

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
DECEMBER 6, 2004 - 7:00 p.m.

1. ROLL CALL
2. PRESENTATION
  - A. In Recognition of Mrs. Peggy Wildman
3. MINUTES
  - A. November 1, 2004 Regular Meeting
4. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC) Report
  - B. Other Committee Reports
5. PUBLIC HEARINGS
  - A. SUP-23-04 Action Park of Williamsburg
  - B. Z-10-04 I12 Ingram Road Rezoning
  - C. Z-6-04 / MP-06-04 Lightfoot Mixed Use
  - D. Z-12-04 / SUP-29-04 JCSA – Cardinal Acres Duplex
  - E. SUP-27-04 Williamsburg Community Chapel Expansion
  - F. SUP-30-04 JCSA - Riverview Plantation Water System Improvements
  - G. Z-11-04 / MP-9-04 Ford's Colony Master Plan and Proffer Amendment
  - H. Z-3-04 Mixed Use – Accessory Apartments
  - I. Z-4-04 Mixed Use – Fast Food Restaurants
6. PLANNING COMMISSION CONSIDERATION
  - A. 2005 PLANNING COMMISSION CALENDAR
7. PLANNING DIRECTOR'S REPORT
8. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF NOVEMBER, 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  
Joe McCleary  
Donald Hunt  
Jack Fraley  
Wilford Kale

ALSO PRESENT  
John Horne, Development Manager  
Mike Drewry, Assistant County Attorney  
Marvin Sowers, Planning Director  
Christopher Johnson, Senior Planner  
Karen Drake, Senior Planner  
Matt Arcieri, Planner  
Pat Foltz, Development Management Assistant

ABSENT  
George Billups  
Peggy Wildman

2. MINUTES

Mr. Poole informed the community that Mrs. Peggy Wildman has resigned her position on the Planning Commission.

Mr. McCleary spoke to Mrs. Wildman's accomplishments during her tenure as a Planning Commissioner and that she would be missed on the Commission.

Mr. Kale moved approval of the minutes.

Mr. Fraley seconded the motion.

The commission approved the minutes for the October meeting with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. McCleary pointed out an error in the actions before presenting the DRC reports. The DRC heard three cases at its October 27<sup>th</sup> meeting. For SP-110-04, Christian Life Center Phase I, the DRC deferred the case. For case C-127-04, Prime Retail Outlets Expansion, the DRC found the case consistent with the master plan. For case S-080-04, Williamsburg, Winery Subdivision, the DRC deferred the case.

Mr. Kale moved approval of the DRC report.

Mr. Hunt seconded the motion.

The commission approved the DRC report for the October meeting with a unanimous voice vote.

4. PUBLIC HEARINGS

A. CASE NO. Z-11-03/MP-11-03 Stonehouse Modifications.

Ms. Karen Drake presented the indefinite deferral request. The applicant, Mr. Alvin Anderson of Kaufman and Canoles, requested an indefinite deferral of the case. Staff concurred with the applicant's request.

Mr. Kale reviewed the history of the case over the last year, noting the difficulty inherent in the presentation of this case and crediting County staff for their work on this case.

Mr. Poole addressed Mr. Kale's comments, noting that the case was in a complete form but that the sheer size of the case prohibited easy handling.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole indefinitely deferred the case.

B. CASE NO. Z-06-04/MP-06-04 Lightfoot Mixed Use.

Mr. Matt Arcieri presented the deferral request. The applicant, Mr. Rich Costello of AES Consulting Engineers, requested deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

C. CASE NO. Z-10-04 112 Ingram Road

Mr. Arcieri presented the deferral request. The applicant, Mr. Scott Evans of Scott Evans Contracting, Inc., requested deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

D. CASE NO. SUP-23-04 Action Park of Williamsburg

Mr. Arcieri presented the deferral request. The applicant, Mr. Bob Miller of Action Park, requested a deferral of the case in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Poole opened the public hearing.

Seeing no speakers, Mr. Poole deferred the case to the December meeting.

