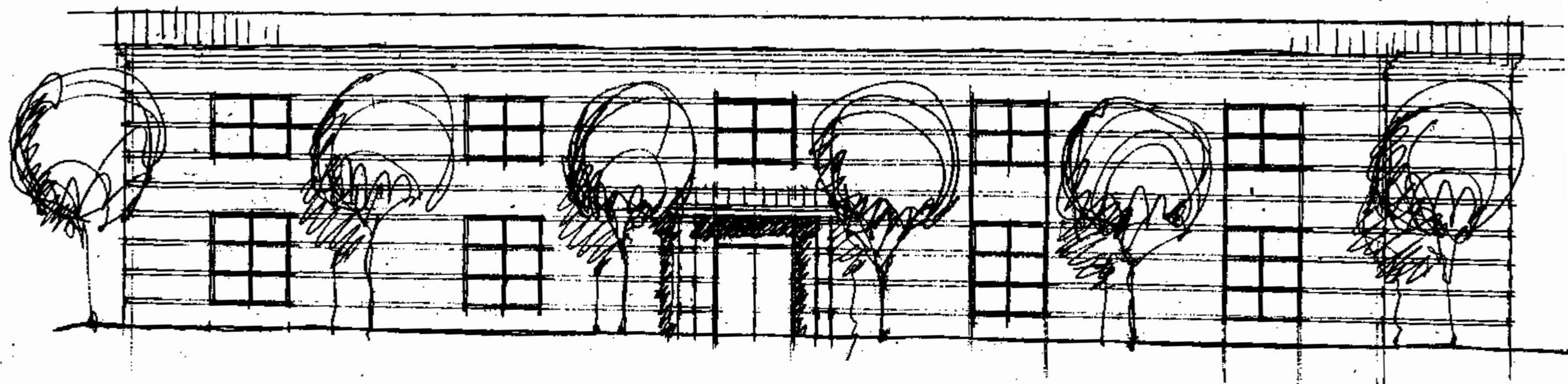
NO.	REVISION / COMMENT / DATE
1	ISSUED FOR CONSTRUCTION BIDDING 10/1/03
2	ISSUED FOR JCC COMMISSION JUNE 2003
3	ISSUED FOR JCC COMMISSION JUNE 2003
4	ISSUED FOR JCC COMMISSION JUNE 2003
5	ISSUED FOR JCC COMMISSION JUNE 2003
6	ISSUED FOR JCC COMMISSION JUNE 2003
7	ISSUED FOR JCC COMMISSION JUNE 2003
8	ISSUED FOR JCC COMMISSION JUNE 2003
9	ISSUED FOR JCC COMMISSION JUNE 2003
10	ISSUED FOR JCC COMMISSION JUNE 2003

5248 Old Towne Road, Suite 1  
Williamsburg, Virginia 23188  
(757) 253-0040  
Fax (757) 250-8964



SCHEMATIC PLAN FOR PARKING & BUILDING EXPANSION  
CHRISTIAN LIFE CENTER  
OWNER/DEVELOPER: CHRISTIAN LIFE CENTER

Designed VAB/VAB	Drawn VAB
Scale 1"=50'	Date 9/17/03
Project No. 7222-01	Sheet No. 1



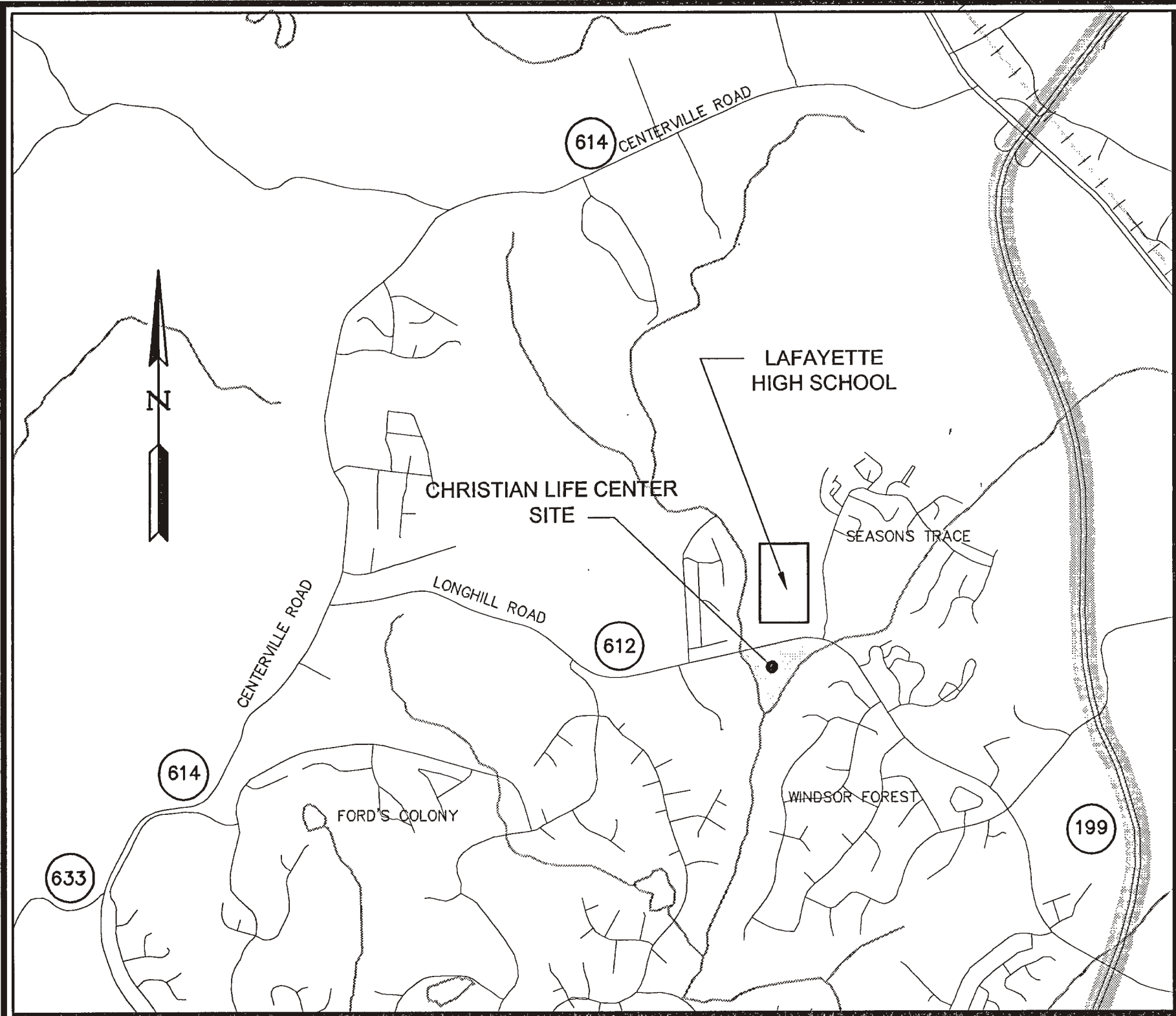
CHRISTIAN LIFE CENTER

YOUTH / FELLOWSHIP BUILDING

GUERNSEY / JINGLE ARCHITECTS.

9-03



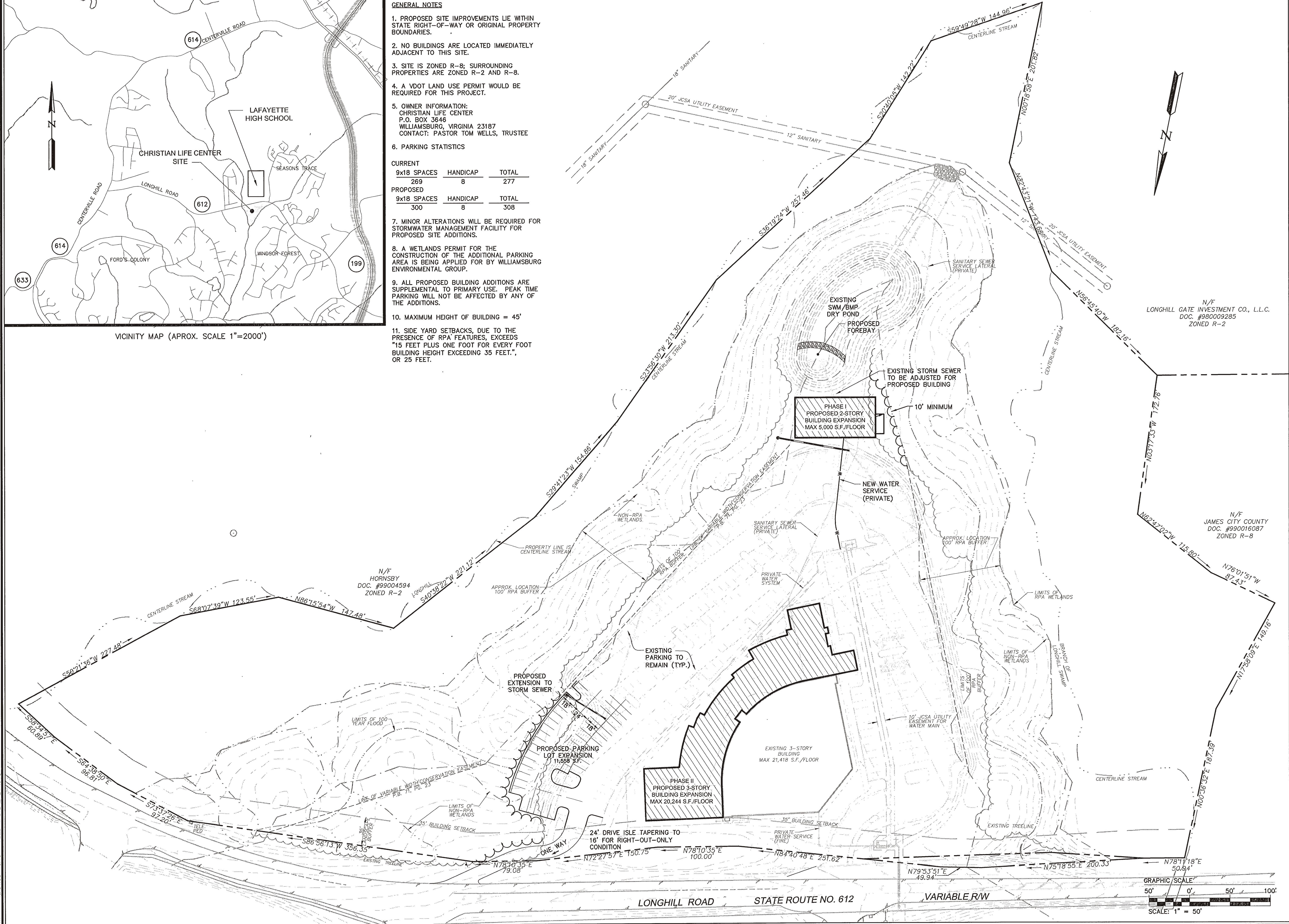


VICINITY MAP (APPROX. SCALE 1"=2000')

#### GENERAL NOTES

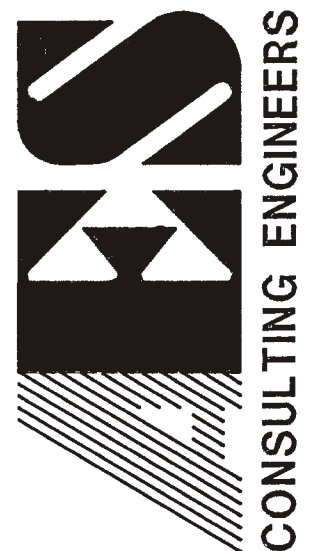
1. PROPOSED SITE IMPROVEMENTS LIE WITHIN STATE RIGHT-OF-WAY OR ORIGINAL PROPERTY BOUNDARIES.
2. NO BUILDINGS ARE LOCATED IMMEDIATELY ADJACENT TO THIS SITE.
3. SITE IS ZONED R-8; SURROUNDING PROPERTIES ARE ZONED R-2 AND R-8.
4. A VDOT LAND USE PERMIT WOULD BE REQUIRED FOR THIS PROJECT.
5. OWNER INFORMATION:  
CHRISTIAN LIFE CENTER  
P.O. BOX 3646  
WILLIAMSBURG, VIRGINIA 23187  
CONTACT: PASTOR TOM WELLS, TRUSTEE
6. PARKING STATISTICS  

CURRENT		
9x18 SPACES	HANDICAP	TOTAL
269	8	277
PROPOSED		
9x18 SPACES	HANDICAP	TOTAL
300	8	308
7. MINOR ALTERATIONS WILL BE REQUIRED FOR STORMWATER MANAGEMENT FACILITY FOR PROPOSED SITE ADDITIONS.
8. A WETLANDS PERMIT FOR THE CONSTRUCTION OF THE ADDITIONAL PARKING AREA IS BEING APPLIED FOR BY WILLIAMSBURG ENVIRONMENTAL GROUP.
9. ALL PROPOSED BUILDING ADDITIONS ARE SUPPLEMENTAL TO PRIMARY USE. PEAK TIME PARKING WILL NOT BE AFFECTED BY ANY OF THE ADDITIONS.
10. MAXIMUM HEIGHT OF BUILDING = 45'
11. SIDE YARD SETBACKS, DUE TO THE PRESENCE OF RPA FEATURES, EXCEEDS "15 FEET PLUS ONE FOOT FOR EVERY FOOT BUILDING HEIGHT EXCEEDING 35 FEET.", OR 25 FEET.



NO.	DATE	REVISION / COMMENT / NOTE	BY
1	10/27/03	REVISED PER JCC COMMENT LETTER DATED 9/29/03	VMB
2	11/18/03	REVISED PER COMMENTS DATED 11/18/03	VMB

5248 Olde Towne Road, Suite 1  
Williamsburg, Virginia 23188  
(757) 253-0040  
Fax (757) 220-8994



Schematic Plan for Parking & Building Expansion  
CHRISTIAN LIFE CENTER  
OWNER/DEVELOPER: CHRISTIAN LIFE CENTER  
JAMES CITY COUNTY  
POWATAN DISTRICT

Designed VMB/VAB	Drawn VAB
Scale 1"=50'	Date 9/17/03
Project No. 7222-01	Drawing No. 1



**Special Use Permit 22-03 & Height Waiver 2-03 Busch Gardens Oktoberfest Expansion  
Staff Report for December 8, 2003 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 8, 2003 - **5:30 p.m.** Building C Board Room  
Board of Supervisors: Date in January yet to be determined.

**SUMMARY FACTS**

Applicant: Ronnie Orsborne of LandMark Design Group

Land Owner: Busch Entertainment Corporation

Proposal: Busch Gardens would like to erect an approximately 40,000 square foot pre-manufactured metal building. A height limitation waiver is also requested from the Board of Supervisors as the proposed building would have exterior elements exceeding 60 feet in height above grade.

