

Planning Commission Agenda

May 3, 2004 - 7:00 p.m.

1. Roll Call

2. Minutes

A. April 5, Regular Meeting

3. Committee and Commission Reports

A. Development Review Committee (DRC) Report (Report 2)

B. Other Reports

5. Public Hearings

A. Z-11-03 & MP-11-03. Stonehouse Modifications

B. Z-1-04 & MP-2-04. New Town Section 5

C. SUP-13-03. Williamsburg Farm Country Inn

D. SUP-12-04. Hogan Day Care

E. SUP-14-04. John Tyler Monopole Tower

6. Planning Director's Report

7. Adjournment

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

1. ROLL CALL

A. Joe Poole, III
Peggy Wildman
Jack Fraley
Donald Hunt
Joseph McCleary
Wilford Kale
George Billlups

ALSO PRESENT

Leo Rogers, Deputy County Attorney
O. Marvin Sowers, Jr., Planning Director
Pat Foltz, Development Management Assistant
Karen Drake, Senior Planner
David Anderson, Senior Planner
Matthew Arcieri, Planner

2. MINUTES

Mr. Joe McCleary suggested that a change be made on page eight of the minutes, specifically correcting the direction of his question concerning the animal hospital to "staff" instead of the "Commission."

Mr. McCleary moved to approve the minutes of the March 2004 Planning Commission as amended.

Mrs. Peggy Wildman seconded the motion. The amended minutes were approved by a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. McCleary, chairman of the DRC, presented the DRC report. The DRC heard eight cases at its March 31st meeting. On the regular agenda the DRC recommended the Planning Commission grant preliminary approval for S-098-03, Stonehouse Glen, Section 1, and SP-016-04, Richardson Office and Warehouse. The DRC recommended deferral for SP-014-04, Action Park of Williamsburg Ride Addition, and SP-018-04, New Town Block 8, Phase 1B Residential.

In addition, the DRC granted a septic waiver for case S-013-04, Wexford Hill Phase II - Lot 48, an overhead utility waiver for case C-036-04, 1131 Jolly Pond Road, Overhead Utility Line, and a setback waiver for case SP-021-04, New Town - Block 2, Parcel F Office Building. The DRC granted a waiver for buildings in Blocks 2, 5, and 8 of New Town provided that future proposals are in accordance with the New Town Design Review Guidelines.

Mr. Joe Poole reiterated that all New Town cases subject to this waiver would still appear before the New Town DRB.

In a unanimous voice vote the Planning Commission adopted the DRC report.

4. PUBLIC HEARINGS

A. CASE NO. Z-1-04 & MP-2-04 New Town Section Five.

Mr. Matthew Arcieri stated that the applicant, Mr. Alvin Anderson, of Kaufman and Canoles, requested deferral to the May meeting of the Planning Commission in order to resolve outstanding issues concerning the New Town master plan and proffers. Staff concurred with the request.

Mr. Poole, III opened the public hearing.

Hearing no other requests to speak, Mr. Poole, III deferred the case until the May 3rd meeting.

B. CASE NO. Z-11-03 & MP-12-03 Stonehouse Modifications

Ms. Karen Drake stated that the applicant, Mr. Alvin Anderson, of Kaufman and Canoles, requested deferral to the April meeting of the Planning Commission in order to resolve outstanding issues concerning the New Town master plan and proffers. Staff concurred with the request.

Mr. George Billups asked if any archaeological sites had been identified in Stonehouse.

Ms. Drake responded that several had been identified, and Mr. Sowers commented that a proffer from the original rezoning addressed archaeological concerns.

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

Hearing no other requests to speak, Mr. Poole deferred the case until the May 3th meeting.

C. CASE NO. SUP-09-04 Chesapeake Bank

Mr. David Anderson presented the staff report. Mr. Jim Bennett of AES Consulting Engineers has applied on behalf of Marshall N. Warner of Chesapeake Bank to request an extension of SUP-28-00, approved July 10, 2001. The original special use permit approved a 3,200 square foot bank building at 8909 Richmond Road. The property is further identified as parcel no. (1-3A) on James City County Tax Map no. (12-1). This application requests an extension of the expiration date of the approved special use permit to coincide with the expiration date of the approved site plan (SP-98-01), approved April 19, 2002 and scheduled to expire on April 19, 2007. The property is zoned B-1, General Business District, and designated Mixed Use on the 2003 Comprehensive Land Use Map. Staff recommended approval for the application.

Mr. Wilford Kale asked if there were any additional conditions to the previous special permit.

Mr. Anderson responded that the changes were limited to the first condition, which requires a pedestrian connection between Michelle Point and the bank site.

Mrs. Wildman asked which businesses had vacated the Stonehouse Commerce Park since the special permit was approved.

Mr. Sowers outlined the changes.

Mrs. Wildman inquired as to whether the trail was a hard trail or a soft trail.

Mr. Anderson affirmed that it was a hard trail.

Mr. Billups asked for clarification of the date presented in condition seven.

Mr. Anderson responded that it was the expiration date of the site plan.

Mr. Billups asked if staff knew of any current or potential conflicts between Chesapeake Bank and Michelle Point.

Mr. Anderson answered that he was not aware of any.

Mr. Don Hunt asked for more detail regarding the proposed pedestrian connections between Michelle Point and the bank site.

Mr. Anderson reviewed the proposed connections.

Mr. Sowers spoke to the overall zoning history of the site, specifically that only a small portion of the 10 acre property, located along Richmond Road, had been rezoned.

Mr. Poole inquired as to the zoning of the rest of the property.

Mr. Anderson responded that it was indeed A-1.

Mr. Jim Bennett, the applicant, delivered a short presentation and concurred with the staff report.

Mr. McCleary asked if Chesapeake Bank in any way opposed the change.

Mr. Bennett responded that they did not.

Mr. Billups inquired into the eventual schedule of the bank's construction.

Mr. Bennett responded that the site plan phase was next in the process.

Mr. Poole stated that, while he was happy with past projects undertaken by Chesapeake, he was less sure of this project due to concerns as to the overall commercial space in Stonehouse.

Mr. Kale stated that he was troubled by the overall time schedule for the bank's construction and was concerned about extending the time on this permit.

Mr. Bennett responded that the initial three-year permit was, in this instance, too short a timeframe for a site that was unready and that this time extension would give the bank time to gauge the market.

Mr. Poole opened the public hearing.

Hearing no other requests to speak, Mr. Poole closed the public hearing.

Mr. Jack Fraley asked staff the implications of not approving this extension of the SUP.

Mr. Anderson responded that, if the extension would not be approved, the bank could not be built under the current special use permit.

Mr. Fraley expressed his concern, in this instance, that this special use permit for the bank drove the initial rezoning of the property.

Mr. Leo Rogers explained that the zoning would remain in effect unless the property was "down-zoned," or rezoned to its original A-1 designation, but that the County must show a significant change in circumstances surrounding the property to pursue that course.

Mr. McCleary explained that the rezoning process is not driven by the initial intended use.

Mr. Sowers added that, even if a proposed use changes after a rezoning, the proffers still apply to the property and to any owner that acquires it.

Mr. Hunt asked if the bank owned the entire property.

Mr. Sowers responded that they did.

Mr. Fraley remarked that the bank's decision to rezone a small fraction of the overall parcel seemed atypical to him.

Mr. Sowers remarked that no expiration date can be given to a rezoning but that future uses of the property are controlled through the proffers. As for the remainder of the site, any proposed use that did not

conform with the A-1 zoning of the parcel would require a rezoning.

Mr. McCleary moved to approve the application. Mr. Hunt seconded the motion.

Mr. Poole stated that he was not prepared to support the action.

In a roll call vote the motioned passed 5:2. AYE: McCleary, Wildman, Fraley, Hunt, Billups (5). NAY: Poole, Kale (2).

D. CASE NO. SUP-24-03 - Communications Tower - 3135 Forge Road

Mr. Matt Arcieri presented the staff report. Mr. Richard Miller has applied on behalf of James City County for a special use permit to construct and operate a communications tower at **3135 Forge Road** (EOC Building). The Parcel is zoned B-1, General Business 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. Staff finds the application consistent and recommends approval.

Mr. Billups asked if any standards had been put in place for communications towers.

Mr. Arcieri responded that staff uses Board-adopted standards for communications facilities and that these regulations have guided consideration of these towers.