E. CASE NO. SUP-25-04 Baylands Federal Credit Union

Ms. Drake presented the staff report. Mr. Tom Derrickson of AES Consulting Engineers has applied for a Special Use Permit on behalf of Bay Lands Federal Credit Union and property owner Violet J. Beck Estate. to allow the construction of a bank and office building on approximately 4.3 acres at **7031 Richmond Road**. The property can be further identified as Parcel (1-12) on James City County Real Estate Tax Map No. (24-1). The property is zoned B-1 and is designated Low Density Residential on the Comprehensive Plan Land Use Map. Staff recommended approval of the case.

Mr. McCleary spoke to citizen comments he received concerning the architectural appearance of the new building. He asked if the development plan would be reviewed by the DRC.

Ms. Drake stated that the eventual site plan would go to the DRC.

Mr. Fraley asked if staff perceived any future problems with compliance to the Norge Community Character Area (CCA).

Mr. Kale asked if the portion of the property fronting on the road was the first phase of development.

Ms. Drake outlined the two phases of development proposed for the property.

Mr. Kale confirmed that the special use permit applied to both phases of construction.

Mr. Poole opened the public hearing.

Mr. Rich Costello of AES Consulting Engineers made himself available to answer questions.

Mr. Poole asked what effect the CCA guidelines for the Norge area would have on the applicant's development plan.

Mr. Costello stated that he did not perceive any future conflicts with CCA guidelines and pointed to other Baylands branches which were built in compliance with local architectural guidelines.

Mr. Poole stressed that the eventual design of the bank would incorporate these guidelines.

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

Mr. Fraley asked Mr. Hunt for his impressions of the neighborhood reaction to the application.

Mr. Hunt responded that he felt it would be a positive addition to the community.

Mr. McCleary moved approval of the application.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 5-0. AYE: (5) Poole, Fraley, Hunt, Kale, McCleary. NAY: (0). NOT PRESENT: Wildman, Billups.

F. CASE NO. Z-07-03/MP-08-03 Governor's Grove

Mr. Arcieri presented the staff report. Mr. Eric Nielson has applied on behalf of National Housing Corporation to rezone approximately 23.26 acres from R-8, Rural Residential and B-1, General Business, to MU, Mixed Use, with proffers. The request seeks to develop 216 multi-family units on the 14.93 acres of property north of John Tyler Highway and 30,000 square feet of commercial/office space on the 2 acres of property accessed off of Ironbound Road. Approximately 6.33 acres of property to the south of John Tyler Highway would be preserved as open space. Staff recommended approval.

Mr. Kale asked Mr. Arcieri to explain the ingress/egress statistics connected to the commercial site.

Mr. Arcieri explained that the proposed traffic movements for vehicles entering Ironbound Road could cause safety issues. He noted that VDOT has limited the entrance to a "right-in right-out" only.

Mr. Poole opened the public hearing.

Mr. Geddy, the applicant, presented the history of the application. He explained several of the key elements of the plan. The proffered open space on the south portion of the property constitutes a significant dedication of land for aesthetic and natural purposes. He also spoke to the proffered master plan, a cap of 213 units, and the 15 acres of open space to be preserved on the property.

Mr. Fraley asked Mr. Geddy asked if the cash proffer payments were based on a mix of affordable and non-affordable units.

Mr. Geddy responded that it was impossible to reconcile those two sets of numbers.

Mr. Kale stated that many people believed that affordable housing means "low-cost" housing.

Mr. Geddy responded that, for the "for sale" units, the units were based on a \$120,000 price and that for the affordable units, based on the rental payment for a person with a \$32,000 annual income.

Mr. Kale asked if residents in the affordable rent units paid the same monthly rent as the residents of standard units.

Mr. Geddy responded that rent payments were different for the two groups, and that the difference was made up for the proprietor through federal housing funds.

Mr. Kale stated that the affordable housing, then, does not create a financial shortfall for the developer.

Mr. Geddy stated that it does not.

Mr. Kale asked about the commercial property nearest to the Five Forks intersection.