Location: 7851 Pocahontas Trail, Roberts District

Tax Map/Parcel No.: (51-4)(1-9)

Primary Service Area: Inside

Parcel Size: Approximately 2 out of 381.71 total acres

Existing Zoning: M-1, Limited Business/Industrial District

Comprehensive Plan: Limited Industry

Surrounding Zoning: The site is completely contained within Busch Gardens which is zoned M-1, Limited Business/Industrial.

Staff Contact: Ellen Cook Phone: 253-6685

**RECOMMENDATION**

Staff finds that the proposed building would have minimal impact on surrounding areas due to its location well within Busch Gardens property lines, and well below the height of existing adjacent rides. Any potential impact will be further minimized by conditions limiting the maximum height of all building elements and ensuring that any site lighting does not create glare that affects surrounding areas. Therefore, staff recommends approval of this special use permit with the attached conditions.

**Project Description**

Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of Busch Entertainment Corporation for a special use permit to allow the construction of an approximately 40,000 square foot pre-manufactured metal building to be located within Busch Gardens. A special use permit is required for any commercial building or group of buildings which exceeds 10,000 square feet of floor area.

The proposed building would be located in the Oktoberfest area of the Country of Germany, one of six “Countries” in Busch Gardens. The site of the proposed building was at one time the “Glissade” roller coaster, which was removed from the park in 1985, and more recently, the site of the “Wild Izzy,” (or “Wild Maus”) which is leaving the park at the close of the 2003 season. The proposed pre-manufactured metal building would measure approximately 250 feet by 160 feet, have a peak height of 35 feet above grade, and house a state-of-art ride. The building would have an external park sound system comparable to the system that currently exists at the site. Exterior building theming, which would require a height limitation waiver as described below, would be reminiscent of elements of the European countryside, and would be of a style and character in keeping with the Country of Germany.

### **Height Waiver**

The applicant has also requested a height limitation waiver from the Board of Supervisors. On property zoned M-1, structures may be constructed up to 60 feet as a matter of right; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board. The applicant has requested that a height limitation waiver be granted to allow for the construction of structures up to 80 feet tall. Specifically, the height limitation waiver is requested for themed elements that would be added to the exterior of the proposed building to enhance guest experience and satisfy marketing considerations. It is expected that the majority of the themed structure would be approximately 50 feet above grade with two or three areas approaching 75 feet above grade. Projected sight lines, as shown on “Busch Gardens Oktoberfest Expansion Sight Lines” Exhibits 1 and 2, indicate that these elements would have minimal visual impact on cars traveling on Pocahontas Trail, Carter’s Grove Country Road, or Wareham’s Pond Road. In addition, the proposed elements would be well below the peak height of other rides, including the Alpengeist roller coaster, in the ride’s immediate vicinity.

Section 24-419 of the James City County Zoning Ordinance states that structures in excess of 60 feet in height from grade may be erected only upon the granting of a height limitation waiver by the Board of Supervisors upon finding that:

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

Staff comment: The proposed building is 450 feet from the nearest boundary line and over 2,500 feet from the Pocahontas Trail right-of-way. The Zoning Ordinance requires a 73 foot setback for a structure that is 80 feet tall. Therefore, the setbacks are well in excess of those required by the Zoning Ordinance.

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

Staff comment: Given the 450 foot distance to the nearest property line, staff finds that the proposed buildings would not obstruct light from adjacent property.

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

Staff comment: The closest historic attraction is Carter’s Grove Country Road, which is 650 feet from the proposed expansion. Projected sight lines shown in the Exhibits referenced above indicate that the building would have minimal visual impact from Carter’s Grove Country Road. Staff finds that the proposal would not interfere with enjoyment of historic attractions or areas of significant historic interest.

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

Staff comment: According to Real Estate Assessments, there has been no appreciable decrease in the property values of surrounding homes when previous attractions were constructed.

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

Staff comment: Fire protection will be provided to the proposed site by means of a sprinkler system and onsite fire hydrants. In addition, the project is subject to a full County review process; staff feels confident this will ensure the proposed building is adequately designed from a safety standpoint.

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

Staff comment: Staff feels that this attraction within the existing park will not adversely effect the public health, safety or general welfare.

### **Surrounding Zoning and Development**

To the west of Busch Gardens is Kingsmill, a planned community zoned R-4, and Carter's Grove Country Road, on land owned by the Colonial Williamsburg Foundation. To the north of the park is the Anheuser- Busch Brewery on land zoned M-2, General Industrial. To the east of Busch Gardens is Route 60, the CSX rail lines, Route 143, and the Williamsburg Country Club and Golf Course. To the south is Grove, which contains residentially zoned properties. Staff feels that since the proposed building is within the existing theme park it is compatible with surrounding land uses.

### **Access and Traffic**

This SUP would not change any access into or out of Busch Gardens. The proposed building and the ride it contains would, in and of itself, likely have minimal impact on the total amount of traffic that is generated by Busch Gardens. Staff finds that traffic impacts from this proposal would be minimal.

### **Comprehensive Plan**

The 2003 James City County Comprehensive Plan designates the Busch Gardens property as Limited Industry. Limited Industry designates sites within the Primary Service Area for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area. In the consideration of acceptable land uses for Limited Industry areas, dust, noise, odor, and other adverse environmental effects, not size, are primary considerations.

Although an amusement attraction is not a traditional form of industrial development, it will not create dust, odor or other adverse environmental effects. Also, the applicant has informed staff that the proposed building would be equipped with an exterior park sound system very similar to the park sound system that currently exists at the site, and that the applicant does not anticipate additional sound levels to leave the site. For these reasons, staff feels that the proposed use is consistent with the intended uses in the Comprehensive Plan designation.

Busch Gardens is also located along the Pocahontas Trail (Route 60 East) Community Character Corridor which begins south of Route 199 and continues to the Newport News city limits. The proposed building, located within the park and 2,500 feet from Pocahontas Trail, will not intrude upon buffers or any landscaping along the Community Character Corridor. Therefore, staff believes the proposal would not have adverse effects on the Community Character Corridor.

### **RECOMMENDATION**

Staff finds that the proposed building would have minimal impact on surrounding areas due to its location well within Busch Gardens property lines, and well below the height of existing adjacent rides. Any potential impact

will be further minimized by conditions limiting the maximum height of all building elements and ensuring that any site lighting does not create glare that affects surrounding areas. Therefore, staff recommends approval of this special use permit with the following conditions.

1. This Special Use Permit shall be limited to the construction of an approximately 40,000 square foot building, which is generally located as shown on "BGW Oktoberfest Expansion: Sight Lines" prepared by LandMark Design Group, dated November 10, 2003, with minor changes approved by the DRC.

2. A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy. The plan shall indicate no glare outside the property lines: "glare" shall be defined as more than 0.1 footcandle at the Busch Gardens property line. No ground-mounted spotlights which direct light upward shall be used to illuminate the building or themed elements.

3. All elements of this building shall be limited to a maximum height of 80 feet above grade.

4. Construction on this project shall commence within thirty-six (36) months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining permits for building construction.

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

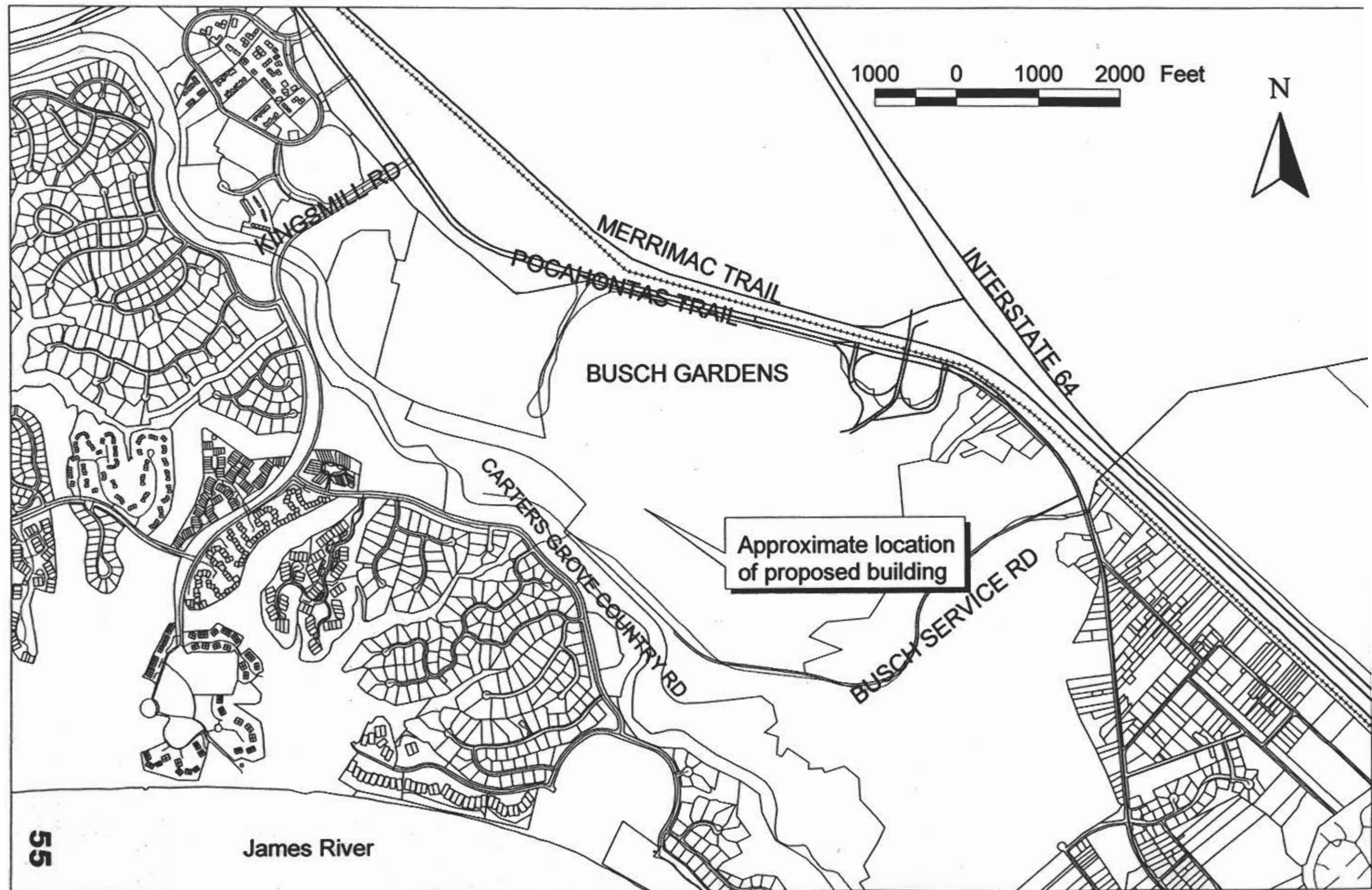
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Ellen Cook

Attachments:

1. Location Map
2. **Site Line Exhibit**

# Case No. SUP-22-03/HW-2-03, Busch Gardens Oktoberfest Expansion





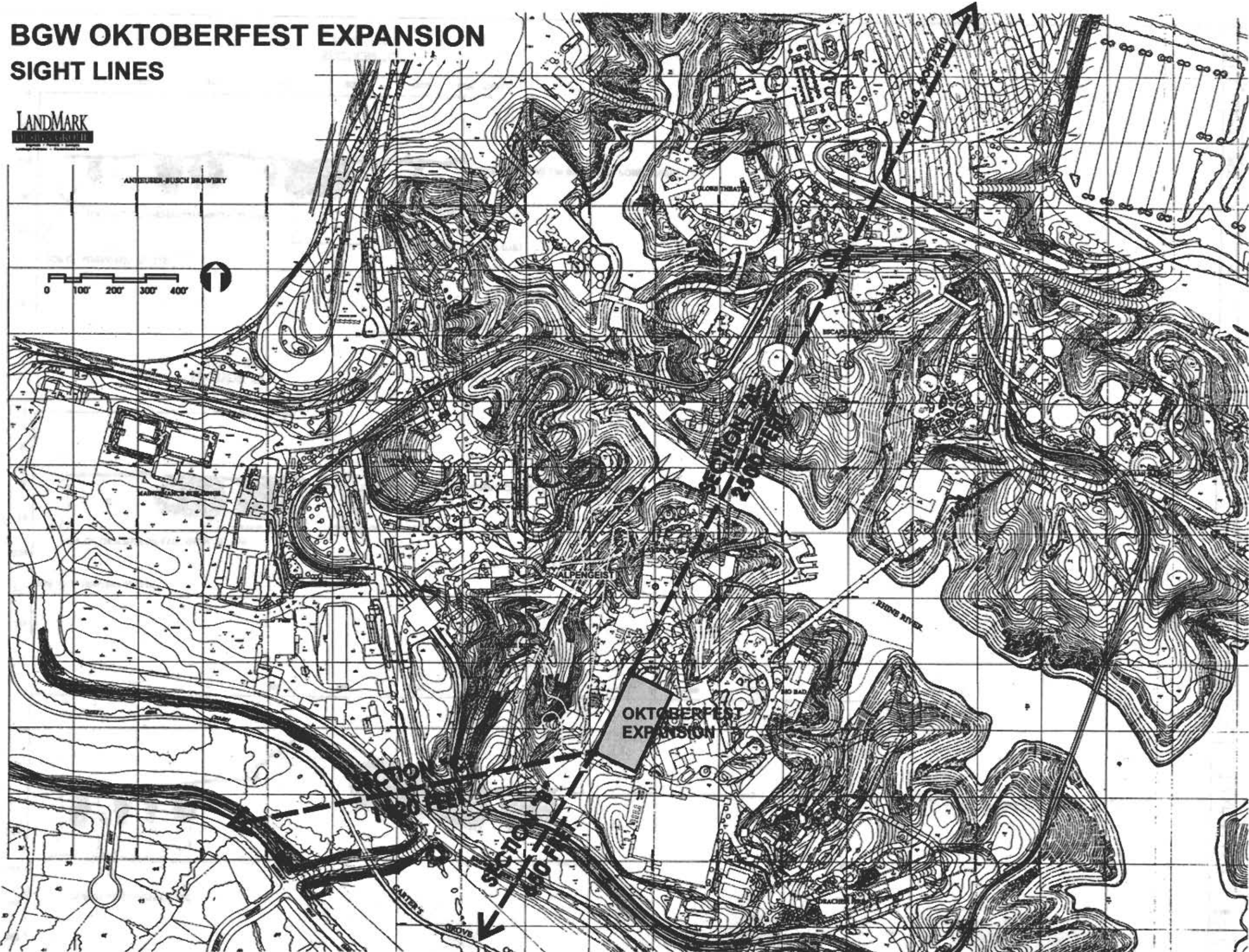
# BGW OKTOBERFEST EXPANSION

## SIGHT LINES

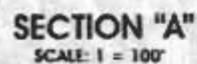
LANDMARK  
CONSULTANTS

ANDREUS-BUSCH BREWERY

0 100' 200' 300' 400'







**Special Use Permit-21-03. Milanville Kennels**  
**Staff Report for December 8, 2003, Board of Supervisors 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 8, 2003 - 5:30 p.m. Building C Board Room  
Board of Supervisors: January 13, 2004 - 7:00 p.m. Building J Board Room (tentative)

**SUMMARY FACTS**

Applicant: Marc and Elizabeth Illman

Land Owner: Same

Proposed Use: Construct and operate a kennel

Location: 2878 Monticello Ave, Berkeley District

Tax Map/Parcel No.: (44-2)(1-6)

Primary Service Area: Outside

Parcel Size: 15.01 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

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

Staff Contact: Matthew Arcieri Phone: 253-6685

**RECOMMENDATION**

Staff finds the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan. Staff, therefore, recommends approval of this application with the attached conditions.