Mr. Poole spoke to the evolution of the tower standards and their use in this instance.

Mr. Hunt discussed other changes neighbouring localities had made to their communications ordinances.

Mr. McCleary spoke to the concerns of the citizens regarding the site location and acknowledged the concerns of local citizens that the convenience center would have to be moved.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole closed the public hearing.

Mr. Hunt made a motion to approve. Mr. Kale seconded.

Mrs. Wildman remarked that it was consistent with the County's performance standards and voiced her support.

Mr. McCleary commended Mr. Miller and his staff on their efforts to work with citizens.

Mr. Kale commented on how well this project had been developed and credited Mr. Miller and his staff on their willingness to work with other localities in moving this project forward.

In a unanimous roll call vote the motion passed 7:0. AYE: Poole, McCleary, Fraley, Wildman, Hunt, Kale, Billups (7). NAY: (0).

5. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the report. He noted that the Hogan Daycare SUP was up for renewal at the May meeting of the Planning Commission. Set to expire in July, this special use permit had been reviewed once before by the Planning Commission three years ago. A short discussion of possible renewal options followed.

Mr. Fraley asked Mr. Sowers to elaborate on Item 10 of the report.

Mr. Sowers responded that the expansion of high speed broadband service was an action from the 2003 Comprehensive Plan and would be coming forward.

6. ADJOURNMENT

There being no further business, the March 1, 2004, meeting of the Planning Commission was adjourned at approximately 8:00 p.m.

A. Joe Poole, III, Chairman

O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY
DEVELOPMENT REVIEW COMMITTEE REPORT**

FROM: 4/1/2004 THROUGH: 4/28/2004

I. SITE PLANS

A. PENDING PRELIMINARY APPROVAL

SP-087-01	The Vineyards, Ph. 3
SP-089-01	Ewell Station Storm Water Management Fac. Mod.
SP-116-01	Powhatan Secondary - Ph. 7, Sanitary Sewer Ext.
SP-112-02	Ford's Colony Recreation Park
SP-045-03	Noah's Ark Vet Hospital SP Amendment
SP-052-03	Kingsmill Access Ramp for Pool Access Bldg.
SP-063-03	District Park Sports Complex Parking Lot Expansion
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-131-03	Colonial Heritage Ph. 2, Sec. 1
SP-132-03	Windy Hill Market Gas Pumps & Canopy SP Amendment
SP-145-03	Williamsburg National 13 Course Expansion
SP-001-04	Strawberry Plains Center
SP-006-04	Williamsburg Christian Retreat Center Amendment
SP-014-04	Action Park of Williamsburg Ride
SP-016-04	Richardson Office and Warehouse
SP-017-04	Settlement at Monticello - Community Club
SP-018-04	New Town - Block 8, Ph. 1B
SP-025-04	Carter's Cove Campground
SP-026-04	New Town - Block 2, Parcel E, Office Building
SP-027-04	Greensprings Condominiums SP Amendment
SP-028-04	Shiloh Baptist of Croaker
SP-029-04	HRSD Wmbg. Plant Electrical Shop Addition
SP-030-04	JCC Communications Tower - Regional Jail
SP-031-04	JCC Communications Tower - JCC Landfill
SP-032-04	JCC Communications Tower - Hankins
SP-033-04	Jamestown H.S. Trailer Addition
SP-034-04	Lafayette H.S. Trailer Addition
SP-035-04	Clara Byrd Baker Trailer Addition
SP-037-04	Stonehouse ES Trailer Addition
SP-039-04	Busch Gardens Security Building SP Amend.
SP-041-04	Ford's Colony - Country Club Redevelopment SP Amd.
SP-042-04	Dream Catchers Therapeutic Riding Center
SP-045-04	Powhatan Co-Location Monopole Tower

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SP-046-04 Williamsburg Cancer Treatment Center SP Amend.
 SP-047-04 Villages at Westminster Drainage Improvements
 SP-048-04 Colonial Heritage Temp. Sales Trailer
 SP-049-04 Hogan Homestead Children's Nursery
 SP-050-04 AJC Woodworks
 SP-051-04 Druid Hills, Sec. D
 SP-054-04 Milanville Kennels
 SP-055-04 Busch Gardens - Stroller Rental Deck Expansion
 SP-056-04 Michelle Point
 SP-057-04 The Archaearium at Historic Jamestowne

B. PENDING FINAL APPROVAL

EXPIRE DATE

SP-061-02	Powhatan Plantation Recreation Bldg Amd	6/18/2004
SP-009-03	Energy Services Group Metal Fabrication Shop	11/14/2004
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-056-03	Shell Building - James River Commerce Center	3/ 4/2005
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-108-03	Fieldstone Parkway Extension	2/26/2005
SP-116-03	Kingsmill - Armistead Point	11/19/2004
SP-127-03	New Town - Old Point National Bank	3/26/2005
SP-130-03	Wythe-Will Distributing Company, LLC	11/12/2004
SP-134-03	Ironbound Center 4	12/15/2004
SP-136-03	GreenMount Industrial Park Road Extension	3/15/2005
SP-138-03	New Town - Prudential-McCardle Office Building	12/29/2004
SP-139-03	New Town - Block 8, Ph. 1	2/25/2005
SP-140-03	Pocahontas Square	3/ 1/2005
SP-141-03	Colonial Heritage - Ph. 2, Sec. 3	1/12/2005
SP-143-03	New Town - United Methodist Church	1/12/2005
SP-150-03	WindsorMeade Marketplace	2/ 3/2005
SP-003-04	WindsorMeade Villas	3/ 1/2005
SP-004-04	WindsorMeade - Windsor Hall	3/ 1/2005
SP-005-04	WindsorMeade - Villa Entrance and Sewer Const.	3/ 3/2005
SP-009-04	Colonial Heritage Ph. 1, Sec. 3 & 3A	3/ 1/2005
SP-013-04	Gabriel Archer - Williamsburg Winery - Amendment	3/22/2005
SP-015-04	New Town - Sec. 4, Ph. 2 Infrastructure	4/ 5/2005
SP-021-04	New Town - Block 2, Parcel F Office Building	3/25/2005
SP-023-04	Williamsburg Landing SP Amendment	4/ 2/2005

C. FINAL APPROVAL

DATE

SP-005-03	Hankins Farm Water and Sewer Extension	4/27/2004
SP-144-03	Building Specialities Warehouse Expansion	4/15/2004
SP-147-03	J.H. Fisher Offices and Warehouse	4/ 6/2004

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SP-002-04	Ironbound Village Ph. 2	4/ 2/2004
SP-019-04	Colonial Heritage, Massie Farm Pond SP Amendment	4/13/2004
SP-020-04	JCSA Improvements to Lake Powell Pipe Bridge	4/15/2004
SP-038-04	Hardscape Sales Office SP Amend.	4/ 9/2004
SP-040-04	Busch Gardens Storage Building Relocation	4/22/2004
SP-043-04	Colonial Heritage - Lift Station/Force Main Amend.	4/19/2004
SP-044-04	Colonial Heritage - Cross-Country Sewer Main	4/21/2004
SP-052-04	Busch Gardens - Pompeii Remote Boats	4/26/2004
SP-053-04	Colonial Heritage - Ph. 1, Sec. 1 SP Amend.	4/26/2004

II. SUBDIVISION PLANS

A. PENDING PRELIMINARY APPROVAL

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-086-02 The Vineyards, Ph. 3, Lots 1, 5-9, 52 BLA
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-083-03 Columbia Drive Subdivision
S-094-03 Brandon Woods Parkway ROW
S-100-03 Colonial Heritage Ph. 2, Sec. 1
S-101-03 Ford's Colony - Sec. 35
S-107-03 Stonehouse Conservation Easement Extinguishment
S-108-03 Leighton-Herrmann Family Subdivision
S-115-03 Eagle Tree Farm Lot 12
S-116-03 Stonehouse Glen, Sec. 2
S-003-04 Monticello Avenue ROW plat for VDOT
S-008-04 Lake Powell Forest Ph. 6
S-021-04 Varble Subdivision
S-022-04 ROW Conveyence for Rt. 5000 & Rt. 776 Abandonment
S-027-04 Lake Powell Forest Ph. 7
S-029-04 BLA Lots 1A and 1B Longhill Gate
S-031-04 BLA for Florakis Properties
S-032-04 Forge Road Dye Subdivision
S-033-04 2011 Bush Neck Subdivision
S-034-04 Warhill Tract BLE / Subdivision
S-036-04 Subdivision at 4 Foxcroft
S-037-04 Michelle Point