Mr. Geddy provided some of the background information into the surrounding property.

Mr. Fraley asked if the “for sale” and “for rent” properties would be of the same design.

Mr. Geddy responded that they would.

Ms. Fran Geisler, 120 Jordan’s Journey, spoke to the environmental aspect of the plan with regard to the Powhatan Creek. Ms. Geisler recommended the use of conservation easements to protect the watershed and surrounding wetlands.

Mr. Sasha Digges, of Ironbound Road, commented on the lack of affordable housing in the County and called for a plan to relocate the current residents.

Mr. Gerry Johnson, of the Historic Route Five Association, thanked the applicants for recently meeting with his organization. He questioned the environmental, social, and aesthetic compatibility of the proposed development with the surrounding area. He asked the Planning Commission to defer the case on the grounds that the citizens have not had the opportunity to sufficiently evaluate the plan.

Ms. Kay Thorington, of 3195 Lot 2 Williamsburg, urged the Planning Commissioner to protect the rights of those people who would be displaced by the construction of the complex.

Mr. Ken Spencer, of First Colony, spoke as an adjacent property owner. He referred the Commission to his distributed letter and informed the committee that no agent of the developer had contacted him.

Mr. Fraley asked Mr. Spencer to elaborate on the letter’s second criticism of the proposed development.

Mr. Spencer responded that he was concerned about the children of Governor’s Grove playing on and vandalizing his property.

Mr. Hampton Jesse, of Powhatan Crossing, also recommended a deferral of the case in order to better evaluate the traffic impacts and proffers.

Mr. David Fuss, of 3008 Chelsford Way, spoke on behalf of the Friends of the Powhatan Creek Watershed related the concerns of citizen members and recommended that the Commission defer the case.

Mr. Fraley asked for the official position of the Friends of the Powhatan Creek on this application.

Ms. Geisler clarified that she spoke as a resident of the County and not as the representative of the Friends of the Powhatan Creek Watershed.

Mr. Geddy addressed the issues of the trailer park and the environmental impacts of the case and stressed the intention of the applicant to work with the County to resolve these issues.

Mr. Eric Nielsen of the National Housing Corporation reviewed the history of the case and stressed their commitment to providing the best possible plan for the parcel.

Mr. Ken Spencer agreed with Mr. Nielsen's commitment to promoting a quality community but re-iterated that he had not been contacted about the development.

Ms. Thorington urged the Commission to protect the trailer park.

Mr. Nielsen stated that he had met with Mr. Spencer's brother last year regarding the project.

Mr. Fraley asked Mr. McCleary to comment on the possible impacts to Route 5.

Mr. McCleary, stressing that he was not an active member of the Historic Route 5 Association, stated the organization would most like to see a plan that preserves the buffer and improves the environmental situation of the area.

Mr. Fraley asked Mr. McCleary to comment on the relation of the project to recently completed Five Forks Area Study.

Mr. McCleary responded that, in his opinion, the application satisfies the Five Forks Primary Principles.

Mr. Fraley asked for more detail into the environmental aspects of the application.

Mr. Arcieri responded that staff brought the adopted Five Forks Primary Principles to the applicant with the main tenets that reinforce the Powhatan Watershed Plan.

Mr. Fraley asked for more detail into the process where the environmental issues had been addressed.

Mr. Sowers stated that some of the recommendations distributed to the Commission were better applied during the development plan stage and that the DRC meeting would be a better forum to discuss those issues. He continued to explain that, in past cases in dealing with affordable housing, that cash proffers had not been required for affordable units.

Mr. Fraley asked about the situation of the trailer park residents who would be displaced by this development. He asked Mr. Sowers if James City County had any position with respect to these residents.

Mr. Sowers responded that the County's Department of Housing and Community Development and Housing was concerned about this problem but limited by funding. Staff explored ways to ease the transition of current residents but did not have the ability to require any action of the developer.

Mr. Fraley stated that it was his understanding that Housing and Community Development had requested several measures to help these residents. He suggested that the County lead an effort to explore the plight of the affected residents.