## **Project Description**

Marc and Elizabeth Illman have applied for a Special Use Permit to construct and operate a kennel adjacent their existing residence on 2878 Monticello Avenue. The property is zoned A-1, General Agricultural. In the A-1 zoning district kennels (defined by the Zoning Ordinance as a place prepared to house, board, breed, handle or otherwise keep or care for either dogs or cats or both for sale or in return for compensation) are a specially permitted use. Approval of this case would allow the applicant to construct a 7,000 square foot, single story kennel which would contain outdoor runs and indoor cages to accommodate eighty dogs and twenty cats. The existing site contains a single family home and a stable which the applicant currently uses to board horses. The kennel would be constructed behind the residence. Operating hours for the kennel would be 7:00 a.m. to 7:00 p.m., Monday through Saturday and 3:00 p.m. to 5:00 p.m. on Sunday. The applicant has indicated that they do not intend to operate initially on Sunday, but would like the flexibility to adjust to market demands and competition from other kennels.

The new kennel would be constructed to match the existing single family residence. Other conditions of the special use permit would limit lighting and signage in order to further mitigate the impacts of the new structure, and prohibit subdivision of the property while the kennel remains in operation in order to preserve the rural nature of the property.

## **Surrounding Zoning and Development**

The site is surrounded by a mixture of rural residential homes, agricultural fields, and undeveloped wooded land zoned A-1, General Agricultural. The nearest adjacent residence is approximately 400 feet south of the proposed kennel. Staff believes that the proposed use is consistent with surrounding zoning and development. Please note, however, that additional new residences could potentially be constructed in the vicinity of the kennel site in the future. The adjoining 122 acre parcel to the south is currently vacant. Other kennels in the County have experienced adjacent residential growth after they began operation.

## **Physical Features & Environmental Considerations**

A large portion of the property is open pasture serving the existing stable. The proposed kennel would be located in the pasture to the rear of the existing single family residence and would not require clearing of trees.

As with any kennel, a primary environmental concern is noise impacts generated by dogs. Much of the noise impacts on this site have been mitigated by placing the kennel on a large property distanced from most nearby residences. The applicant has also proposed several ways to address noise; these have been reflected in the SUP conditions:

1. The applicant would construct the kennel utilizing building materials to absorb sound in the ceilings and walls. The doors and windows will be kept closed when dogs are being boarded.
2. The outdoor runs and exercise area would be surrounded by a 6 foot tall solid fence. While the fences' primary function is to screen the dogs from adjacent activity such as people or vehicles, all of which tend to cause barking.
3. All dogs would be kept indoors from 7 p.m to 8 a.m.

Staff believes that with the above conditions, noise from the kennel would be adequately mitigated during night time hours. An additional condition has also been added to prevent additional residential development on the property.

## **Archaeology**

Staff has recommended that a Phase I archaeological study limited to any disturbed areas be conducted for this site. The site is located in a “high-sensitivity” area as designated on the County’s archaeological study. In addition the project is located near several known archaeological sites, including multiple sites in Governor’s Land. In order to limit the cost to the applicant, staff recommends the study only be conducted on areas being disturbed to construct the kennel. Similar conditions have been placed on other SUPs where a business would be located on the homeowner’s property. Note that, due to the cost, the applicant objects to this condition.

## **Transportation/Access**

Access to this property and the kennel from Monticello Avenue would be through an existing access easement which serves this and two other homes. The easement crosses the 122 acre Torsion property and the applicant has full right of use for the easement as guaranteed by deed. The property does not have frontage on a public street. The existing shared driveway was paved up to the applicant’s property line and had a new entrance constructed during the extension of Monticello Avenue. The three properties using the driveway share the cost of maintenance. Given these conditions, additional kennel traffic should have minimal impact on the driveway and staff finds the existing driveway provides adequate access to the kennel.

The traffic generated by the kennel would fall well short of the volume necessary to require the submission of a formal traffic study. VDOT has reviewed the proposal and found that traffic created by the kennel operation would not have a significant impact on Monticello Avenue. Staff concurs with VDOT.

## **Utilities**

This site is located outside the Primary Service Area and is serviced by private well and septic system. There are currently two septic systems on the property – one serving the barn and one serving the single family residence. The kennel will utilize the existing barn’s septic system, which has sufficient capacity to handle the animal waste from both the kennel and barn.

## **Comprehensive Plan Considerations**

The 2003 James City County Comprehensive Plan designates this property as rural lands. The plan states that certain uses which require very low intensity setting relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them.

The Rural Lands Development Standards of the Comprehensive Plan state:

1. Preserve the natural, wooded, and rural character of the County. Particular attention should be given to locating structures and uses outside of sensitive areas; maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and between uses; discouraging development on farmland, open fields and scenic roadside vistas; encouraging enhanced landscaping to screen developments located in open fields using a natural appearance or one that resembles traditional hedgerows and windbreaks; locating new roads so that they follow existing contours and old roadway corridors whenever feasible; limiting the height of structures to an elevation below the height of surrounding mature trees; minimizing the number of street and driveway intersections along the main road by providing common driveways and interconnection of developments; and utilizing lighting only where necessary and in a manner that eliminates glare and brightness.

2. Site non-agricultural/ non-forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/ forestal uses, open fields, and important agricultural/ forestal soils and resources. Sufficiently screen the non-agricultural/ non-forestal uses to preserve open spaces and rural character and to minimize visual impact from public roads. Encourage the preservation and reuse of existing agricultural structures such as barns, silos and houses.

The proposed kennel will have minimal impacts on Monticello Avenue. The proposal satisfies the development standards of the Comprehensive Plan by utilizing the existing entrance onto Monticello Avenue, and by minimizing visual impacts through signage, lighting and architectural conditions in the Special Use Permit. During discussions of the 2003 Comprehensive Plan, it was recognized that uses that require low intensity settings would help preserve the County's rural character. A proposed condition preventing further residential subdivision helps protect this character. In addition, the proposal will preserve the existing barn on the property. Staff finds that, with the proposed conditions, the proposal is consistent with the Comprehensive Plan.

### **RECOMMENDATION**

Staff finds the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan. Staff, therefore, recommends approval of this application with the attached conditions:

1. This Special Use Permit shall be valid for the operation of a kennel of up to 7,000 square feet and accessory uses thereto. The number of outdoor kennel runs permitted on the property shall not exceed eighty. The property shall be developed generally in accordance with the master plan submitted with the application, with minor changes approved by the Development Review Committee.
2. No subdivision of this property shall be permitted while the kennel remains in operation.
3. Final building location, orientation and construction materials shall be approved by the Planning Director prior to final site plan approval. The intent of this condition is to ensure that the expansion is compatible with the design, scale, materials and colors of the main residential structure and surrounding residences. The number and location of customer parking spaces, generally as shown on the master plan submitted with this application, shall be approved by the Planning Director.
4. All animal waste shall be disposed of in an on-site septic system and all animal runs shall be constructed so that animal waste will drain to a septic system approved by the Virginia Department of Health.
5. As part of site plan review, the applicant shall submit a noise abatement plan to the Planning Director for approval. The noise abatement plan at a minimum shall include provisions for sound absorbing acoustical materials in the walls and ceilings. All doors and windows shall be closed while the kennel is in operation.
6. All outdoor kennel runs and the dog exercise area shall be screened from adjacent properties with a wall or solid fence, as approved by the Planning Director, at least 72-inches in height.
7. A Phase I Archaeological Study for any disturbed area shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted 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 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 III 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 areas. 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 *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

8. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
9. One freestanding sign shall be permitted on the site. The sign shall not exceed a cumulative size of sixteen square feet, a height of six feet and shall be approved by the Planning Director. The sign shall not be illuminated.
10. The pick-up and drop-off of animals for boarding or grooming shall not occur prior to 7:00 a.m. or after 7:00 p.m., Monday through Saturday and shall not occur on Sunday prior to 3:00 p.m. or after 5:00 p.m.
11. Between the hours of 7:00 p.m. and 8:00 a.m. all dogs shall be kept inside a fully enclosed building.
12. Construction on this project shall commence within twenty-four (24) months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining permits for building construction and installation and inspection of footings and/or foundations.
13. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Matthew D. Arcieri

Attachments:

1. Location Map
2. Proposed Site Layout
3. Kennel Layout
4. Letter and signatures from adjacent property owners

# Milanville Stables, Inc.

Φ

Φ

Φ

We, as neighbors of the Illmans', support their new business and agree that this will be beneficial to the community as well as our "neighborhood". We have read their letter and have been informed of their ideas for their business and we are sure that they will be as sensitive to our needs while building and securing their new business.

Peter Roberts 2884 Monticello Ave [Signature] 8/23/03  
Name Date

John A Minor III 2870 Monticello Ave [Signature] 10-1-03  
Name Date

Kobyn M Walters 2990 Monticello Ave 10/4/03  
Name Date

[Signature] 136 SAW MILL ROAD 10-4-03  
Name Date

Ralph Wayne McCracken Sr. 11/12/02  
Name Date

Name Date

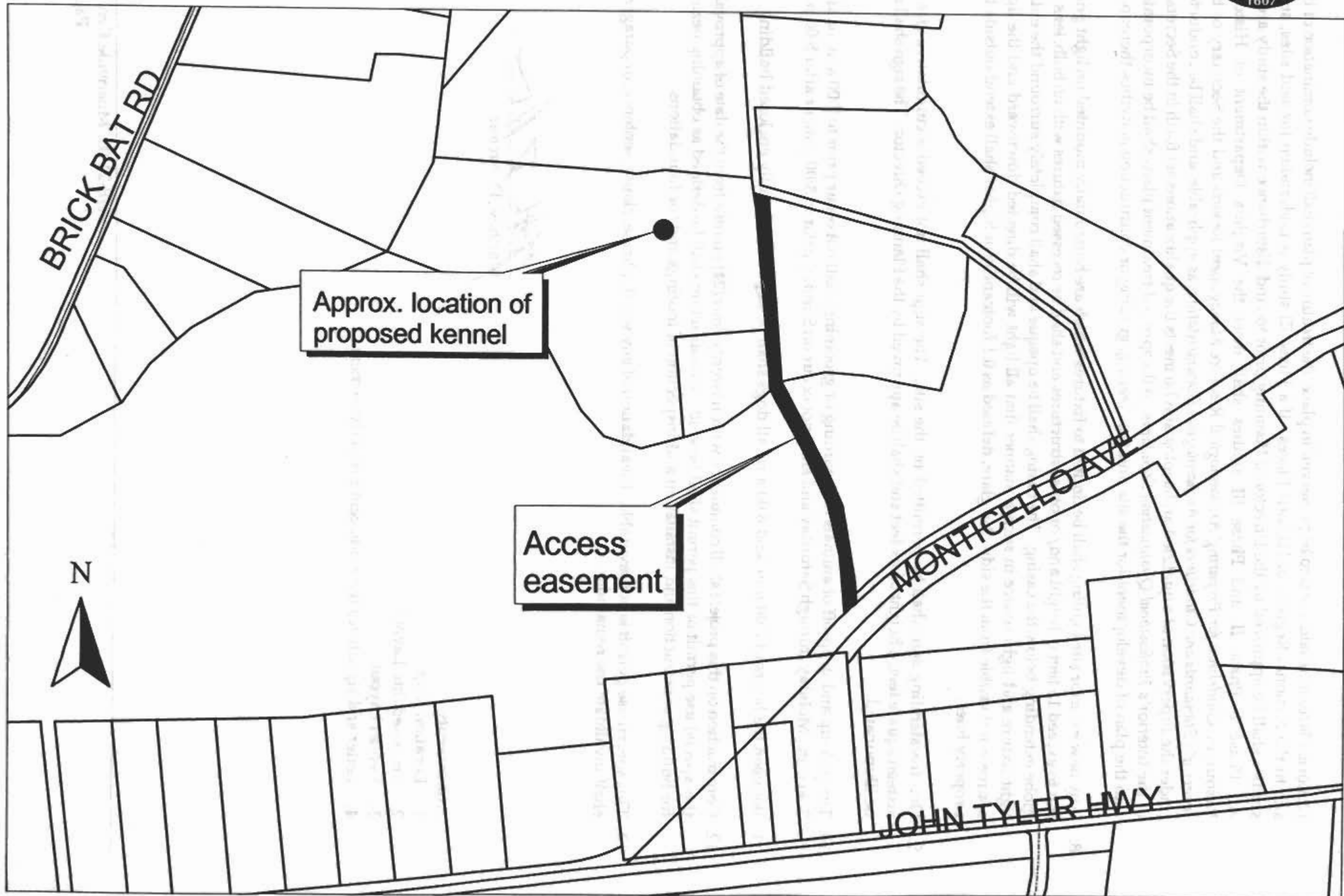
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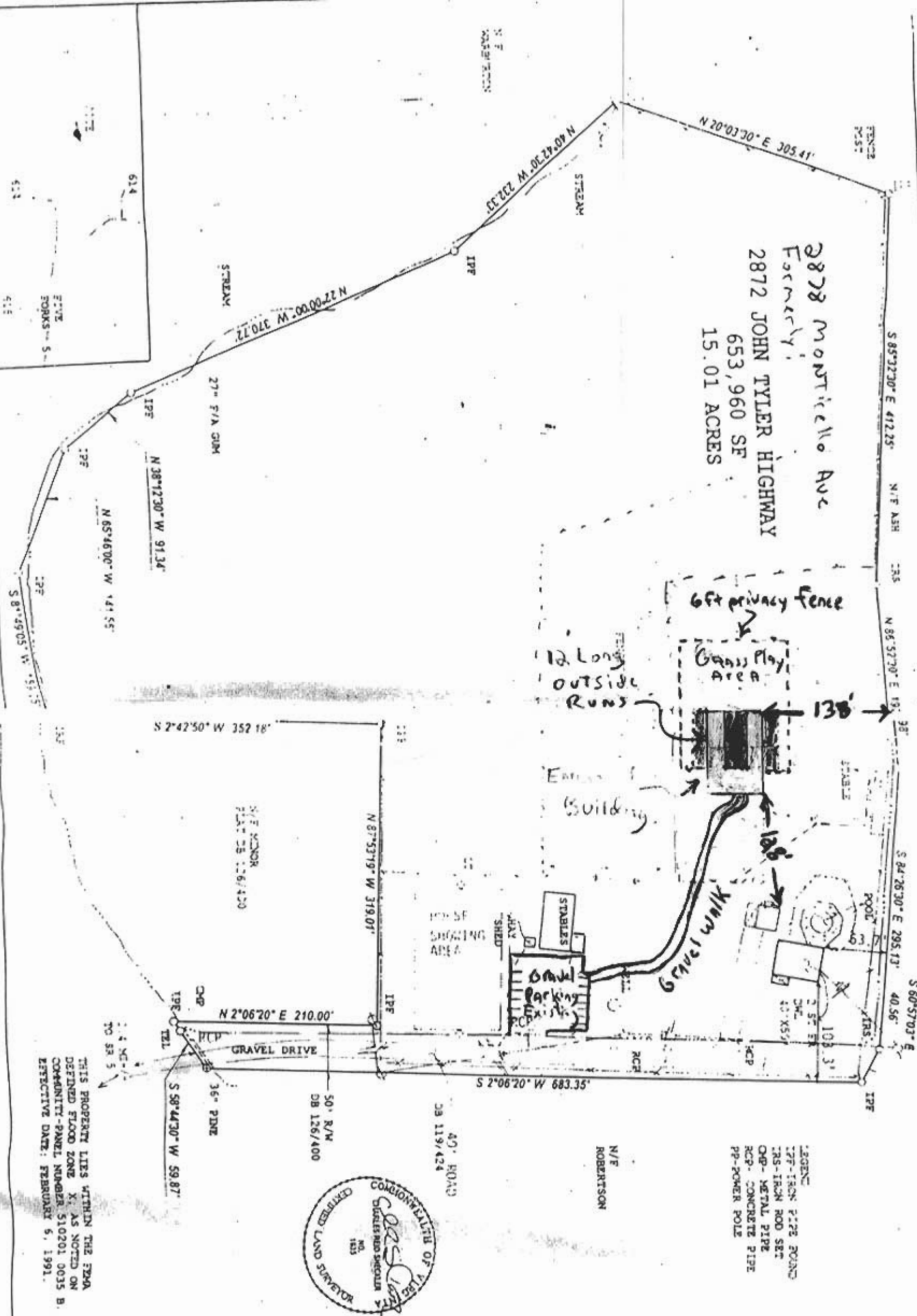
2878 Monticello Ave • Williamsburg, Va. • 23185