B. PENDING FINAL APPROVAL

S-037-02 The Vineyards, Ph. 3
S-039-02 Powhatan Secondary, Ph. 6-C
S-052-02 The Retreat--Fence Amendment
S-076-02 Marion Taylor Subdivision
S-094-02 Powhatan Secondary Ph. 7-C
S-108-02 Scott's Pond, Sec. 3
S-021-03 Stonehouse Sec. 2-C Easements

EXPIRE DATE

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5/ 8/2004
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S-033-03	Fenwick Hills, Sec. 2	10/31/2004
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-056-03	Colonial Heritage Ph. 1, Sec. 4	9/23/2004
S-057-03	Ford's Colony - Sec. 34	8/19/2004
S-073-03	Colonial Heritage Ph. 2, Sec. 2	10/ 6/2004
S-076-03	Wellington, Sec. 4	11/ 3/2004
S-078-03	Monticello Woods - Ph. 2	11/ 3/2004
S-098-03	Stonehouse Glen, Sec. 1	4/ 5/2005
S-099-03	Wellington, Sec. 5	2/ 3/2005
S-106-03	Colonial Heritage Ph. 2, Sec. 3	1/12/2005
S-001-04	Ironbound Village Ph. 2, Parcel 2	2/17/2005
S-002-04	The Settlement at Monticello (Hiden)	3/ 1/2005
S-006-04	Colonial Heritage - Ph. 1, Sec. 3 & 3A	3/ 1/2005
S-007-04	Druid Hills, Sec. D Resubdivision	3/12/2005
S-009-04	Colonial Heritage Public Use Site B	3/18/2005
S-012-04	New Town - Block 2, Parcel E	4/19/2005
S-013-04	Wexford Hills Ph. 2	3/17/2005
S-015-04	170 Racefield Drive Subdivision	3/11/2005
S-017-04	Green Mount Lot 1A	3/26/2005
S-023-04	New Town - Block 5, Parcel F; Block 8, Parcels ABC	4/13/2005
S-024-04	161 Old Stage Road Subdivision	4/19/2005
S-030-04	Villages at Powhatan, Ph. 6	4/22/2005
S-035-04	Colonial Heritage Blvd. Ph. 2 Plat	4/28/2005

C. FINAL APPROVAL

		DATE
S-091-03	The Vineyards, Village Housing, Ph. 3, Lot 36- 37	4/ 9/2004
S-004-04	Monticello Woods, Lot 40A	4/ 5/2004
S-014-04	Aberdeen BLE	4/22/2004
S-016-04	Building Specialities BLE	4/14/2004
S-018-04	New Town - Center Street and New Town Avenue	4/ 2/2004
S-019-04	New Town - Block 5, Parcels D & E	4/ 9/2004
S-020-04	Martin BLE	4/ 6/2004
S-025-04	Greenmount - Lot 3D	4/20/2004

DEVELOPMENT REVIEW COMMITTEE ACTION REPORT
Meeting of April 28, 2004

Case No. SP-18-04

New Town Block 8, Phase IB Residential

Mr. Bob Cosby of AES Consulting Engineers, on behalf of Mr. Bob Ripley of GCR, submitted a site plan proposing sixty-six townhomes and four single family homes in Phase IB of New Town. The property is located at 5216 Monticello Avenue adjacent to Center Street and Casey Boulevard and is further identified as parcel (1-50) on James City County Tax Map (38-4). DRC review is necessary because the site plan propose more than fifty residential units. This case was deferred from the DRC's March 31 meeting.

DRC Action: The DRC deferred action on the case.

Case No. C-050-04

7456 Little Creek Dam Overhead Utility Waiver

Mr. David and Lisa Wigley applied for an overhead utility waiver for 7456 Little Creek Dam in the Stonehouse district. The parcel is further identified as parcel (4-3) on James City County Tax Map (21-1). The application requests an exception to Section 19-33 of the Subdivision Ordinance and requires DRC review.

DRC Action: The DRC approved the waiver.

Case No. C-048-04

Clubhouse Point (Stonehouse Parcel 2B)

Mr. Marc Bennett of AES Consulting Engineers, on behalf of Stonehouse Development Company, submitted a conceptual plan proposing the creation of 21 single-family lots on Mill Pond Run in Phase I of Stonehouse. The parcel is further identified as parcel (1-24) on James City County Tax Map (4-4). This land bay is designated for recreation on the Stonehouse master plan. DRC review is necessary to determine whether or not the proposal is consistent with that master plan.

DRC Action: The DRC unanimously found the proposal consistent with the Stonehouse Master Plan.

Case No. SP-27-04

Greensprings Condominiums

Mr. Ralph Simmons of Greensprings Plantation, Inc. submitted a site plan proposing 282 condominiums to be located on the Monticello Avenue extension between Centerville Road and Greensprings Plantation Drive. The parcel is further identified as parcel (1-6) on James City County Tax Map (37-3). DRC review is necessary for any site plan proposing fifty or more residential units.

DRC Action: The DRC deferred action on the case.

Case No. SP-35-03

Prime Outlets Phases V-A&B

Mr. Steve Romeo of Landmark, on behalf of Mr. Paul Reed, submitted a site plan for Phases V-A&B of Prime Outlets. The expansion includes the addition of retail and a food court. The site is located at 5715 Richmond Road and can be further identified as parcels (1-28), (1-29), (1-33A), (1-33C), and (1-33D) on James City County Tax Map (33-1). DRC review is necessary to determine whether the proposal is in accordance with the conditions of SUP-23-99, Expansion of Prime Outlets.

DRC Action: The DRC granted preliminary approval to the case.

**Z-11-03 & MP-11-03. Stonehouse Planned Community Rezoning Amendment
Staff Report for the May 3, 2004, Planning Commission Public Hearing**

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

PUBLIC HEARINGS

**7:00 p.m.; Building F Board Room; James City County
Government Complex unless otherwise noted:**

Planning Commission: December 8, 2003, 5:30 p.m. Building C Board Room (Deferred)
January 12, 2004, 5:30p.m. (Deferred)
February 2, 2004, (Deferred)
March 1, 2004, (Deferred)
April 5, 2004, (Deferred)
May 3, 2004

Board of Supervisors: *June 8, 2004 (Tentative)*

SUMMARY FACTS

Applicant: Mr. Greg Davis, Kaufman & Canoles

Land Owner: Ken McDermott of Stonehouse Capital, LLC and Stonehouse at Williamsburg, LLC for Stonehouse Glen, LLC, Fieldstone Investment, LLC, Mount Laurel, LLC, Fairmont Investment, LLC, Six Hundred North, LLC, Tymar Capital, LLC and Commerce Park at Stonehouse, LLC.

Proposal: 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 , 9760 Mill Pond Road
9186 & 9600 Mount Zion Road and 9501 Sycamore Landing Road
Stonehouse District

Tax Map/Parcel: (4-4)(1-25), (4-4)(1-26), (4-4)(1-27), (4-4)(1-28), (4-4)(1-29),
(5-3)(1-10), (6-3)(1-1), (6-4)(1-1), (7-4)(1-20) and (12-1)(1-47)

Primary Service Area: Inside

Parcel Sizes: 4,684 Acres

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

Comprehensive Plan: Low Density Residential & Mixed Use

Staff Contact: Karen Drake - Phone: 253-6685

STAFF RECOMMENDATION

The applicant has requested the Planning Commission defer this case until the June 7, 2004 Planning Commission Meeting to allow more time to resolve outstanding issues regarding the Stonehouse master plan and proffers. Staff concurs with the request.