Mr. Sowers responded that the County had initiated similar discussion and that staff would be willing to make another effort.

Mr. Fraley suggested that the County should lead an effort to resolve these problems through a collective meeting of residents, the developer, and staff to reach an accommodation.

Mr. Kale urged the Commission to defer the case on the grounds of school overcrowding, the high density of the development, traffic, and the displacement of residents.

Mr. McCleary stated that the developer had significantly amended the rezoning plan to eliminate the development of the south property.

Mr. Fraley questioned the accuracy of the number of schoolchildren projected for the development.

Mr. Arcieri stated that these numbers were generated by the County's Financial and Management Services department.

Mr. Fraley said that he believed that the numbers provided by the County were understated but credited the applicant with using the County numbers.

Mr. Kale asked Mr. Arcieri if the County had considered the presence of college students in the apartment population of James City County.

Mr. Arcieri stated that the County had not projected these numbers.

Mr. Kale spoke to the previously approved developments that add schoolchildren to the system and suggested that the County compound the numbers generated by approved rezonings.

Mr. Fraley asked Mr. Kale if the bond referendum were to pass if it would improve his opinion of the school situation.

Mr. Kale said that he would.

Mr. Poole brought up the issue of displaced residents and expressed his desire that the traffic and displacement issues be resolved. He recommended the Commission explore and resolve these issues.

Mr. Kale asked who was responsible for generating the schoolchildren numbers and recommended a deferral to address these issues.

Mr. McCleary spoke to the need for affordable housing and the fact that this application addresses that need. He also spoke to the traffic study, which was last completed in 2003 and projected to 2008. Mr. McCleary expressed his support for a deferral.

Mr. Nielsen spoke to the necessity of obtaining a result at the November meeting. In order to satisfy the deadline to apply for federal tax credits, Mr. Nielsen spoke to the impossibility of proceeding with this application should it not receive action by the Planning Commission. He outlined his history of working with staff and re-iterated the importance of coming to a decision tonight.

Mr. Fraley asked when the deadline for the tax credit was due.



Mr. Nielsen responded that he needed to have the property under control by January.

Mr. Hunt motioned to approve the application.

McCleary seconded the motion.

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

Mr. Fraley stated that he would like to see the application go forward, but that he still had significant reservations about the application.

Mr. McCleary stated that, given the willingness of the applicant to work with County, he was prepared to support the application.

Mr. Kale stated that he saw a lot of benefits and spoke to value of the Adequate Public Facilities Test. He stated his opposition to the application.

Mr. Fraley stated that he was prepared to support the application, but that the issues identified by the Commission should be addressed.

The Planning Commission approved the application by a vote of 3-2. AYE: (3) Fraley, Hunt, McCleary. NAY: (2) Poole, Kale. NOT PRESENT: Wildman, Billups.

The Planning Commission recessed until 9:45 p.m.

G. CASE No. Z-03-04, Z-04-02, MP-01-02, SUP-21-04 Colonial Virginia Council, Boy Scouts of America Proffer Amendment and Master Plan Amendment

Mr. Chris Johnson presented the staff report. The applications had been deferred by the Planning Commission at its October meeting. Staff recommended approval of the applications.

Mr. McCleary asked if the reduction in acreage for the Colonial Heritage Development was attributable to the development that has been approved since this project was approved by the Board of Supervisors in 2001.

Mr. Johnson outlined the history of the development and stated that all lots that have been platted were not included in determining the total acreage for the master plan amendment.

Mr. McCleary asked if the development would be gated.

Mr. Johnson stated that the development could not be gated.

Mr. McCleary asked if the 50-lot rural cluster development would be age-restricted.

Mr. Johnson stated that the rural cluster would not be age-restricted.

Mr. McCleary asked which of the alternative development plans was currently favored by staff.

Mr. Johnson stated that the disposition of Public Use Site B would dictate which alternative would be followed.

Mr. Poole opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles, the applicant, presented a report highlighting the key elements of the application. He highlighted the conservation easement, buffers, master stormwater management plan, and the limit of total residential units to 2000. He also noted that the proffers had been amended to add cash proffers for intersection improvement costs and tree preservation.