757-565-0429

# SUP-21-03; Milanville Kennels



LOCATION NO SCALE



THE WOODSON COMPANY 5251-18 JOHN TYLER HIGHWAY, #359, WILLIAMSBURG, VIRGINIA 23185 757-229

PLAT OF SURVEY, 15.01 ACRES, JCC TAX # (44-2) (1-6)  
FOR CONVEYANCE TO: D. MARK ILLMAN  
POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA

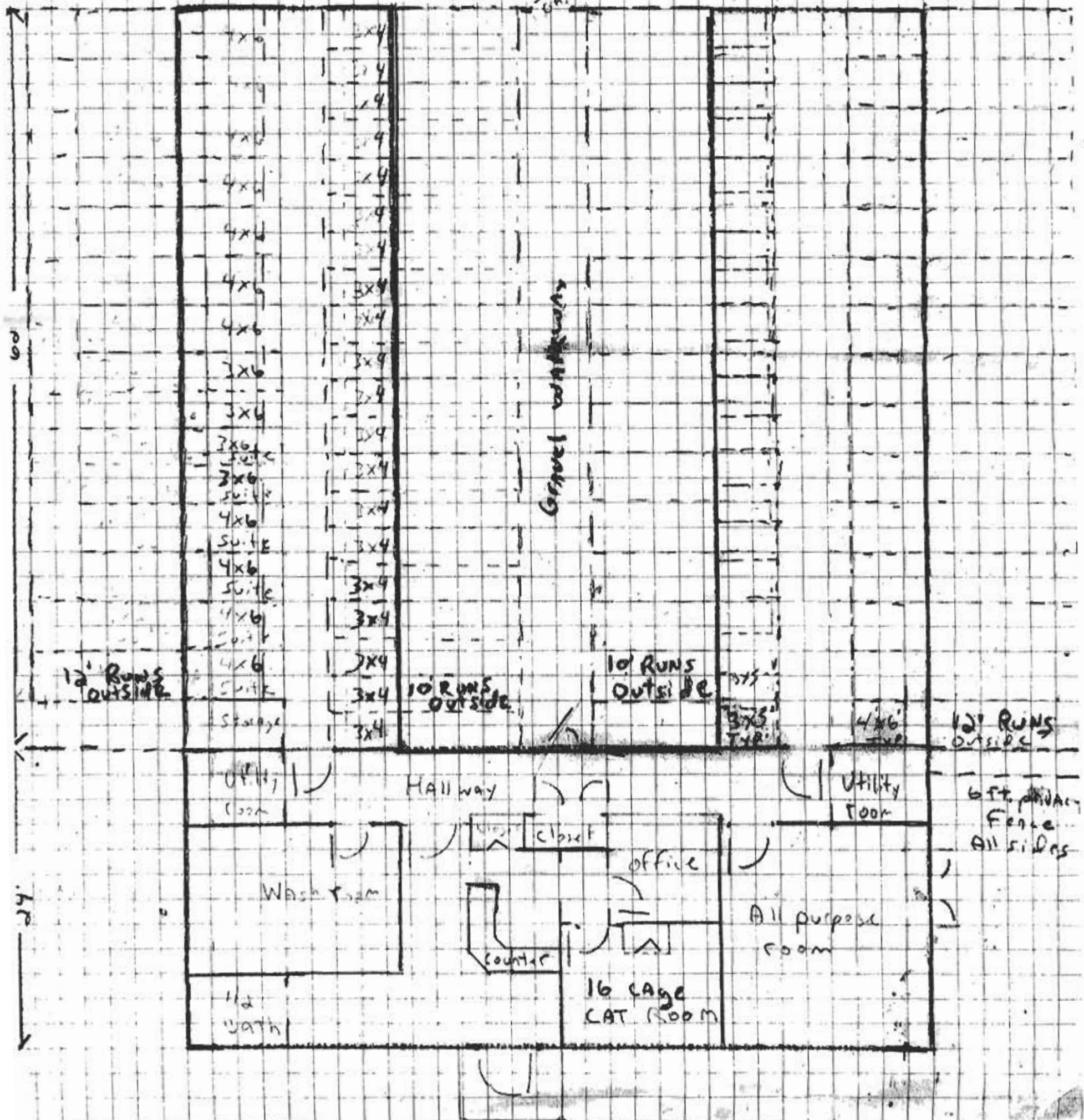


ILLMAN  
2878 MONTICELLO AVE

80 Day Kemels

58'

12' RUNS 16' 10' 5' 10' 16' 12' RUNS





**SPECIAL USE PERMIT-16-03. Williamsburg Winery – Gabriel Archer Tavern**  
Staff Report for December 8, 2003, 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:**

Building C Board Room; County Government Center

Planning Commission:

August 4, 2003, 7:00 p.m. (Deferred)  
September 8, 2003, 7:00 p.m. (Deferred)  
October 6, 2003, 7:00 p.m. (Deferred)  
November 3, 2003, 7:00 p.m. (Deferred)  
December 8, 2003, 7:00 p.m.

Board of Supervisors:

January 7, 2003 (Tentative)

**SUMMARY FACTS**

Applicant:

Vernon Geddy III

Land Owner:

Patrick Duffeler of Williamsburg Farms, Inc.

Use:

Restaurant

Location:

Off of Lake Powell Road next to the Williamsburg Winery complex

Tax Map/Parcel No.:

(48-4)(1-10)

Primary Service Area:

Inside

Parcel Size:

283.3 acres

Existing Zoning:

R-8, Rural Residential

Comprehensive Plan:

Low Density Residential

Surrounding Zoning:

North and West: R-1, Limited Residential  
South and East: R-8, Rural Residential

Staff Contact:

Sarah Weisiger, Planner      Phone: 253-6685

**Staff Recommendation:**

Although staff finds the proposal acceptable from a land use perspective, staff recommends denial of the application due to the applicant's inability to correct outstanding utility issues in a timely manner.

## **Description of Project and Background Information:**

Mr. Vernon Geddy, III has applied for a special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The restaurant has operated since 1996 without a special use permit. The entrance to the property is on Lake Powell Road; the Tavern is located approximately three-fourths of a mile down a private road.

Since 1994, Williamsburg Farms has been part of the Williamsburg Farms Agricultural and Forestal District (AFD). The AFD was renewed in 1998 and in January of 2002. Special use permits are not allowed in the AFD. The Tavern is located within a ten acre area of the parcel which has been withheld from the AFD since 1994 to allow for possible development; a sketch map of the area which is not included in the AFD is attached to this report.

Williamsburg Farms, Inc. was granted special use permits to construct an inn and restaurant in 1988, 1990, 1991 and 1992. Each SUP became void because construction was not begun within the time limits set forth in the SUP conditions. The last SUP became void in 1994.

Gabriel Archer Tavern was originally a garage with an apartment; the garage area was converted into a restaurant in 1996. It is open Sunday to Wednesday 10AM to 4PM and Thursday to Saturday 11 AM to 9PM. According to the applicant, the existing restaurant has one bathroom, a kitchen, and indoor and outdoor seating with 72 seats. A small expansion, which has been partially constructed, will add a bathroom and increased kitchen space. The square footage of the indoor restaurant (not including the expansion) is approximately 1,456 square feet with 1,024 square feet of outdoor dining under the covered back porch. A parking lot used by visitors to the winery operation is shared with the Tavern.

## **Surrounding Zoning and Development:**

The Tavern is in the middle of a parcel near the Winery buildings. The closest property boundary line to the Tavern is approximately 600 feet to the southwest, where the Vineyards subdivision is located. It is zoned R-1, Limited Residential. About a dozen houses in this subdivision face the area of the Tavern. The property to the south is across a creek and marsh area; it is outside of the PSA, zoned R-8, and is currently used for agricultural uses. To the east, another creek and marsh area is owned by the federal government and is part of the Colonial National Historical Park.

To the north are three large parcels. One, the parcel with frontage over to Lake Powell Road, is split zoned R-8 and R-1. It is undeveloped with both wooded and open areas. The parcel adjacent to the northeast is also undeveloped and zoned R-1. To the northeast is a nine lot subdivision, the Conservancy at Jockey's Neck, zoned R-1 with parcels between 2 and 22 acres in size. It is on a private road and most of the houses are located 2000 – 3000 feet from the Tavern and Winery buildings.

The closest residential areas are a considerable distance from the Tavern. Staff believes that the size and location of this business within a large parcel and the other existing uses on the parcel offset the otherwise incompatible nature of such a business

in a predominantly residential and agricultural area. Staff has suggested a condition that would prohibit outdoor amplified music or speakers in association with the restaurant. Along with a condition that would limit the size of the restaurant, staff believes that impacts to residential areas would be sufficiently mitigated.

### **Comprehensive Plan**

The parcel on which the Winery and Tavern are located is inside the Primary Service Area (PSA) and is designated Low Density Residential on the Comprehensive Plan Land Use Map. Non-residential uses should not alter, but rather complement the residential character of the Low Density Residential area in which they are located on collector or arterial roads at intersections. Traffic, noise, lighting and other impacts should be similar to surrounding or planned residential uses. Very limited commercial establishments should be located where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

The land to the south across a creek and marsh area is designated Rural Lands and is outside the PSA. The land to the east is a mixture of Low Density Residential and Park, Public or Semi-Public Open Space. To the west and north, adjacent developments are also designated Low Density Residential.

Staff believes that the Tavern is not a “very limited commercial establishment.” However, the site is well buffered, access is directly off a collector road and with the recommended condition, noise impacts will be similar to surrounding residential areas.

### **Utilities – Issues related to the Tavern and the Winery**

After this SUP application for the Tavern was received in June of 2003, possible violations of James City Service Authority regulations at the Tavern and the Winery were discovered. It was also discovered that sewer connection fees and sewer service bills for the Winery had not been paid. In a meeting in August, staff informed Mr. Patrick Duffeler of Williamsburg Farms, Inc., and attorney Vernon Geddy, III, what steps would be necessary for this SUP application to move forward to the Planning Commission meeting with a positive recommendation from staff. The issues were related to both the Winery and the Tavern; these steps are listed below:

- 1) All outstanding sewer bills for the Winery must be paid to JCSA. (The sewer bill is current.)
- 2) Sewer connection fees for the existing Winery and Tavern must be paid; these were found to total \$10,050. (The fee has been paid.)
- 3) The existing Tavern must be connected to public sewer. (This has not been done.)
- 4) Fire and Building officials must inspect the Winery and Tavern. (These inspections were done. The inspection was completed and it was determined that the only structure regulated by the Virginia Uniform Statewide Building Code is the Tavern building.)
- 5) The Health Department must provide confirmation that winery operations were in accordance with Health Department requirements. (This has been done.)

Because Williamsburg Farms has not connected the Tavern to public sewer as required in #3, staff cannot recommend approval of this application. Staff has worked with Mr. Duffeler and has devoted significant time to try to resolve longstanding problems and

has been recommending deferral of this case since August 4, 2003, to provide more time to the applicant. Because of his inability to meet the terms set forth in the August meeting, staff believes that the applicant may be unable to comply with the additional SUP conditions proposed for this use.

Currently, the Tavern is connected to a private well and is served by a septic drainfield for sewer. Because the Tavern is inside of the Primary Service Area, JCSA regulations require that the Tavern be connected to water and sewer. The Health Department had been under the understanding that the Tavern was hooked up to public sewer since 1997 because Tavern sewer connection fees were paid. Staff has recommended a number of SUP conditions related to the connection of Gabriel Archer's Tavern to public water and sewer.

Should the Planning Commission choose to approve this application, conditions are proposed to mitigate the impacts of the restaurant and to insure that water and sewer service are connected in a timely fashion.