Attachment:

1.) Deferral Request Letter

KAUFMAN & CANOLES

— | A Professional Corporation | —
Attorneys and Counselors at Law

Timothy O. Trant, II
757 / 259-3823
totrant@kaufcan.com

757 / 259-3800
fax: 757 / 259-3838

Mailing Address:
P.O. Box 6000
Williamsburg, VA 23188

480I Courthouse Street
Suite 300
Williamsburg, VA 23188

April 21, 2004

Via Hand Delivery & Facsimile (757) 253-6850



O. Marvin Sowers
Director of Planning
James City County
101-E Mounts Bay Road
Williamsburg, VA 23185

Re: *Stonehouse at Williamsburg, LLC*
Application for Rezoning and Master Plan Amendment of a portion of Stonehouse
James City County Case No's. Z-11-03 & MP-11-03
Our Matter No. 100281

Dear Mr. Sowers:

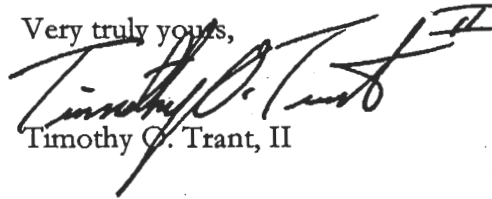
The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on May 3, 2004. The applicant and its consultants have been diligently working to respond to the issues raised by the James City County Department of Development Management ("Staff"). On March 26, 2004, the applicant submitted to Staff a revised set of proffers and a revised master plan. Staff has provided the applicant with a number of detailed comments on both submissions aimed at bringing the documents towards a final, presentable form.

Given the detailed nature of Staff's comments and in preparation for the presentation of these materials to the Planning Commission, the applicant and its consultants are undertaking a thorough review of the proffers and master plan before resubmitting to Staff. The applicant is not likely to have completed its review and to have prepared the documents for resubmission in time for the Staff to present the application at the May 3, 2004 Planning Commission meeting. Accordingly, the applicant recognizes that Staff will not be prepared to make a complete staff report nor make a recommendation to the Planning Commission regarding the case at the May 3, 2004 meeting. Therefore, the applicant requests that any action on the case by the Planning Commission be deferred until the June 7, 2004 Planning Commission meeting.

O. Marvin Sowers, Jr.
April 21, 2004
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We appreciate Staff providing timely comments and working to finalize the application for Planning Commission review as quickly as possible. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy C. Trant, II". The signature is stylized and written over the typed name below it.

Timothy C. Trant, II

xc: Kenneth G. McDermott (via facsimile 908-234-9508)
Mark Rinaldi (via facsimile 757-229-0049)
Alvin P. Anderson, Esq. (via hand delivery)
Gregory R. Davis, Esq. (via hand delivery)
Brian R. Marron, Esq. (via U.S. mail)
Rhea Woloszynski (via email rheawolo@cox.net)

#6054716 v1

**REZONING -1-04 / MASTER PLAN -2-04. New Town Section 5
Staff Report for the May 3, 2004, Planning Commission Public Hearing**

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

PUBLIC HEARINGS
7:00 p.m.; Building F Board Room; County Government Complex
Planning Commission: March 1, 2004 (deferred)
April 5, 2004 (deferred)
May 3, 2004
Board of Supervisors: June 8, 2004 (tentative)

SUMMARY FACTS

Applicant: Greg Davis
Land Owner: New Town Associates
Proposed Use: A maximum of 63,358 square feet of limited business/industrial space
Location: 152 and 155 Tawning Road, Berkeley District
Tax Map/Parcel (38-2)(1-3) and (38-2)(1-4)
Parcel Size 8.87 acres total
Proposed Zoning: M-1, Limited Business/Industrial with proffers
Existing Zoning: R-8, Rural Residential and M-1 Limited Business/Industrial with proffer
Comprehensive Plan: Mixed Use
Primary Service Area: Inside

STAFF RECOMMENDATION

Staff has been working with the applicant to reach agreement on the type of stream buffer most appropriate for protecting water quality and on the most effective screening to mitigate visual impacts of this industrial zone on New Town. The applicant's proposal for a variable width buffer and proffers to augment the buffer with additional planting or other features to reduce visual impacts of the development are acceptable to staff. Staff finds the rezoning proposal to be in accordance with the Comprehensive Plan and staff recommends approval of this rezoning.

Staff Contact: Sarah Weisiger, Planner Phone: 253-6685

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

PROJECT DESCRIPTION

The applicant has applied to rezone two parcels at the end of Tewning Road to M-1 with proffers. No designated uses have been identified. The applicant proposes to remove the subject parcels from future consideration of New Town Design Review Board and Design Guidelines. The applicant proposes to mitigate the impact of the light industrial development on adjacent New Town sections by limiting by proffer the height of structures to 45 feet, the types of uses within the proposed M-1 zoning district and the provision of various materials to reduce its visibility.

Zoning History:

The existing zoning for the parcel at 152 Tewning Road is M-1 with proffers. The parcel at 155 Tewning Road was part of the New Town/ Casey Tract rezoning Z-4-97 and is zoned R-8 with proffers. Both parcels are vacant.

Surrounding Zoning and Development:

To the west and south, the property is zoned R-8 with proffers and is undeveloped; it is designated as Section 3 and Section 6 on the Master Plan for New Town. To the north, the Eastern State Hospital property, is zoned R-2, General Residential; the area adjacent to the property line is not developed. To the east, adjacent properties on Tewning Road are zoned M-1 with proffers and are used for parking by JCSA and by a private contractor.

New Town Design Review Board:

According to the proffers for rezoning Case Number Z-4-97, the New Town Design Review Board (DRB) shall review Mixed Use master plans and rezonings of this property for general consistency with the R-8 Master Plan and shall render a written advisory recommendation to the Planning Commission and the Board of Supervisors as to the consistency of the proposal. On March 18, 2004, the New Town Design Review Board voted in support of the removal of Section 5 from the New Town Master Planned Community and its design controls. The remote nature of the site and the difficulty of connecting the parcels to New Town through environmentally sensitive areas were the principal reasons for the recommendation. Staff also recommended the removal of New Town Section 5 from further review by the DRB for these same reasons. (The letter from the Design Review Board is attached to this report.)

PUBLIC IMPACTS

ENVIRONMENTAL IMPACTS:

Watershed: Powhatan Creek

Environmental Staff Comments: The location of the variable width buffer to adjacent streams and wetlands is acceptable, but may be subject to change if the size of the stormwater facility changes. A note has been added to the Master Plan.

FISCAL IMPACT: The existing proffers for Z-4-97 New Town/Casey Tract state that a fiscal impact study shall be submitted with rezonings from R-8 to Mixed Use. These parcels are being zoned to M-1 and will not be considered part of New Town. The applicant asserts that there will be a net fiscal benefit to the County from future development of the properties.

Staff Comments: No residential units are proposed and a fiscal impact study is not normally required.

PUBLIC UTILITIES: The site is served by public water and sewer.

JSCA Comments: None.

Proffers: Water conservation standards are proffered. No cash proffer for development of additional water sources is proposed as the water impacts of uses in M-1 districts are generally minimal and offset by the economic development advantages to the County.

TRAFFIC IMPACTS:

Proposed Traffic: The applicant estimates trip generation of 43 AM Peak Hour trips and 47 PM Peak Hour trips. This estimate is based on half of the project being developed as general light industrial and half of the project being developed as warehousing. The following figures apply to the intersection of Ironbound Road and Tewing Road:

2003 Traffic Counts: 10,860 on Ironbound Road (2 lane)

2026 Volume Projected: 14,000 on Ironbound Road (4 lane)

2015 Level of Service : Without New Town Section 5 - AM Peak Hour, Level of Service (LOS) C; PM Peak Hour, LOS F.
With New Town Section 5 – AM Peak Hour, LOS D;
PM Peak Hour, LOS F

Proposed Road Improvements: No improvements are proposed with this rezoning. A project in VDOT's Six Year Plan includes the construction of Ironbound Road to four lanes. The anticipated date of construction is Fall 2008 with completion in 2010. It is anticipated that the rating of the intersection's level of service will improve after the road is widened.

VDOT Comments: VDOT staff concurs with the applicant's traffic trip generation estimates. No improvements are required.

VISUAL IMPACTS:

Proposed Screening: The applicant has proffered to mitigate visual impacts by limiting the height of structures to 45 feet, by limiting exterior lighting, and by providing supplemental plantings, landscaping or fencing on site to effectively protect adjacent users in New Town from visual impacts of development of the property.

Staff Comment: Staff believes the proffers will provide adequate mitigation.