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

Mr. McCleary noted that this application would be the first rural cluster in James City County. He expressed his support for the application.

Mr. Poole stated that the conservation area was a significant component and stated his support for the application.

Mr. Kale stated that he supported the application and that he appreciated the application's intent but that he could not support the application because it potentially adds schoolchildren to the school system. He made it clear that, if a funding mechanism were in place for the next high school, that he would support the application.

Mr. Poole qualified his support for the application and stated that the addition of schoolchildren to the system did not outweigh the benefits in his mind.

Mr. McCleary moved for approval.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 4-1. AYE: (4) Poole, Fraley, Hunt, McCleary. NAY: (1) Kale. NOT PRESENT: Wildman, Billups.

## 5. INITIATION OF ZONING ORDINANCE AMENDMENTS

Mr. Arcieri presented to ordinance amendments to be initiated. The amendments addressed the addition of "fast-food restaurants" and "accessory apartments" uses to the Mixed Use Ordinance.

A discussion ensued as to the definition of an accessory apartment.

Mr. Kale moved to support the amendments.

Mr. Hunt seconded the motion.

The Planning Commission voted to support the ordinance resolutions with a unanimous voice vote.

6. PLANNING DIRECTOR'S REPORT

Mr. Sowers delivered the report. He highlighted the departure of Senior Planner Dave Anderson and planner Sarah Weisiger from the division. He recognized them for their service to the division.

Mr. Poole expressed his thanks to those planners and requested a formal recognition of Ms. Wildman's service at the beginning of the next planning commission meeting.

7. ADJOURNMENT

There being no further business, the November 1, 2004, meeting of the Planning Commission was recessed at approximately 10:30 p.m.

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A. Joe Poole, III, Chairman

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O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY  
DEVELOPMENT REVIEW COMMITTEE REPORT**

**FROM: 11/1/2004 THROUGH: 11/30/2004**

**I. SITE PLANS**

**A. PENDING PRELIMINARY APPROVAL**

SP-052-03	Kingsmill Access Ramp for Pool Access Bldg.
SP-063-03	District Park Sports Complex Parking Lot Expansion
SP-132-03	Windy Hill Market Gas Pumps & Canopy SP Amend.
SP-006-04	Williamsburg Christian Retreat Center Amend.
SP-016-04	Richardson Office & Warehouse
SP-025-04	Carter's Cove Campground
SP-047-04	Villages at Westminster Drainage Improvements
SP-067-04	Treyburn Drive Courtesy Review
SP-077-04	George Nice Adjacent Lot SP Amend.
SP-082-04	New Town - Sec. 2 & 4 Roadway Improvements
SP-093-04	Powhatan Plantation Ph. 9
SP-104-04	Williamsburg Community Chapel Second Entrance
SP-107-04	Noah's Ark Vet Hospital Conference Room
SP-108-04	Williamsburg Office Complex
SP-110-04	Christian Life Center Expansion Ph. 1
SP-113-04	Williamsburg Landing SP Amend.
SP-116-04	The Station at Norge
SP-121-04	Williamsburg Crossing - Parcel 23
SP-124-04	J.W. Crossing, Ph. 2
SP-125-04	GreenMount Industrial Park Road Ph. 2
SP-126-04	New Town, Block 3
SP-127-04	New Town, Retail Ph. 1
SP-129-04	ADA Handicap Ramp to KM Resort & Spa Pool
SP-130-04	New Town - Court Square
SP-131-04	New Town - Towne Bank
SP-132-04	St. Bede Catholic Church, Rectory Building
SP-133-04	Haynes Distribution Center
SP-134-04	Oktoberfest Expansion Ph. 2 Amendment
SP-135-04	Williamsburg Landing Parking Addition
SP-136-04	Fieldstone Glen Townhomes