**RECOMMENDATION:**

Although staff finds the proposal acceptable from a land use perspective, staff recommends denial of the application due to the applicant's inability, to date, to resolve outstanding problems related to utility issues. Given that the Planning Commission could choose to recommend approval of this SUP, the following special use permit conditions are offered:

1. Prior to April 30, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, "the Tavern":
  - a.) The Tavern shall have an approved site plan for water and sewer;
  - b.) The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code with all final inspections completed and approved;
  - c.) The Tavern shall have connected to the James City Service Authority public water system;
  - d.) The Tavern shall have paid all connection fees for water service;
  - e.) The Tavern shall have all connection fees and sewer service bills paid up to date;
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers shall be permitted in connection with the operation of the Tavern.
4. The Tavern shall only operate between 10 am and 9 pm.
5. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

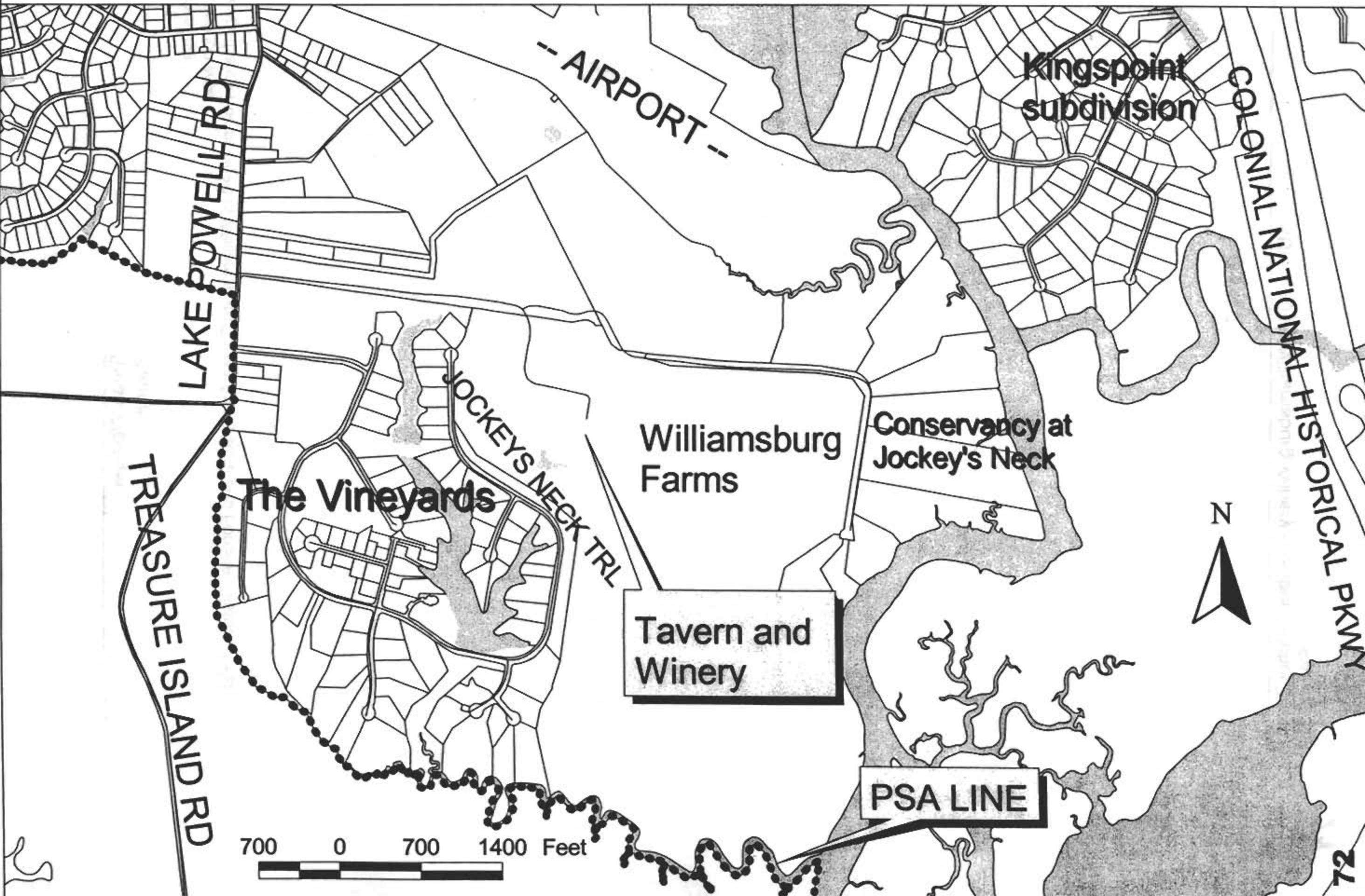
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Sarah Weisiger  
Planner

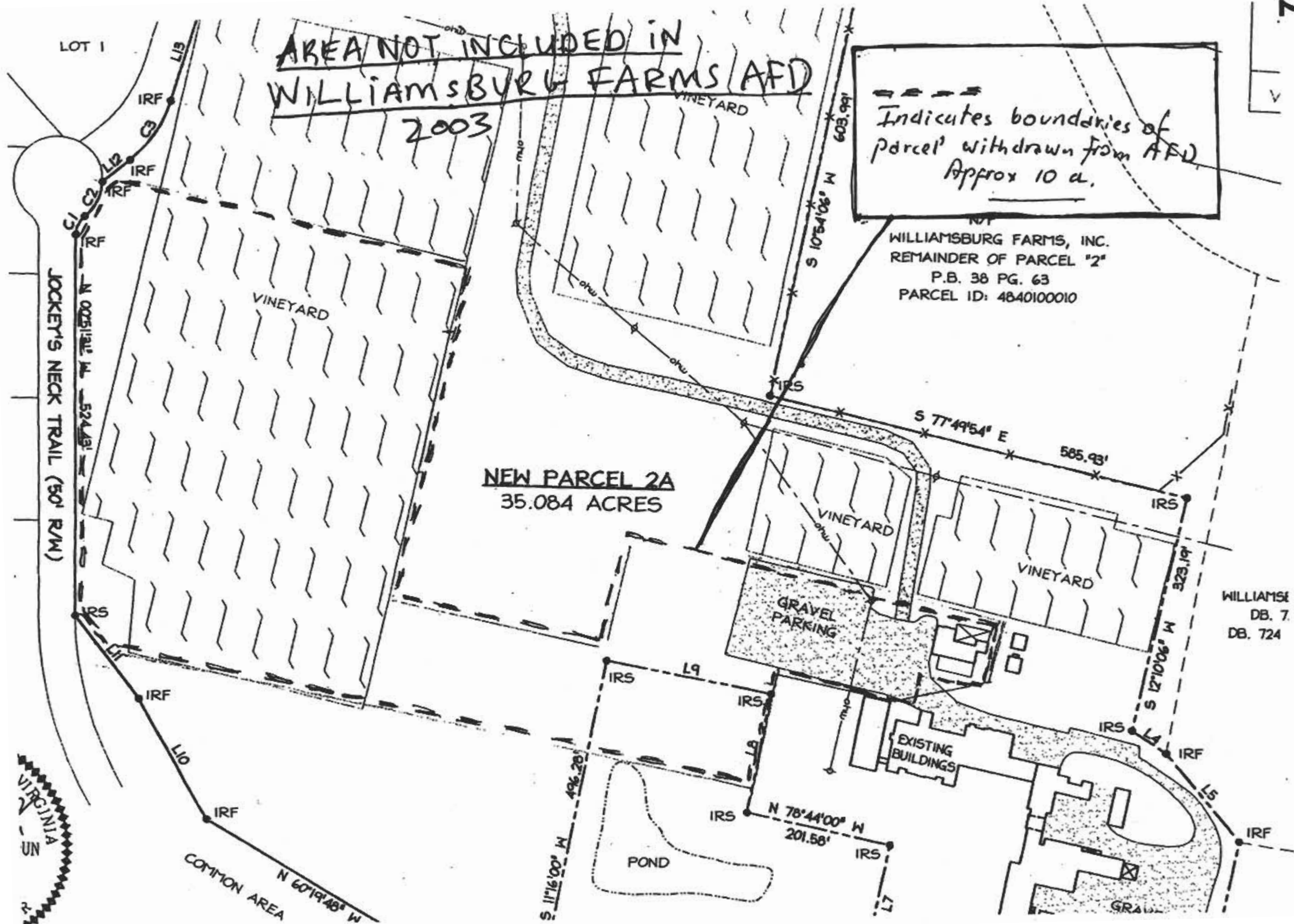
Attachments:

1. Location Map
2. Map of area not included in Williamsburg Farms Agricultural and Forestal District (AFD)

# Case No. SUP-16-03. Gabriel Archer's Tavern - The Williamsburg Winery







**Master Plan MP- 9- 03 / Rezoning Z- 8- 03. Norge Neighborhood Site**

Staff Report for December 8, 2003, 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 Complex

November 3, 2003, 7:00 p.m. (Deferred)

December 8, 2003, 7:00 p.m.

Board of Supervisors:

January 7, 2003 (tentative)

**SUMMARY FACTS**

Applicant:

V. Marc Bennett on behalf of Pete Henderson of Henderson, Inc.

Land Owners:

Evelyn H. Anderson (co-executor)

George C., Jr. and Sharyn L. Ford

Legal Address, Tax Map,  
Area and Existing Zoning:

7145 Richmond Rd., 15.1 acres; (23-2)(1-50); A-1

7147 Richmond Rd., 1.0 acre; (23-2)(1-49); A-1

75 Nina Lane, 3.2 acres; (23-2)(1-50C); A-1

126 Rondane Place, portion of 5.8 acres; (23-2)(1-51); R-2 & A-1

Proposal:

To rezone approximately 22.1 acres to allow for the construction of 80 multi-family units and two single family houses having a gross density of 4.0 dwelling units and with office/commercial along Richmond Road with up to 29,400 square feet on 1.35 acres.

Primary Service Area:

Inside

Proposed Zoning:

MU, Mixed Use with proffers

Comprehensive Plan:

Low Density Residential

Surrounding Zoning:

North and West: Kristiansand subdivision, R-2;

North and East: Kristiansand Office, LB; Norge Center, B-1

East: Hill Pleasant Farm, A-1

South: Colonial Heritage development, MU

Southeast: Williamsburg Dodge, auto dealership, B-1

Staff Contact:

Sarah Weisiger, Planner

Phone: 253-6685

**Staff Recommendation:**

Staff recommends that the Planning Commission deny this rezoning application because it does not meet the expectations outlined in the Comprehensive Plan for residential development of up to four dwelling units per acre and for limited commercial development within areas designated Low Density Residential on the Land Use Map. Further, the standards of development for areas within Community Character Areas and Corridors are not met with this plan. Staff applauds the



applicant's efforts to work with the community and the staff to improve the plan, but many issues remain to be clarified or to be more clearly guaranteed in the voluntary proffers.

### **Description of Project**

Marc Bennett, on behalf of Pete Henderson of Henderson, Inc., has submitted an application to rezone approximately 22.1 acres located on Richmond Road (Route 60) on the south side of Norge, from A-1, General Agricultural, and R-2, General Residential, to MU, Mixed Use with proffers.

The applicant proposes to use the assembled parcels to form a Mixed Use zoning district which would include a condominium community with 80 multi-family units, 2 single family houses and approximately 1.35 acres of office/commercial area allowing 29,400 square feet of floor space. (Note: the Master Plan shows 15,000 square feet, but the maximum floor space would be higher because Proffer #1 allows for more than one building.) It would include the removal of two single-family houses, while two existing single family houses, off-site, would remain and would be surrounded by the proposed development.

The applicant does not currently have an identified commercial/office use for the site. Proposed uses for the site are those in the B-1, General Business zoning district with the exception of hotels, motels, and several other uses.

The applicant proposes to have one or possibly two vehicular entrances from Richmond Road to access the multi-family units and the commercial/office parcel, and a shared private drive from Nina Lane to access the existing and proposed single family homes. A pedestrian/emergency access connection would extend between the multi-family units and the single-family units off of Nina Lane. Other pedestrian connections would connect the various portions of the development to Nina Lane.

### **Existing Zoning and Development:**

Along Richmond Road, the parcels at the front of the proposed area of development currently include a house fronting Richmond Road and a house off of Nina Lane; the land is zoned A-1, General Agricultural. The largest parcel to the west is flat and open with steep forested ravines around its edges; it is zoned A-1. The rear parcel has a house that is accessed from Kristiansand, but would not be included in the development. The part of the rear parcel to be rezoned and purchased for the development is a steep wooded section along a stream; it is zoned R-2, General Residential.

### **Proffers:**

The Mixed Use zoning district allows for up to 18 dwelling units per acre and permits 84 different commercial/office/light industrial uses. The MU District also requires only 10% of developable area to be reserved for open space. Staff evaluates the proffers and master plan in a rezoning case using the expectations for development in the Comprehensive Plan. As discussed in a later section of this report, this land is designated Low Density Residential in the Comprehensive Plan, which by contrast, recommends a maximum of 4 dwelling units per acre, large amounts of open space, and very limited commercial development. The applicant has submitted voluntary proffers to offset the impacts of this development and to limit uses within the proposed zoning district. These proffers will be discussed throughout this report. They are as follows:

1. Density
2. Condominium Owners Association
3. Water Conservation
4. Sewer Service
5. Cash Contributions
6. Streetscapes
7. Commercial Design Review
8. Archaeology
9. Environmental Protections
10. Entrance/Taper
11. Sidewalk
12. Pedestrian Path/Emergency
13. Private Streets
14. Commercial Use
15. Landscaped Berm
16. Lighting
17. Shared Driveway
18. Recreation

### **Surrounding Zoning and Development:**

Kristiansand, located north of the proposed development, includes approximately 200 single-family houses and is zoned R-2. Residential density in the area of Kristiansand adjacent to the proposed development is 2.7 dwelling units per acre. The newer area of Kristiansand to the west has larger lots with a density of approximately 1.7 dwelling units per acre. To the south, a subdivision under construction in Colonial Heritage will have a density of 2.7 units per acre. To the east, across Richmond Road and across the CSX railroad tracks, there is a large farm which is part of the Hill Pleasant Farm Agricultural and Forestal District. It is outside of the Primary Service Area and is zoned A -1, General Agricultural.

Non-residential development is located to the north and south along Richmond Road and Nina Lane. The Kristiansand Office Park across Nina Lane from the development has eight offices; it is zoned LB, Limited Business. A small strip shopping center on the corner of Richmond Road faces Nina Lane. Adjacent to the proposed commercial/office parcel on Richmond Road, is the Norge Center which contains several offices. To the south of the site is a recently constructed car dealership. These nearby parcels on Richmond Road are zoned B-1, General Business.

Staff finds that many of the potential commercial uses for the Norge Neighborhood site would not be consistent with the surrounding office, residential and small retail development, but may be consistent with the car dealership to the south. Staff also finds that although the proposed residential area has a higher gross density than that of surrounding residential development, the higher density could be sufficiently offset by the plan's provision of approximately 40% net developable open space and by the proposed berm to be located along Kristiansand. Although the berm is a proffered part of the proposal, the open space is not guaranteed. Therefore, staff finds that the proposal is not consistent with surrounding development.