Comprehensive Plan

- ◆ The Comprehensive Plan Land Use Map designates these properties as Mixed Use and within the New Town Community Character Area.
- ◆ **Staff Comments:** The principal suggested uses within the New Town Mixed Use area are commercial, office and limited industrial. The Comprehensive Plan states that development in the Mixed Use area should be governed by a detailed Master Plan. The Master Plan from the New Town/Casey Tract rezoning shows Section 5 as "Industrial District." The proposed uses are in accordance with the New Town/Casey Tract Master Plan for New Town which in turn reflects the description of the Mixed Use

area in the Comprehensive Plan. Within the Community Character Area, standards of development are set forth in the New Town Design Guidelines. Because of proposed buffers and proffers limiting height, the New Town Design Review Board voted in favor of the removal of Section 5 from further review by the DRB and New Town Design Guidelines. Staff finds that the proposed rezoning is consistent with the Comprehensive Plan.

RECOMMENDATION:

Staff has been working with the applicant to reach agreement on the type of stream buffer most appropriate for protecting water quality and on the most effective screening to mitigate visual impacts of this industrial zone. The applicant's proposal for a variable width buffer and proffers to augment the buffer with additional planting or other features to reduce visual impacts of the development are acceptable to staff. Staff finds the rezoning proposal to be in accordance with the Comprehensive Plan and staff recommends approval of this rezoning.

Sarah Weisiger

Attachments:

1. New Town Design Review Board recommendation
2. Location map
3. Master Plan (under separate cover)
4. Proffers

New Town Design Review Board
5248 Olde Town Road, Suite 2
Williamsburg, VA 23188
(757) 565-6200



March 18, 2004

James City County Board of Supervisors
James City County Planning Commission
101 E-Mounts Bay Road
Williamsburg, VA 213185

Re: *New Town Associates, LLC*
Rezoning of a portion of Section 5 of New Town
Approval of Master Plan and Proffers


Dear Ladies & Gentlemen:

This board has received and reviewed the proposed Master Plan entitled "New Town Section 5 Master Plan Berkeley District James City County, Virginia" dated January 21, 2004, revised March 5, 2004, prepared by AES Consulting Engineers, and the proposed Proffers prepared by Kaufman & Canoles, P.C. Section 5 is distinct from the remainder of New Town in terms of use and physical location. We support the removal of Section 5 from the New Town Master Planned Community and design controls, subject to the Master Plan and Proffers. We are comfortable that the Master Plan and Proffers provide adequate design controls to insure quality development of Section 5 and adequate buffering from the remaining portions of New Town.

This letter shall serve as our written advisory recommendation to the James City County Planning Commission and Board of Supervisors for approval of the proposed Section 5 rezoning subject to the Master Plan and Proffers.

Sincerely,

NEW TOWN DESIGN REVIEW BOARD

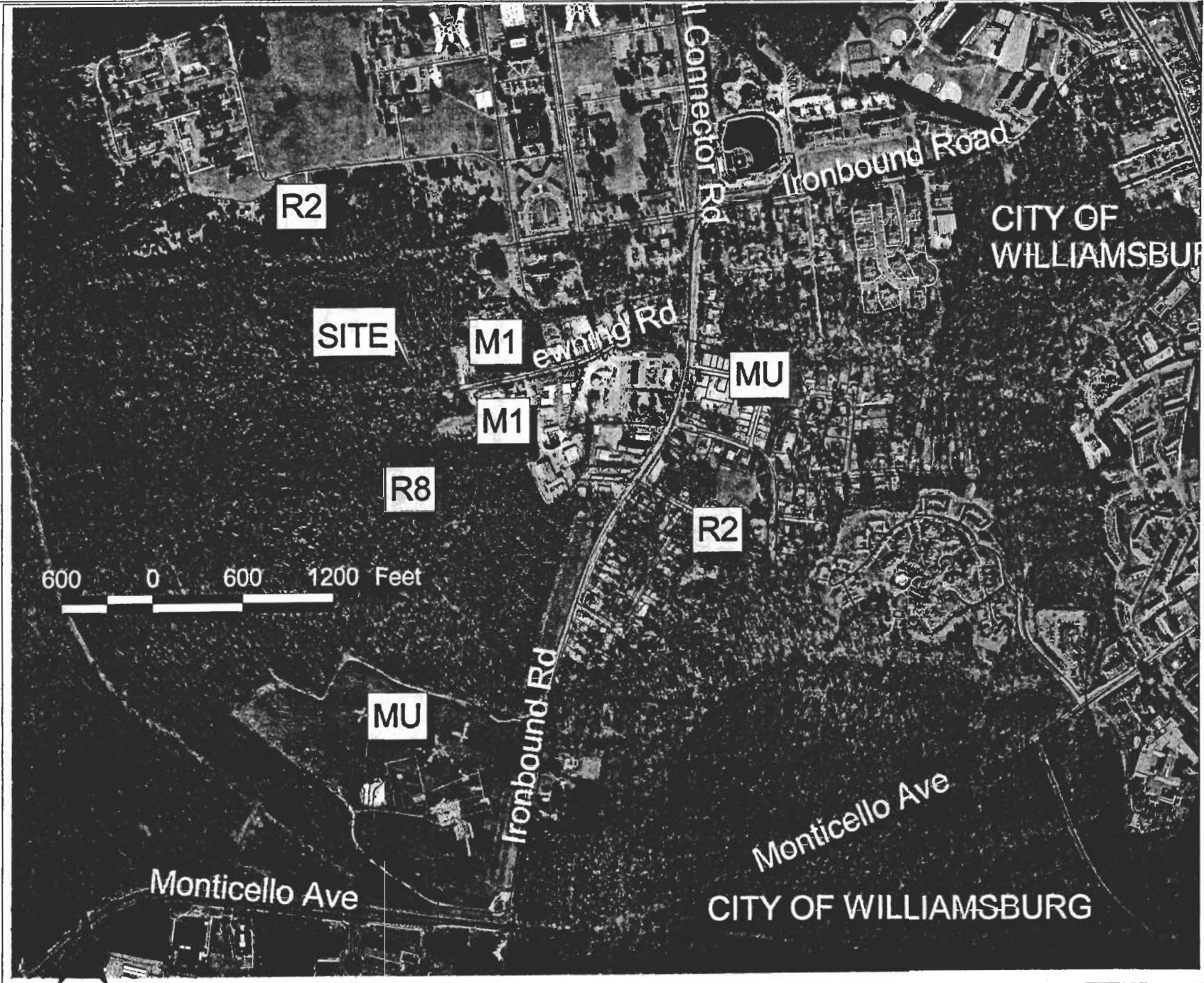
By: 
Its: Chair.

cc: John T. P. Horne
Gregory R. Davis, Esq.
John C. McCann

#6053498 v1

Case No. Z-1-04/MP-2-04 New Town Section 5

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NEW TOWN – SECTION 5 PROFFERS

THESE PROFFERS are made as of this 23rd day of April, 2004, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (together with its successors and assigns, "Owner") (index as a "grantor"); and the COUNTY OF JAMES CITY, VIRGINIA (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof (the "Property").

R-2. The Property is currently subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no. 980001284.

R-3. The New Town Proffers provide for development of the Property as part of the New Town project, in accordance with (i) a conceptual master land use plan entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Plan of Development"), and (ii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY,

Prepared by:
Kaufman & Canoles, P.C.
P.O. Box 6000
Williamsburg, VA 23188

VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines").

R-4. Owner has applied for a rezoning of the Property from R-8, Rural Residential with proffers, in part, and M-1, Limited Business/Industrial with proffers, in part, to M-1, Limited Business/Industrial, with proffers. The rezoning of the Property to M-1, Limited Business/Industrial, with proffers, is in fact consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the M-1, Limited Business/Industrial zoning district set forth in Section 24-410 of the County's Zoning Ordinance, ("Zoning Ordinance"), Section 24-1 *et seq.* of the James City County Code ("County Code"), in effect on the date hereof.

R-5. Owner has submitted an update to the New Town Community Impact Statement previously filed with the County's Director of Planning which satisfies the New Town Proffers and the requirements of Section 24-23(a)(2) and Section 24-515(c) of the Zoning Ordinance, which update to the Community Impact Statement includes, without limitation, a Fiscal Impact Statement which has been accepted by the County as satisfying all requirements for submission of such Fiscal Impact Study in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the Community Impact Statement, are on file with the County's Director of Planning.

R-6. Pursuant to the New Town Proffers, a Phase I Archaeological Study recommending no further treatment or further study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and

Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning.

R-7. Owner's predecessor in title has caused a small whorled pogonia survey to be conducted on the Property in 1996 and 2001 revealing that no small whorled pogonia plants or small whorled pogonia habitat exist on the Property. The reports generated from these surveys are entitled "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE CASEY TRACT, CHISEL RUN WATERSHED, WILLIAMSBURG/JAMES CITY COUNTY, VIRGINIA SPRING/SUMMER 1996" (the "1996 Report") and "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE WINDSORMEADE PROPERTY JAMES CITY COUNTY, VIRGINIA JULY 2001" (the "2001 Report"). The 1996 Report and the 2001 report were prepared by Dr. Donna M. E. Ware of the College of William & Mary for Williamsburg Environmental Group, Inc. A copy of the 1996 Report and 2001 Report are on file with the County's Director of Planning.

R-8. In accordance with the requirements of Section 4 of the New Town Proffers, Owner has submitted to the County an updated traffic study entitled "TRAFFIC STUDY FOR 8.865 ACRES OF NEW TOWN LAND IN SECTION 5 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA", dated January 19, 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County's Director of Planning. The Traffic Study recommended no traffic improvements in connection with this rezoning request.

R-9. Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") to oversee development of the Property in accordance with the New Town Proffers.

R-10. The provisions of the Zoning Ordinance, may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions, which are specifically limited solely to those set forth herein, in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

R-11. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Section 5 Plan of Development (defined below) and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. Application of New Town Proffers, Plan of Development and Design Guidelines.

Except as otherwise specifically noted in paragraph 2 herein, these Proffers shall supersede, amend and restate in their entirety the New Town Proffers, the New Town Plan of

Development and the New Town Design Guidelines, but only as applicable to the Property. Except as set forth in paragraph 2 of these Proffers, no portion of the New Town Proffers, the New Town Plan of Development or the New Town Design Guidelines shall apply to or control use or development of the Property. Accordingly, this document contains the only proffers hereinafter applicable to the Property. Owner shall not be required to submit to the DRB nor shall the DRB have any review authority over any subdivision plats, site plans, landscaping plans, architectural plans and elevations, or other development plans for the Property.

2. Development. The Property shall be developed in one or more phases but subject to the buffers, development restrictions and density limitations shown on that certain master plan of development entitled: "NEW TOWN SECTION 5 MASTER PLAN, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated January 21, 2004, revised April 23, 2004, made by AES Consulting Engineers (the "Section 5 Plan of Development") which is incorporated herein by reference. All of such development shall be expressly subject to such changes in configuration, composition and location as may be required by other governmental authorities (if any) having jurisdiction over such development.

3. Visual Screening Buffer. In order (i) to ensure development which minimizes the environmental and land use impacts associated with noise, glare, and dust, (ii) to reduce the visual impact of development of the Property, and (iii) to preserve the character of adjacent sections of New Town, Owner shall provide a natural and/or planted buffer along the southern and western boundary lines of the Property adjacent to Sections 3 and 6 of New Town (the "Visual Buffer") compliant with the following:

(a) A landscaping plan for the portion of the Visual Buffer located on area(s) of the Property then proposed for development shall be submitted to the County Director of Planning for review and approval before or as a part of site plan approval for development on any portion(s) of the Property adjoining the southern or western boundary line(s) of the Property. Plantings within the Visual Buffer shall be native species only, and subject to approval by the County Environmental Director so as to assure minimization of adverse impacts on wetland(s) buffering caused by such plantings.

(b) The Visual Buffer shall occupy the area of the Variable Width Wetlands Buffer created for environmental protection and shown on the Section 5 Plan of Development, located on the southern and western boundary lines of the Property.

(c) The Visual Buffer shall be left in its undisturbed natural state and supplemented only as necessary in order to create an effective visual screen which complies with the transitional screening requirements of Section 24-98 or successor provision of the Zoning Ordinance.

(d) In the event that trees and/or vegetation within the above-referenced Variable Width Buffer are disturbed due to establishment of stormwater management facilities, best management practices, placement of utilities or activities otherwise permitted by the County Code, the Visual Buffer may be required by the County Planning Director to be supplemented so as to effectively protect adjacent users in New Town from visual impacts of development of the Property. The intent of this proffer and buffering undertaken pursuant to its terms is to preserve the visual enjoyment of the appearance, architectural and design standards governing the

remainder of New Town, given the industrial use to be made of the Property. Supplementation of the Visual Buffer may include the following:

- i) specification of building colors within the Property;
- ii) screening fences;
- iii) plantings or landscaping adjacent to building faces; visible from other sections of New Town; and/or
- iv) supplemental plantings of native species within the Buffer.

(e) Disputes as to the requirements of this proffer imposed by the County Planning Director or Environmental Director and/or variances from the requirements of this paragraph shall be resolved or granted by the Development Review Committee of the County's Planning Commission.

4. Water Conservation. Owner shall be responsible for developing water conservation standards, as to the Property or any portion thereof proposed for development. The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources in accordance with the Water Conservation Guidelines published by the County and the James City Service Authority ("JCSA"). The standards for each site or portion of the Property to be developed shall be approved by the JCSA prior to final approval of the site plan for development of the subject portion of the Property.

5. Height Limitation. No structure shall be erected on the Property which exceeds three (3) stories or forty-five (45) feet in height as defined by the Zoning Ordinance, whichever is less.

6. Certain Uses Prohibited. The following uses of land or buildings shall be prohibited on the Property:

- (a) adult day care centers
- (b) automobile service stations
- (c) banks and other similar financial institutions
- (d) barber and/or beauty shops
- (e) child day care centers
- (f) drug stores
- (g) dry cleaning or laundry retail shop offering customer pick up and delivery
- (h) farmers market
- (i) hotel, motel, or convention center
- (j) house(s) of worship
- (k) kennels
- (l) restaurants and taverns
- (m) retail food stores, bakeries, fish markets
- (n) retail stores, but this prohibition shall not apply to retail uses which are

secondary to a use primarily directed to manufacturing, distribution and/or warehousing.

Terms utilized in this paragraph shall be defined as in the Zoning Ordinance.

7. Design Elements. In order to ensure that the pattern of development of the Property is efficient, unobtrusive, and does not unduly impact other sections of New Town, all plans for development of the Property shall be subject to review and approval by the County's Director of Planning relative to the following elements of site usage:

(a) *Lighting*: Any new exterior site lighting shall be limited to fixtures which are mounted (i) on light poles not to exceed 30 feet in height and/or (ii) on 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.

(b) *Building orientation*: Buildings and pedestrian entrances to buildings shall be, to the greatest extent practicable, oriented toward Tewing Road or its cul-de-sac.

(c) *Connectivity*: Pedestrian and/or vehicular connectivity and access from the Property to Sections 3 and/or 6 of New Town shall be permitted (but not required) based upon road, sidewalk or other pedestrian walkways, the design and location of which shall be approved by the Director of Planning to minimize to the greatest extent possible, the visual, traffic and safety impacts upon adjoining sections of New Town generated by such connectivity pursuant to this paragraph.

8. Recitals. The Recitals set forth above are incorporated by reference.

9. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or

assigns. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

10. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

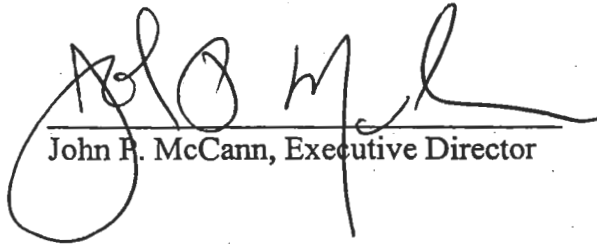
11. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

12. Conditions Applicable Only To The Property. Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Owner and its successors in interest to develop its other property in accordance with the other applicable provisions of the Zoning Ordinance.

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By:


John P. McCann, Executive Director

STATE OF VIRGINIA

~~CITY~~/COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 23rd day of April, 2004 by John P. McCann, Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf, under Limited Power of Attorney, dated October 19, 2001.