### **Utilities:**

James City Service Authority (JCSA) would provide water and sewer service to the development. The owner has proffered that water conservation standards shall be submitted to

and approved by JCSA prior to final site plan or subdivision approval. The owner has proffered a cash contribution for alternative water sources or other projects related to improvements to the JCSA water system.

The owner has also proffered a per dwelling unit cash contribution for sewer system improvements unless the owner upgrades, at its expense an existing sewer lift station. It is not clear that the capacity of the existing sewer facility, JCSA Lift Station 6-5, can handle both Norge Neighborhood and adjacent parts of Colonial Heritage. A proposed JCSA Lift Station 9-9, which could possibly serve this development, has been designed, but not constructed. In Proffer #4, the owner states, in part, that a certificate of occupancy shall not be granted until an agreement for construction for the new facility has been made. Staff believes that this proffer does not adequately insure that capacity will be available before development has occurred, and is therefore unacceptable.

### **Public Facilities:**

Per the “Adequate Public School Facilities Test” policy adopted by the Board of Supervisors, all special use permit or rezoning applications should pass the test for adequate public school facilities. A proposed rezoning will pass the test if the schools which would serve the future development currently have adequate design capacity to accommodate the existing student population plus the additional school children generated by the development. For purposes of this policy, the schools shall be deemed adequate if the projected student population does not exceed 100% of the design capacity at the time of the application’s review.

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

Based on information provided by the applicant in its community impact study for the project, the impact to the schools of construction of the proposed units will generate students at the following schools as shown below:

<u>Schools</u>	<u>Current 2003 Enrollment</u>	<u>Design capacity</u>	<u>Addition of Students from Norge Neighborhood Site</u>
Norge Elementary	639	760	11
Toano Middle School	842	775	5
Lafayette High	1428	1250	7

Staff finds the estimate of the number of students to be in keeping with the type of condominium units proposed in the materials submitted with the rezoning application. In the fiscal impact study section, construction investment for the condos are projected to be \$187,500 per unit. The figure of twenty-three students is derived from a County average per unit for mid- to upper-priced condos. It would appear the number is acceptable, given the type and proposed selling price of the units.

The applicant maintains and staff concurs that there is capacity for the projected student population at the elementary level, but the high school and middle school capacity is exceeded. In the Community Impact Study, the applicant points out that the James City County Board of Supervisors has voted to purchase land for a third high school. However, no physical improvements have been programmed into the Capital Improvement Plan to bring the high schools or Toano Middle School under design capacity by 2007. Therefore, this proposal does not pass the adequate public facilities schools test.

The applicant has proposed a cash proffer to mitigate impacts of the development on the County. The funds may be used for any project in the County's capital improvement plan, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

### **Fiscal Impact:**

The fiscal impact study for the Norge Neighborhood Site, prepared by The Wessex Group, Ltd (TWG), estimates that the development would incur costs of \$414,000 per year to the County and produce an estimated \$284,000 annually in revenues. The annual fiscal impact of the proposal would be a net deficit of \$131,000. This study was based almost exclusively on the fiscal impacts of residential construction and the impact of a resident population on revenue and expenditures in the County. The study does not factor in retail tax revenue, for example, from the commercial/office part of the rezoning.

As noted under the section on public facilities, the owner has proposed a cash proffer to mitigate community impacts of the development on the County. The proffer would be at \$750.00 per dwelling unit, for a one time total of up to \$61,500. An additional \$250 per unit for a total of \$20,500 has been proffered to offset impacts on County recreation facilities.

### **Environmental:**

The properties in this rezoning are all located within the Yarmouth Creek watershed. Staff has pointed out that the "Yarmouth Creek Watershed Plan Draft Report" (adopted by the James City County Board of Supervisors in October of 2003) identified conditions on site needing action or protection. These include special stormwater criteria, potential stream restoration for one of the streams ranked medium priority, and an identified shell marl deposit.

The banks along the two perennial streams will be subject to the Chesapeake Bay Preservation Area ordinance amendments as of January 1, 2004. The site plan for any rezoning that receives approval after that date will have to provide 100 foot Resource Protection Area (RPA) buffers for these streams. The owner has proffered to create a conservation area of a similar width, shown on the Master Plan, in a conservation easement. This means that both an easement and the RPA buffer will be placed on the steep wooded areas above the streams. The proffer is acceptable, but it must be noted that the CBPA ordinance requirements would supersede activities otherwise granted in the conservation easement.

The owner has also proffered to provide stream stabilization and where feasible, to incorporate infiltration/recharge BMP(s) into the stormwater system or to preserve special onsite Hydrological soils. Staff welcomes these proffers and believes that they could form part a superior environmental plan for the property if the proffers are strengthened to guarantee a commitment to provide them and to demonstrate that the work will be planned, bonded and completed at the time of development of the multi-family area. As they are currently written, the

proffers do not guarantee when the stream stabilization work will occur, or if the infiltration/recharge BMP will actually be provided.

Staff has suggested that the applicants include an agreement for the use of a shared regional stormwater facility for drainage of the front portion of the properties. Use of the shared facility located behind Williamsburg Dodge would reduce the size of the onsite BMP and reduce the need for encroachment into the proposed conservation area. This has not been guaranteed.

As stated in the Comprehensive plan, unusual environmental protection is one way a development may be considered to go beyond one dwelling unit per acre in a Low Density Residential area. While the applicant has improved its proposal for environmental protection, the proposals for stream stabilization and use of recharge/infiltration are not adequately guaranteed. Therefore, staff believes that the application as proposed does not adequately provide unusual environmental protections.

### **Condominium Association:**

The applicant has proffered to have a condominium owners' association which will be responsible for maintenance of open space, private roads, sidewalks and other common elements. The association shall participate in cost sharing agreements with the commercial parcel owner or owner association to maintain any stormwater facilities or roads shared by both properties.

Staff's concern is that it is not clear which residential units are to be in the condominium association. Clarification of this point is important for administering the water conservation proffer and for use and care of the shared driveway. Staff would prefer that both single family and multi-family units are part of the association, or have an agreement similar to that of the association and the commercial parcels. Further, staff believes the proffer should reflect that the County Planning Director shall review changes to cost-sharing agreements between the condominium association and the commercial parcel owner or owners' association.

### **Open Space:**

Innovative open space design is one of the other ways that a plan can achieve density as high as four dwelling units per acre in a Low Density Residential area on the Comprehensive Plan Land Use Map. The Cluster Overlay district in the County's zoning ordinance spells out open space requirements for cluster development of up to four dwelling units per acre within Low Density Residential areas. Open space should be 40% of net developable lands to be set aside permanently and maintained for conservation and recreation purposes. This Master Plan provides approximately 40% of open space in developable areas including perimeters within the multi-family area (the Master Plan table gives a figure of 52% for the entire development including single family and commercial.) Although the land is not dedicated to remain or is proffered as open space, a Master Plan cannot be significantly altered without a rezoning amendment.

Staff finds that if developable open space in the multi-unit area is not reduced in the course of planning and development, this proposal could satisfy open space standards sufficiently to support the proposed density.

## **Streetscapes:**

The applicant has proffered to provide landscaping along internal streets in accordance with the County's Streetscape Guidelines Policy. In addition to plantings along internal streets, Proffer #6 also includes plantings along the shared drive from Nina Lane and along one side of the pedestrian/emergency access shown.

Staff welcomes the inclusion of the shared drive and the access lane for streetscape treatments, because this will provide a landscape design which will better integrate the single family area in with the Kristiansand neighborhood and will provide shade for pedestrians. However, as with the sidewalk and pedestrian connections below, staff is concerned that the improvements should be made all at once on both single family and multi-family drives at the time of construction of the multi-family area, regardless of phasing. This is not included in the proffer.

## **Landscaping, Berms and Lighting**

The applicant has proffered to place a landscaped berm in the perimeter setback area between Kristiansand and the multi-family area. A berm in this area may eliminate some of the car headlights from shining on to neighboring properties. Outdoor lighting standards have also been proffered to limit the height and amount of glare from street light poles and from lights mounted on the backs of buildings. Beyond the streetscapes discussed above, no landscaping beyond general landscaping requirements has been shown on the master plan or is proffered. There will be some further discussion of this in the section on setback modifications. Staff finds the berm and lighting proffers to be a positive contribution to the plan.

A berm has also been suggested in the Master Plan notes for the area behind Williamsburg Dodge that is adjacent to the multi-family units. Unlike the setback area mentioned above, this area still retains mature trees and the placement of a berm in this area would require removal of trees, which is not allowed by the ordinance.

## **Sidewalk and Pedestrian Connections**

The provision of good pedestrian connections within a development and to adjacent properties is an important part of mixed use and residential cluster development and of meeting the goals of innovative open space design. As this proposal lacks vehicular connections with neighboring properties, safe sidewalk and bicycle connections are important to the integration of the project with the existing neighborhood and surrounding areas. Safe areas to walk can reduce the need for vehicle trips to nearby shops and offices thereby reducing the impact on Richmond Road traffic movements.

This Master Plan shows sidewalks on both sides of internal streets (except for the open space area in the center) and sidewalk and multi-use connections to the shared driveway on to Nina Lane. The owner has proffered a sidewalk to the commercial parcel and to Nina Lane and along Nina Lane. Staff agrees that sidewalks and pedestrian connections are necessary in these areas and are an essential factor in providing good open space design. However, staff has several concerns with the proffered items including the following: 1) the lack of a proffered time for the completion of the sidewalk connections and shared driveway will not insure that these facilities will be completed in a timely manner; 2) there is no clear guarantee that all pedestrians will be able to use the shared driveway for pedestrian access.

Staff finds that the location of sidewalks and connections are a commendable improvement of this plan from earlier submittals. However, the timing and utility of the pedestrian connections are questionable unless the construction is completed at the same time, or prior to, the multi-family area that would be served by the connections and that access is guaranteed.

### **Traffic Impacts/Access:**

The area of the proposed re-zoning is on Richmond Road, or Route 60, between Route 199 at Lightfoot and Croaker Road. The part of Richmond Road in front of the proposed development does not have a median, but does have a middle turn lane and two west bound and two east bound lanes for a total of five lanes. CSX Railroad tracks run parallel to Richmond Road in this area on the north side of the road; there is a grade crossing on a dirt road across from the site.

The owner has proffered one entrance to the multi-family and commercial site with a possible direct entry from Richmond Road for the commercial/office parcel. The owner has also proffered a shared driveway for vehicular access to the existing and proposed single family houses and for pedestrian access to the multi-family area. (Staff does not believe the ownership and easements of the shared driveway in Proffer #17 are clear to allow for pedestrian access to Nina Lane.) Further, the design and timing of the construction of the driveway should be subject to the approval of the Planning Director and done in a timely manner as noted above.

A traffic impact assessment was prepared by DRW Consultants, Inc. in August of 2003 for the rezoning of the property. According to the report and additional information requested by and provided to staff, the level of service for a single entrance on to Richmond Road in 2008 will be a "C" for left turns in the AM and PM peak hours and a "B" for right turns.

The Virginia Department of Transportation (VDOT) has reviewed the traffic impact study for the project. Based on the development assuming 15,000 square feet of retail specialty shops and 80 multi-family units, VDOT recommends that the development provide a 200 foot right taper lane on Richmond Road at the entrance. This has been proffered by the applicant and staff believes that the taper lane would adequately address the impacts under these assumed conditions.

However, if a proposed commercial/office use has a higher trip generation than that found in the traffic impact study, the owner proffers to submit an updated traffic impact study and implement the recommendations of the study prior to issuance of certificate of occupancy for the parcel. Staff finds that Proffer #14 does not adequately allow for County and VDOT approval of such a traffic impact study. The traffic impact study should be submitted at the time of site plan review for the parcel.

### **Private Streets and Parking:**

The applicant has proffered to provide private streets in keeping with VDOT construction standards and to deposit \$8,500 into a maintenance reserve fund maintained by the Association.

The applicant proposes to provide approximately two parking spaces per unit on driveways, in garages and in off-street parking areas. Notes on the Master Plan state that 157 spaces are shown, but it appears that there are only 152 spaces. The Zoning Ordinance has no specific parking designation for multi-family condominiums; the configuration of the condominiums, with four units per building, meet the definition of an apartment house ("a building used or intended

to be used as the residence of three or more families living independently of each other”) which has a requirement of 2.2 parking spaces per unit. The applicant has proposed to use the parking designation “Other Residential” with a minimum requirement of 1.5 spaces per unit. At the time of site plan review, staff will use the apartment definition unless a waiver is granted at that time. Staff is chiefly concerned that should additional parking be added, a loss of part of the planned open space may result because the open space shown is not otherwise guaranteed in the Mixed Use District.

### **Recreation:**

The applicant has provided a 1.5 acre neighborhood recreation area which currently consists of an open field and a multi-use path connection to Nina Lane. In addition to the provision of a gazebo/shelter in the recreation area, the applicant proffers a cash contribution of \$250 per unit for use by the County for recreation capital improvements. Subject to clarification of the permitted use of the pedestrian access multi-use path and driveway, staff finds that the recreation amenities and proffered cash contributions satisfy the County’s Recreation Proffer policy.

### **Comprehensive Plan Designation:**

County expectations for residential development, commercial development and development in Community Character Areas and Corridors are provided in the James City County Comprehensive Plan.

The Comprehensive Plan Land Use map designates the parcels included in this proposal as Low Density Residential. Low density areas are suitable for residential developments with overall densities of one dwelling unit per acre. In order to encourage high quality design, development with density up to four units per acre is recommended if the development offers benefits such as mixed cost housing, affordable housing, protection of wildlife habitats, adequate recreational areas, superior open space design, and superior environmental protections. According to the Plan, very limited commercial establishments are recommended for Low Density Residential areas. Commercial and residential areas in a Community Character Area should follow the design guidelines for the area.

Staff is generally satisfied with the shape of the residential development as shown on the Master Plan. The open space, small stormwater facility, conservation areas, pedestrian connections and the manner in which the proposed single family area blends in with existing homes show superior design. However, the lack of guaranteed commitments to complete pedestrian amenities and environmental protections, and to preserve developable open space, make it impossible for staff to recommend this proposal with a density of four dwelling units per acre in a Low Density Residential area.

Staff finds that the type of proposed commercial development (B-1 uses with some exceptions) is not sufficiently limited given that the site is in an area designated Low Density Residential. The timing and volume of commercial development are very important within the County. The property designation, Low Density Residential, is a deliberate attempt to balance large unimproved commercially zoned lots in nearby Norge with the character of Norge. Staff had recommended a restriction to permit LB, Limited Business, uses rather than B-1 uses to keep the proposal more consistent with the Comprehensive Plan.