NOTARY PUBLIC

My commission expires: August 31, 2006

EXHIBIT A

All those certain pieces or parcels of land located in James City County, Virginia, shown and set out as "Section 5" and "Lot 13" on that certain plat entitled "PLAT OF SUBDIVISION SHOWING SECTION 3, SECTION 5, SECTION 6 AND LOT 13 OWNED BY NEW TOWN ASSOCIATES, LLC", prepared by AES Consulting Engineers, dated May 7, 2003, revised July 28, 2003, recorded in the Circuit Court Clerk's Office for the City of Williamsburg and the County of James City, Virginia as Instrument Number 030027269.

#6051558 v6

**SPECIAL USE PERMIT 13-04 Williamsburg Farms Country Inn
Staff Report for May 3, 2004 Planning Commission Meeting**

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

PUBLIC HEARINGS

Building F Board Room; County Government Center

Planning Commission: May 3, 2004 7:00 p.m.
June 7, 2004 (tentative) 7:00 p.m.
Board of Supervisors: July 13, 2004 (tentative) 7:00 p.m.

SUMMARY FACTS

Applicant: Patrick G. Duffeler
Land Owner: Williamsburg Farms, Inc.
Proposed Use: Construction and operation of a 36 room inn
Location: 5800 Wessex Hundred Road
Tax Map/Parcel: (48-4)(1-10)
Zoning: R-8, Rural Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: Yes

STAFF RECOMMENDATION

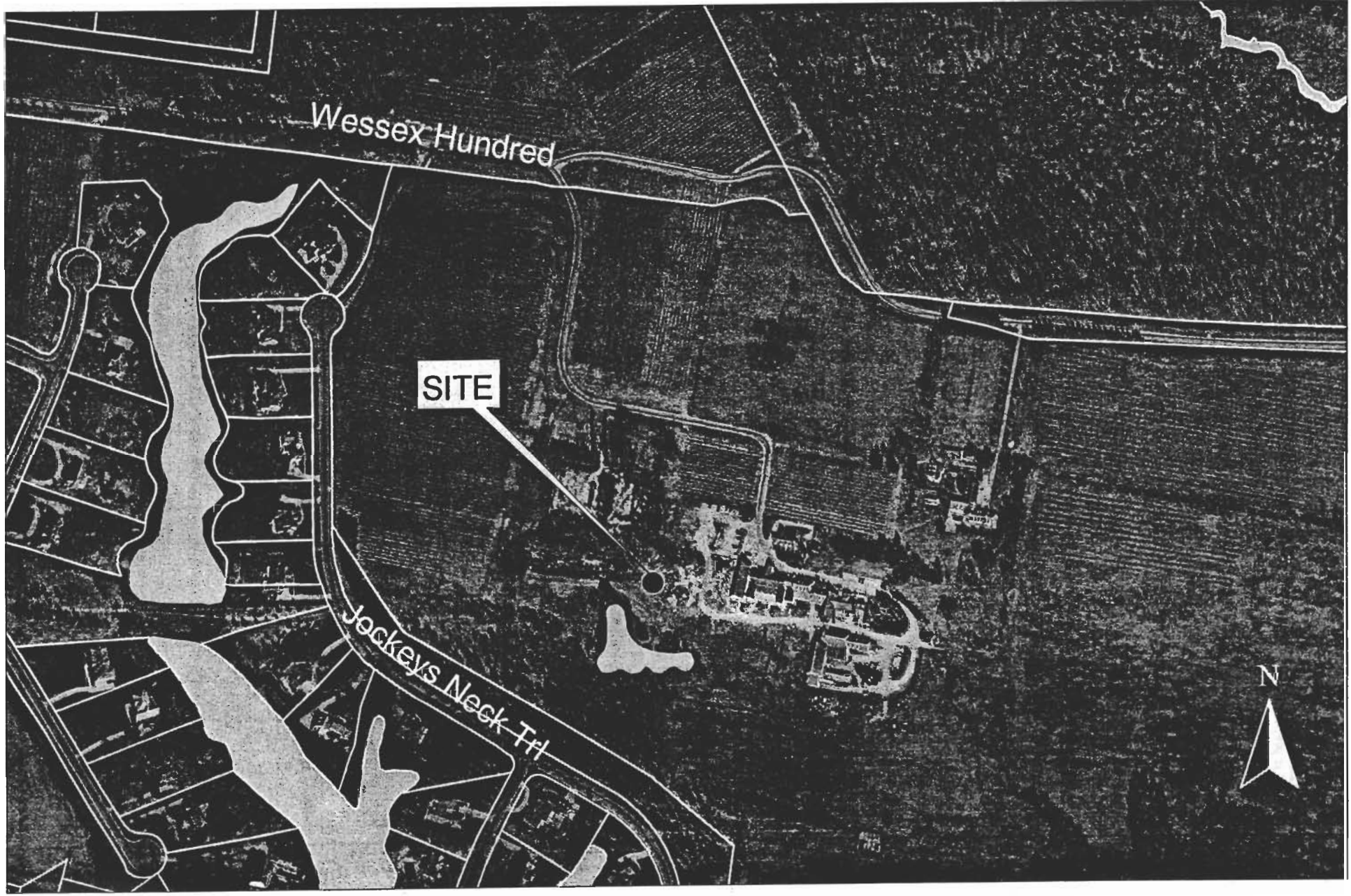
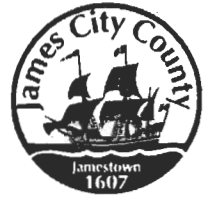
The applicant has requested deferral of this special use permit until June 7, 2004 in order to resolve outstanding VDOT issues. Staff concurs with this request.

Staff Contact: Matthew Arcieri Phone: 253-6685

ATTACHMENTS:

1. Location Map

SUP-13-04, Williamsburg Farms Country Inn



**SPECIAL USE PERMIT CASE NO. 12-04. Hogan Homestead Children's Nursery
Staff Report for the May 3, 2004, Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building C Board Room; County Government Center
May 3, 2004
June 8, 2004 (tentative)

SUMMARY FACTS

Applicant: Cathrine Hogan
Land Owner: John and Cathrine Hogan
Proposed Use: Child day care
Location: 233 Nina Lane
Tax Map/Parcel: (23-4)(3-203)
Parcel Size: 0.331 acres
Zoning: R-2, General Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION

Since 2001, Ms. Hogan, the applicant, has been caring for eight children between the ages of 18 months and five years on a part time basis. No negative impacts to the neighborhood as a result of this establishment have come to staff's attention. Further, the application and proposed conditions are in accordance with the Planning Commission's policy on child day establishments located within residential neighborhoods. Therefore, staff recommends approval of this application.

Staff Contact: Sarah Weisiger, Planner Phone: 253-6685

PROJECT DESCRIPTION AND PROPOSED OPERATION

Ms. Hogan has applied for a special use permit amendment to continue to operate a child day care establishment in her home at 233 Nina Lane in the Kristiansand subdivision. In the R-2, General Residential, zoning district in which the house is located, a special use permit (SUP) is required for group care of six or more children away from their own home. The existing special use permit, SUP-8-01, has conditions which limit the number of children in the day care to eight and limit the hours of operation from 7:00 AM to 1:30PM, Monday through Friday.

Utilities

The site is served by public water and by a septic system and drainfield.

Health Department Comments:

The Health Department has no objection to the renewal of the special use permit. Due to septic system capacity, they recommend a condition that there shall be no food preparation or laundry services in the operation of the child care establishment. This condition has been included below.

Comprehensive Plan

Land Use Map Designation:

Low Density Residential.

Staff Comments:

While child care establishments are not normally consistent with low density residential development, the size and scale of the day care as limited by special use permit conditions, has not negatively impacted the neighborhood.