Community Character is important to the citizens of the County and reflected in the Comprehensive Plan. Guidelines for site layout, architectural features and landscaping within Norge and Toano are spelled out in the Community Character section of the Comprehensive Plan and have been incorporated into several of the County Zoning ordinance. The applicant has proffered to submit a conceptual plan for the commercial parcel that will be reviewed and approved for general consistency with the architectural character of the Norge Community Character area, and in keeping with provisions for commercial development in Neighborhood Commercial areas and consistent with the landscape ordinance for development on major corridors. Staff requested that these items be included, and is generally satisfied. However, the lack of assurances that the parking will be to the side or behind buildings makes the proffer a minor improvement over what is required under zoning ordinances.

### **Perimeter Setback Modification Requests:**

The applicant has requested modification to perimeter setback requirements. Mixed Use districts require a fifty foot perimeter setback from all adjacent properties. Setbacks shall be left in an undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover. It is possible to get a modification from the zoning requirement under at least one of the following conditions:

1. the proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
2. the proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
3. the proposed setback is due to unusual size, topography shape or location of the property or other unusual conditions, excluding proprietary interests of the developer.

The applicant's requests for setback modifications are stated in a letter attached to this report, Staff recommendations are summarized below:

Richmond Road setback reduced to 35' in order to be more visible to the road.

Staff: Recommends **denial**. Without changes to Proffer #7 for commercial design review, this setback reduction would not require that parking areas be located away from Richmond Road which is encouraged in the Norge Community Character Area. The 20' landscape yard for the shown on the Master Plan does not meet ordinance requirements. Landscape modifications up to only a minimum width of 30 feet are permitted along road right-of-way.

Richmond Road commercial parcel property line with 7151 Richmond Road, Norge Center, reduced to 35' to better integrate with neighboring commercial area.

Staff: Recommends **approval**. The modification will better integrate the development with adjacent commercial/office development.

Setback modification request for areas adjacent to Williamsburg Dodge divided into two parts:

Entrance road area adjacent to north side of Williamsburg Dodge at 7101 Richmond Road reduced to 35' because of unusual shape of property.

Staff: Recommends **denial**. The request does not meet criteria for granting a modification. Staff would support a modification with guarantees for enhanced landscaping in the setback.

Multi-family section of parcel adjacent to rear or west of 7101 Richmond Road, Williamsburg Dodge to 35' as reduced setback of proposed development will not be detrimental to car dealership.

Staff: Recommends **denial**. The request does not meet criteria for granting a modification. A reduced setback here would result in the loss of a natural buffer of existing mature trees. Notes on the Master Plan regarding a berm in this area are contrary to what is set forth in the zoning ordinance for existing wooded buffers.

Boundary area with Colonial Heritage property to the south, reduced to variable width setback to average 50' along property line in order to incorporate stormwater management facility BMP.

Staff: Recommends **denial**. The request does not meet criteria for a modification and would result in the loss of a natural buffer to a perennial stream.

Area of single-family residences reduced to setbacks as shown on the master plan.

Staff: Recommends **approval** of setback modification request only. The reduced setback will better integrate this residential portion of the mixed use district with the existing houses and nearby neighborhood.

In summary, staff recommends approval of the setback modification for the property line adjacent to 7151 Richmond Road and for the setback reduction in the single family designated area. Staff recommends denial for all others because they do not meet criteria for setback reductions.

### **RECOMMENDATION:**

Staff applauds the applicant's efforts to work with the community and staff to improve the plan, but many issues remain to be clarified or more clearly guaranteed within the proffers. Staff recommends acceptance of staff recommendation for setback modifications to the perimeter areas and recommends denial of the rezoning proposal as a whole.

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Sarah Weisiger  
Planner

### **Attachments:**

1. Location Map
2. Master Plan
3. Applicant letter for request for modification of perimeter setback requirement
4. Proffers

October 13, 2003

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



**RE: Request for Modification, Norge Neighborhood site  
AES Project No. 9286**

Dear Mr. Sowers:

AES, on behalf of our client, Henderson Inc., is requesting a modification of the James City County Ordinance Sec. 24-527(b) in accordance with Sec. 24-527(d) for the proposed Norge Neighborhood site at Richmond Road (Route 60) just south of Nina Lane. The site is being rezoned to Mixed Use and is currently zoned R-2 and A-1.

Sec. 24-527 (b) states "For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development." We request multiple reductions of the perimeter buffers. For clarity of these setback-buffer modifications please refer to the attached the Master Plan.

We request that the perimeter setback be reduced to 35' along the site's frontage on Richmond Road and next to the existing B-1 commercial developments per 24-96(a), (d)(1). Paragraph 24-527 (c) (1) suggests that such modifications could be approved "for the purposes of integrating the proposed mixed use development with adjacent development." For a commercial business to survive it needs to be visible from the road. We request reduction of two-perimeter 50' buffer that will diminish or prevent visibility from Richmond Road. It has been our intent to continue to treat Richmond Road corridor as a commercial center with mixed commercial serving the area. This is an effort to link the commercial portion of the Norge Neighborhood site to the adjacent commercial properties through inter-parcel connection and visibility.

In addition we request the buffer to be reduced to 35' along our property adjacent to the Williamsburg Dodge property zoned B-1 on the southern boundary of the property. We feel that our development will not be detrimental to an auto dealership. We will provide 35-foot transitional screening per 24-99(d)(4) a.

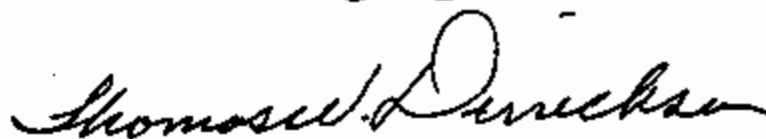
Colonial Heritage has provided a 50' buffer long the southern boundary with our development. In order to provide our SWM/BMP in the best location on our site we request a reduction of the 50' width to accommodate this facility. The intent of the buffer requirements will still be met through the use of enhanced screening measures where necessary and maintaining an average of 50-foot buffer in this area.

We request a reduction of the setbacks associated with the proposed two single family detached residences. Our intent is to provide residential transition between the zoned Mixed Use development of Colonial Heritage, the zoned R-2 Kristinsand, and the 2 one-acre lots zoned A-1. Per 24-99(d)(1)(b) we request reduction and no landscaping requirement along Nina Lane and the existing 50' access easement.

Thank you for your consideration of this Request for Modification.

Sincerely,

AES Consulting Engineers

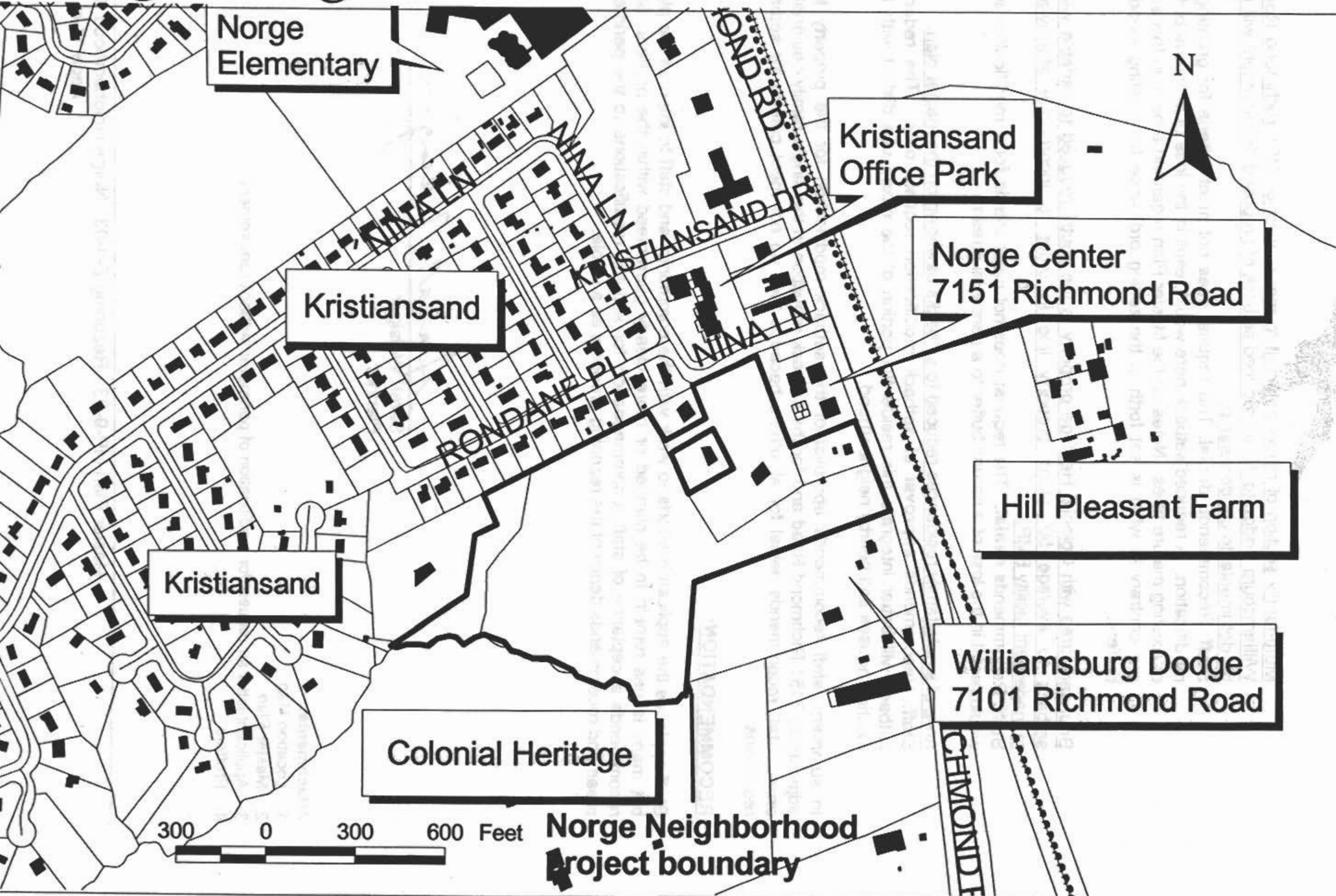


Thomas W. Derrickson C.L.A.  
Landscape Architect/Land Planner

cc: Mr. Vernon Geddy, III

# Case No. Z-8-03/MP-9-03

## Norge Neighborhood Site





## PROFFERS

THESE PROFFERS are made this 26<sup>th</sup> day of November, 2003 by Evelyn H. Anderson, individually and as co-executor of the estate of Frederick A Hoar, Marie A. Hovland, as co-executor of the estate of Frederick A Hoar and George Ford and Sharyn Ford, husband and wife (together with their respective successors in title and assigns, the "Owner") and Littlefeet, LLC, a Virginia limited liability company ("Buyer").

## RECITALS

A. Evelyn H. Anderson, individually and as co-executor of the estate of Frederick A Hoar, Marie A. Hovland, as co-executor of the estate of Frederick A Hoar are the owners of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 7147 Richmond Road, Williamsburg, Virginia and being Tax Parcel 2320100049, the second with an address of 7145 Richmond Road, Williamsburg, Virginia and being Tax Parcel 2320100050, and the third with an address of 75 Nina Lane, Williamsburg, Virginia and being Tax Parcel 2320100050C (the "Hoar Property").

B. George Ford and Sharyn Ford, husband and wife are the owners of a tract or parcel of land located in James City County, Virginia, with an address of 126 Rondane Place, Williamsburg, Virginia and being Tax Parcel 2320100051 (the "Ford Property").

B. Buyer has contracted to purchase the Hoar Property and a portion of the Ford Property as shown on the Master Plan (defined below) conditioned upon the rezoning of the Property.

C. The Hoar Property is now zoned A-1. The Ford Property is now zoned R-2. The Hoar Property and the portion of the Ford Property shown on the Master Plan are hereinafter called the "Property". Owner and Buyer have applied to rezone the Property from A-1 and R-2 to MU, Mixed Use District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Norge Neighborhood Site" prepared by AES Consulting Engineers dated September 17, 2003 and revised October 13, 2003 and November 17, 2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. **Density.** There shall be no more than 82 residential dwelling units on the Property, consisting of no more than two single family dwelling units located in the portion of the Property with a Master Plan area designation of "A" and no more than 80 multi-family dwelling units located in the portion of the Property with a Master Plan area designation of "B". All multi-family units on the Property shall be developed as a condominium project pursuant to the Virginia Condominium Act. The residential portions of the Property shall have a overall density of no more than four dwelling units per acre. The portion of the Property with a Master Plan area designation of "E, G" (the "Commercial Parcel") shall have a total maximum building coverage of 20%, no single building shall have a footprint of more than 6,000 square feet and no building shall exceed two and one-half stories and 45 feet in height.

2. **Condominium Owners Association.** There shall be organized a condominium owner's association as required by the Virginia Condominium Act (the "Association") in accordance with Virginia law in which all condominium unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and condominium declaration (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The



Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, sidewalks, and all other common elements (including open spaces) 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. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Association and the owner of the Commercial Parcel and/or a property owners association formed for the Commercial Parcel shall enter into a costs sharing agreement setting forth the responsibilities of the respective parties with respect to the maintenance of the portion of the private driveways and stormwater maintenance facilities utilized by both properties. Such agreement shall be subject to the approval of the County Attorney and shall not be amended without the prior approval of the County Attorney

3. **Water Conservation.** Water conservation standards for the Property shall be submitted to and approved by the James City Service Authority and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall

address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan or subdivision approval.

**4. Sewer Service.** The County shall not be obligated to issue any certificates of occupancy for structures on the Property until either: (i) the developer of the Colonial Heritage project and the County and/or the James City Service Authority ("JCSA") have entered into an agreement providing for the construction of proposed Regional Lift Station 9-9 and its associated cross country gravity sewer lines and the removal of Lift Stations 6-3 and 6-5; or (ii) a detailed capacity analysis of existing Lift Station 6-5 accounting for flows reserved by the Colonial Heritage project and identifying the upgrades necessary to serve the development of the Property is submitted to and approved by the JCSA and Owner makes the necessary upgrades to existing Lift Station 6-5 at its expense.

**5. Cash Contributions for Community Impacts.** (a) A contribution of \$750.00 for each dwelling unit on the Property shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the

Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$427.00 for each dwelling unit on 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 the Property unless Owner, at its expense, upgrades an existing Lift Station 6-5 as provided in Section 4(ii) above to serve the Property in which case no additional contribution shall be required. The JCSA may use these funds for development of sewer system improvements or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(c) A contribution of \$750.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation 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 in whole or in part by the physical development and operation of the Property, including, without limitation, for

emergency services, school uses, off-site road improvements, library uses, and public use sites.