CONCLUSIONS & CONDITIONS

On June 22, 2001, the Planning Commission recommended a policy on child day care centers within neighborhoods. The policy states that if there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center. To staff's knowledge no problems have arisen as a result of the establishment's location within the Kristiansand neighborhood. Also, state and county agencies do not oppose the SUP application. Staff therefore recommends approval of this special use permit application with the following conditions:

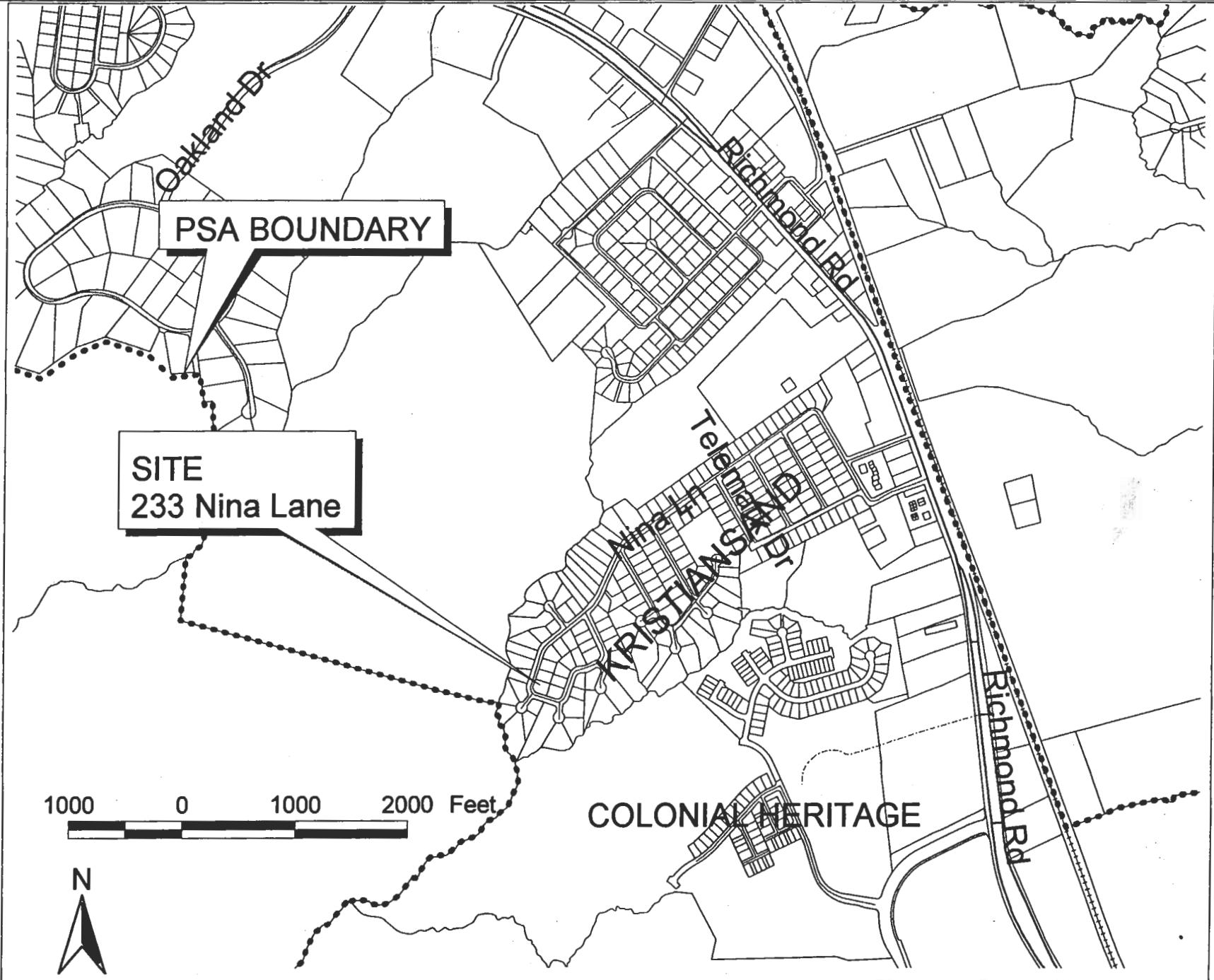
1. No more than eight children other than the owners' children shall be cared for at the child day care center.
2. The owner/operator of the child day care center shall reside on the property.
3. Hours of operation shall be limited from 7:00 a. m. to 1:30 p.m., Monday through Friday.
4. This special use permit shall be valid for a period of thirty-six months from the date of issuance of this special use permit.
5. No additional exterior lighting shall be permitted on the property which relates to its use as a child day care center.
6. No signage related to the day care center shall be permitted on the property.
7. No food preparation or laundry services shall be provided as part of the operation of the child day care center.
8. This special permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Sarah Weisiger

ATTACHMENTS:

1. Location Map
2. James City County Planning Commission's Policy Committee: Child Day Care Centers Located in the Interior of Residential Neighborhoods, June 22, 2001.

Case No. SUP-12-04 Hogan Homestead Daycare



James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a **three-year time limit** in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

**SPECIAL USE PERMIT 14-04. 4311 John Tyler Monopole Tower
Staff Report for the May 3, 2004 Planning Commission Public Hearing**

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

PUBLIC HEARINGS **7:00 p.m.; Building F Board Room; County Government Center**
Planning Commission: May 3, 2004
Board of Supervisors: June 8, 2004 (tentative)

SUMMARY FACTS

Applicant: Nathan Holland, T Mobile
Land Owner: Axel L. Nixon and Sheila F. Nixon
Proposed Use: Extend existing 112 foot communications tower to 150 feet.
Location: 4311 John Tyler Highway
Tax Map/Parcel: (46-2)(1-20)
Zoning: R-8, Rural Residential District
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION

The applicant has requested that the Planning Commission defer this case until the June 7, 2004 Planning Commission Meeting in order to allow more time to resolve outstanding issues. Staff concurs with the request.

Staff Contact: Ellen Cook Phone: 253-6685

Ellen Cook

Attachment:
1. Deferral Request Letter

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April 26th, 2004

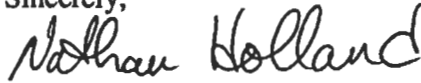
Ellen Cook
Planner
County of James City

RE: Omnipoint Communications proposal at 4315 John Tyler Highway

Dear Ellen,

Omnipoint Communications would like to request a one-month deferral regarding our scheduled case before the May 3rd planning commission meeting. We are currently waiting for SHPO (State Historic Preservation Office) to return a determination on the proposed extension and would like to make that available to staff and commission members before a final decision is made. I wish to thank-you in advance for your continued cooperation in this matter and if you require further information or assistance, please feel free to contact me at 757-490-7214 or 757-305-8420.

Sincerely,



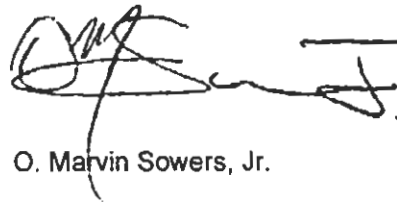
Nathan Holland
Omnipoint Communications
VA40118A

T-Mobile USA, Inc.
Office: (757) 490-7200
Fax: (757) 490-6195
5029 Corporate Woods Dr., Suite 225
Virginia Beach, VA 23462

PLANNING DIRECTOR'S REPORT
May 2004

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

1. **Conceptual Plan Meetings.** The initial conceptual plan roundtable meeting was held on April 26. Two projects were presented for review at the meeting: An addition to the Williamsburg Cancer Treatment Center and the Chesapeake Bank at Lightfoot. Future meetings will be held on the second and fourth Monday each month from 2:00 to 4:00 p.m. in the Building E Conference Room at the County Government Center Complex. Staff will update the Commission periodically and present a report to the Planning Commission later this year.
2. **Adequate Public Facilities Test.** The Board of Supervisors held a work session on this policy on April 27 to consider whether it should be amended. Staff will be prepared at the Commission meeting to provide more information.
3. **Site Plan Review Roundtable.** The next Roundtable will be held on May 6 at the Community Center. Commissioner Joe McCleary and staff are participating in this effort to consider revisions to County ordinances.
4. **Five Forks Area Study.** Staff reviewed a draft of the consultant's analysis of the area's existing and potential traffic capacity. Pending further refinement, staff will meet with its consultant to consider next steps.
5. **Greensprings Trail.** VDOT moved closer to making this trail a reality by announcing its intention to conduct a public hearing this spring and potentially beginning construction late this year. The trail would extend between Route 5 and the Colonial Parkway in the vicinity of Jamestown High School.
6. **Historic Triangle Corridor Committee.** The Committee met in April to further discuss its pilot project which will be conducted on Jamestown Road. A team of landscape architects have volunteered to prepare concept plans for selected areas.
7. **New Town Project Status.** The New Town Design Review Board considered the following cases at its April 15 meeting:
 - a. WindsorMeade Marketplace – revised elevations and landscape plan
 - b. 1st Advantage Federal Credit Union – Block 2, Parcel D – Review of Conceptual Site Plan



O. Marvin Sowers, Jr.