(d) Owner shall make a contribution to the County of \$250.00 for each residential lot or unit shown on a final development plan for the Property for use by the County for recreation capital improvements.

(e) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the Property at the time of subdivision or site plan approval for such unit.

(f) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2005 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.

6. **Streetscapes.** The Owner shall provide and install streetscape improvements along both sides of the internal streets and the shared private driveway and on one side of the pedestrian/emergency access shown on the Master Plan in accordance with the County's Streetscape Guidelines Policy. The streetscape improvements shall be shown on development plans for the Property and submitted to the Director of Planning for approval during the site plan approval process. Streetscape improvements shall be bonded as required and necessary by applicable County policies.

7. **Commercial Design Review.** Prior to the County being obligated to grant final development plan approval for any of the buildings on the Commercial Parcel, there shall be prepared and

submitted to the Director of Planning for approval conceptual site plan, architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural character of the Norge Community Character Area and the provisions of Section 24-370 (c) and 24-96 (d) of the Zoning Ordinance as in effect on the date hereof. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 45 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans. The design of the entrance into the Commercial Parcel from the main entrance drive into the Property shall be subject to the review for traffic safety and approval by the Director of Planning prior to final site plan approval.

8. **Archaeology.** A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites 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.

9. **Environmental Protections.** (a) The Owner and/or the owners association shall grant, free of charge, to a 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. 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 County Engineer 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, (iii) utilities, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area, (iv) stream restoration work shall be permitted in the Conservation Area and (v) stormwater BMPs may be located in the Conservation Area but shall not be located in nor impact the channel flow of perennial streams unless specifically approved by the Environmental Division. If vegetation is removed from the Conservation Area by development activities it shall be replaced by indigenous



vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Except for existing utilities and to the extent reasonably feasible, new 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 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 or dwelling units.

(b) To the extent reasonably feasible, Owner shall incorporate infiltration/recharge BMP(s) in the stormwater management system for the Property or save existing onsite Hydrologic Soil Group A and B soils.

(c) Owner shall perform streambed stabilization in the area shown on the Master Plan pursuant to a plan submitted to and approved by the Environmental Division.

**10. Entrance/Taper.** Except as provided below, there shall be one entrance into the Property to and from Route 60 in the general location shown on the Master Plan. The Commercial Parcel shall not have direct access to Route 60 unless due to the unique

nature of a proposed use or uses on the Commercial the Director of Planning and Virginia Department of Transportation approve a direct access. The portion of the Property with a Master Plan designations of "A" shall be served by a private shared driveway off Nina Lane as shown on the Master Plan. A eastbound right turn taper 200 feet in length on Route 60 shall be constructed at the entrance to the Property from Route 60. The taper proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy. All signage along the Route 60 frontage of the Property shall be subject to review and approval of the Director of Planning in accordance with provisions of Section 24-69 of the Zoning Ordinance.

**11. Sidewalk Connections.** There shall be sidewalks on the Property generally in the locations shown on the Master Plan, including the internal sidewalk connection to the Commercial Parcel and to Nina Lane and along the Nina Lane frontage of the Property. There shall be no fence, gate, sign or structure to restrict pedestrian access to any of such sidewalks.

**12. Pedestrian Path/Emergency Access.** There shall be a multi-use path at least 10 feet in width, six feet paved and four feet of soil - reinforced earth shoulders, installed on the Property generally as shown on the Master Plan to provide

pedestrian access and emergency vehicular access to and from the Property and Nina Lane. The path shall be located in an easement held by the Association and shall be maintained by the Association. The path shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy.

**13. Private Streets.** All streets on the Property shall be private and shall conform to VDOT construction standards. Owner shall deposit into the maintenance reserve fund maintained by the Association the amount of \$8,500.00 and shall provide evidence of such deposit to the Director of Planning at the time of final site plan or subdivision approval.

**14. Commercial Uses.** Except as further limited below, uses on the Commercial Parcel shall be limited to those uses permitted by right in the B - 1 zoning district under the James City County Zoning Ordinance as in effect as of the date of these proffers. The following uses, otherwise permitted by right in the B - 1 zoning district, shall not be permitted on the Commercial Parcel: automobile service station, hotels, motels, tourists homes and convention centers, public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement or fast food restaurant. If any use is proposed to locate on the Commercial Parcel with a materially higher trip generation based on ITE trip generation figures than the specialty retail (ITE

Code 814) use used in the traffic impact study submitted herewith performed by DRW Consultants, Inc., then Owner shall submit an updated traffic impact study based on the proposed use and shall implement the recommendations of the updated study prior to issuance of certificate of occupancy for the Commercial Parcel.

**15. Landscaped Berm.** There shall be a landscaped berm from two to six feet in height located between the multi-family development on the Property and the Kristiansand subdivision, with the location and dimensions of the berm and the landscaping to be located thereon to be consistent with the detail and notes provided on the Master Plan and to be shown on development plan for the Property to be reviewed and approved in the plan review process.

**16. Lighting.** Street light poles at the Route 60 entrance and along the access drive extending the depth of the Commercial Parcel shall not exceed 20 feet in height. All other street light poles on the Property shall not exceed 15 feet in height. All building mounted external lights along the backs of the buildings on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. These lights shall be shown on a lighting plan to be submitted to and approved by the Director of Planning and shall indicate that no glare defined as 0.1

footcandle or higher is cast off the Property onto adjacent properties.

17. Shared Driveway. There shall be a shared driveway at least 10 feet in width with at least a four inch stone base and one and one-half inches of asphalt serving the two single family residential lots on the Property generally as shown on the Master Plan. Prior to final approval and recordation of the subdivision plat for those lots, Owner shall submit an instrument to the County Attorney for approval, setting forth provisions (i) creating the necessary easements for the shared driveway, (ii) for the permanent care and maintenance of the shared driveway, and (iii) establishing the method of assessing each lot for its share of the costs of administering, maintaining and replacing the shared driveway. The approved instrument shall be recorded with the final subdivision plat.

18. Recreation. Owner shall install a shelter/gazebo generally as shown on the Master Plan prior to issuance of a certificate of occupancy for any of the condominium units on the Property.

WITNESS the following signatures.

*Evelyn H. Anderson* *by Susanne B. Hick*  
Evelyn H. Anderson, individually  
and as co-executor of the estate of  
Frederick A. Hoar  
*Marie A. Howland* *by Susanne B. Hick*  
Marie A. Howland, her attorney in fact

Marie A. Hovland, as co-executor of  
the estate of Frederick A Hoar

George Ford, by JOHN WILSON HER  
ATTORNEY-IN-FACT

George Ford

Sharon Ford, by JOHN WILSON HER  
ATTORNEY-IN-FACT

Sharon Ford

Littlefeet, LLC

By: PARTNER

Title:

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 26  
day of November, 2003, by Evelyn H. Anderson, individually  
and as co-executor of the estate of Frederick A Hoar, by Susanna B.  
Hickman, her attorney-in-fact.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires:

1/31/07

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 26  
day of November, 2003, by Marie A. Hovland, as co-executor  
of the estate of Frederick A Hoar, by John Wilson, her attorney-in-fact.  
Susanna B. Hickman

Barbara J. Claus  
NOTARY PUBLIC

My commission expires:

1/31/07

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 26  
day of November, 2003, by George Ford and Sharyn Ford,  
husband and wife, by John Wilson, their attorney-in-fact.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 1/31/07.

STATE OF VIRGINIA AT LARGE,  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 26  
day of November, 2003, by John Wilson, as  
manager of Littlefeet, LLC on behalf of the company.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 1/31/07.

### Planning Commission 2004 Schedule

Meeting Dates	Application Deadlines	Ad to the Press	Display Dates	APO/Applicant Letters	Packets Delivered
Jan 12	Dec 1	Dec 22	Dec 25 & Jan 1	Dec 29	Jan 7
Feb 2	Dec 22	Jan 12	Jan 15 & 22	Jan 18	Jan 28
Mar 1	Jan 20	Feb 9	Feb 12 & 19	Feb 20	Feb 25
Apr 5	Feb 23	Mar 15	Mar 18 & 25	Mar 22	Mar 31
May 3	Mar 22	Apr 12	Apr 15 & 22	Apr 19	Apr 28
Jun 7	Apr 19	May 10	May 13 & 20	May 17	Jun 2
Jul 12	Jun 1	Jun 21	Jun 24 & Jul 1	Jun 28	Jul 7
Aug 2	Jun 21	Jul 12	Jul 15 & 22	Jul 19	Jul 28
Sep 13	Aug 2	Aug 23	Aug 26 & Sep 2	Aug 30	Sep 8
Oct 4	Aug 23	Sep 20	Sep 23 & 30	Sep 27	Sep 29
Nov 1	Sep 20	Oct 11	Oct 14 & 21	Oct 18	Oct 27
Dec 6	Oct 25	Nov 15	Nov 18 & 25	Nov 22	Dec 1

### DRC 2004 Schedule

Meeting Dates	Application Deadlines	Packets Delivered
Jan 7	Dec 3	Dec 31
Jan 28	Dec 26	Jan 23
Feb 25	Jan 21	Feb 20
Mar 31	Feb 25	Mar 26
Apr 28	Mar 24	Apr 23
Jun 2	Apr 28	May 28
Jul 7	Jun 2	Jul 2
Jul 28	Jun 23	Jul 23
Sep 8	Aug 4	Sep 3
Sep 29	Aug 25	Sep 24
Oct 27	Sep 22	Oct 22
Dec 1	Oct 27	Nov 23





## PLANNING DIRECTOR'S REPORT

December 2003

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

1. Recognition. On November 12, 2003 the Board of Supervisors recognized Dr. Lisa Curry, the Citizens Participation Team and the Comprehensive Plan Steering Committee for their work on the Comprehensive Plan and other projects. The Board presented Dr. Curry with a Resolution of Appreciation for her work, and presented the CPT and the CPSC a Volunteer Outstanding Service Award. Staff joins the Board in thanking Dr. Curry and members of both committees for their valuable contributions to the County.
2. New Town Design Review Board. The DRB reviewed the following cases at its November meeting: United Methodist Church Building, Prudential-McCardle Office Building, and Magoon-Youngblood Mixed Use Building.
3. Chesapeake Bay Preservation Ordinance. On November 25, the Board of Supervisors adopted the amended Chesapeake Bay preservation Ordinance, bringing the County into compliance with the revisions to State regulations. A copy of the ordinance was provided to the Commission at its November meeting.
4. Upcoming Cases. New cases that are tentatively scheduled for the January 12th, Planning Commission meeting include:

**Case No. Z-13-03/MP-12-03. Michelle Point.** Jay Epstein of Health-E-Community Enterprises of Virginia has submitted an application to rezone 38.58 acres of land from A-1, General Agricultural District to R-5, Multifamily Residential District, Cluster. The land is located directly across the street from the Stonehouse Commerce Park at 9001 Barhamsville Road, and is further identified as Parcel (1-3) on James City Real Estate Tax Map (12-1). The applicant proposes 90 single-family detached homes and 20 townhouses. The property is designated Low Density Residential on the Comprehensive Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of up to 4 units per acre in developments that offer particular public benefits. The development proposes a density of approximately 3.6 units per acre.

**Case No. Z-14-03 Powhatan Secondary Proffer Amendment.** Alvin P. Anderson of Kaufman & Canoles, P.C. has applied on behalf of Lawrence E. Beamer, President of Powhatan Enterprises, Inc. to amend the existing Powhatan Proffers. The amendment seeks to delete the last sentence in Existing Proffer 20 which states, "No commercial uses shall be permitted on the "Commercial/Office" area if the ITE trip generation for such commercial use per square foot exceeds the ITE trip generation for office per square foot." Existing Proffer 20 applies only to the commercial/office parcel located at 4501 News Road. The intent of this deletion is to allow commercial and/or office development on the property provided that the aggregate amount of square feet of commercial and/or office floor area does not exceed 62,000 square feet and provided further that the ITE trip generation for the commercial and/or office use does not exceed 1,504 vehicles per day, which is currently permitted by the remainder of Existing Proffer 20. Effectively, the last sentence in Existing Proffer 20 presents a conflict between what is permitted and what can be built because it limits development to very limited commercial development. The property is further identified as Parcel No. (1-31) on James City County Real Estate Tax Map No. (38-3). The property is zoned R-4 with proffers and designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map.

**Case No. SUP-23-03 Nice Office Building Expansion.** Mr. Mike Suerdieck has applied on behalf of David A. Nice Builders, Inc., to add a 797 square foot, second-story addition to an existing office. Contractor's offices are specially permitted uses in the A-1, General Agricultural District in which it is located. The current special use permit, SUP-26-99, must be amended to allow for an addition. The property is located at 4575 Ware Creek Road and is further identified as Parcel No. (1-15B) on JCC Real Estate Tax Map No. (14-1).

**Case No. SUP-24-03; SUP-25-03; SUP-26-03; SUP-27-03 & SUP-28-03 JCC**

**Communications Towers.** Richard Miller has applied on behalf of James City County for a special use permit to construct and operate five communication towers as part of the 800 Mhz. Radio System. The five sites can further be identified as:

- 3135 Forge Road (EOC Building), zoned B-1 and designated Federal, State and County Lands on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-27) on JCC Real Estate Tax Map No. (12-3). The tower will be 144 feet tall.
- 9320 Merrimac Trail (Regional Jail), zoned R-8 and designated Federal, State and County Lands on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-11) on JCC Real Estate Tax Map No. (60-1). The tower will be 280 feet tall.
- 1204 Jolly Pond Road (JCC Landfill) zoned A-1 and designated Federal, State and County Lands on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-4) on JCC Real Estate Tax Map No. (30-1). The tower will be 380 feet tall.
- 129 Industrial Boulevard, zoned M-2 and designated General Industry on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-62A) on JCC Real Estate Tax Map No. (12-4). The tower will be 380 feet tall. Note that it has not been determined whether the tower will be located on this property or on 137 Industrial Blvd.
- 137 Industrial Boulevard, zoned M-2 and designated General Industry on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-62) on JCC Real Estate Tax Map No. (12-4). The tower will be 380 feet tall. Note that it has not been determined whether the tower will be located on this property or on 129 Industrial Blvd.

**Case No. 12-86-2. Gospel Spreading Church Farm Agricultural and Forestal District.** Mr. Robert E. Gilley has applied to add 71.33 acres to the existing Gospel Spreading Farm Agricultural and Forestal District (AFD-12-86). The property is located along Mill Creek in an area between the Colonial Parkway and Lake Powell Road. The property is identified as parcel (1-42) on James City County Real Estate Tax Map (48-3). The parcel is zoned R-8, Rural Residential and is located in the Jamestown District.

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O. Marvin Sowers, Jr.