**B. PENDING FINAL APPROVAL**

	<b>EXPIRE DATE</b>
SP-056-03	Shell Building - James River Commerce Center
SP-091-03	Colonial Heritage Ph. 1, Sec. 5
SP-108-03	Fieldstone Parkway Extension
SP-131-03	Colonial Heritage Ph. 2, Sec. 1
SP-136-03	GreenMount Industrial Park Road Ext. Ph. 1
SP-141-03	Colonial Heritage - Ph. 2, Sec. 3

Wednesday, December 01, 2004

Page 1 of 4

SP-003-04	WindsorMeade Villas	3 /1 /2005
SP-004-04	WindsorMeade - Windsor Hall	3 /1 /2005
SP-005-04	WindsorMeade - Villa Entrance & Sewer Const.	3 /3 /2005
SP-023-04	Williamsburg Landing SP Amend.	4 /2 /2005
SP-027-04	Greensprings Condos SP Amend. (Braemar Creek)	6 /7 /2005
SP-050-04	AJC Woodworks	10/13/2005
SP-056-04	Michelle Point	7 /12/2005
SP-057-04	The Archaearium at Historic Jamestowne	6 /15/2005
SP-059-04	Norge Neighborhood	8 /16/2005
SP-079-04	Norge Railway Station	7 /23/2005
SP-088-04	Wal-Mart Distribution Center - Ph. 3	7 /29/2005
SP-092-04	Columbia Drive Waterline Extension	8 /18/2005
SP-096-04	First Colony Subdivision Clubhouse	9 /2 /2005
SP-098-04	Warhill Green	10/4 /2005
SP-106-04	Anderson's Corner Sewer + Water Ext.	10/15/2005
SP-112-04	Wythe-Will Distribution Center Landscaping Amend.	10/21/2005
SP-114-04	Busch Gardens - Wolf/Eagle Exhibit	10/19/2005

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

#### **DATE**

SP-086-03	Colonial Heritage Golf Course	11/5 /2004
SP-140-03	Pocahontas Square	11/5 /2004
SP-145-03	Williamsburg National 13 Course Expansion	11/9 /2004
SP-150-03	WindsorMeade Marketplace	11/12/2004
SP-064-04	Eckerd's at Powhatan Secondary	11/4 /2004
SP-070-04	Godspeed Animal Care	11/23/2004
SP-090-04	Colonial Heritage Mass Grading	11/4 /2004
SP-123-04	Lake Powell Telecommunications Tower Site	11/15/2004
SP-128-04	Prime Outlets SP Amend.	11/19/2004

## 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-086-02	The Vineyards, Ph. 3, Lots 1, 5-9, 52 BLA
S-062-03	Hicks Island - Hazelwood Subdivision
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-108-03	Leighton-Herrmann Family Subdivision
S-116-03	Stonehouse Glen, Sec. 2
S-034-04	Warhill Tract BLE / Subdivision
S-046-04	ARGO Ph. 2
S-047-04	ARGO Ph. 3
S-048-04	Colonial Heritage - Open Space Easement
S-063-04	123 Welstead Street BLE
S-066-04	Hickory Landing Ph. 1
S-067-04	Hickory Landing Ph. 2
S-074-04	4571 Ware Creek Road (Nice Family Subdivision)
S-078-04	Hogge Land Exchange
S-080-04	Williamsburg Winery Subdivision
S-087-04	Dudley S. Waltrip Family Subdivision
S-089-04	Norge Neighborhood Easements
S-091-04	Marywood Subdivision
S-098-04	Gilley Family Subdivision
S-099-04	New Town Block 2 Parcel C
S-100-04	Williamsburg National Golf Course BLA
S-102-04	New Town, Block 5, Parcel F, Lots 21-24
S-103-04	Windsormeade Marketplace, Parcel 1 Resubdivision
S-104-04	Kingsmill Rivers Edge Ph. 4
S-105-04	Gross Family Subdivision
S-106-04	8721 Pocahontas Trail Subdivision
S-107-04	James River Commerce Center, Parcel 4
S-108-04	208 Curry Drive Subdivision
S-110-04	New Town, Blocks 8B & 5F, Lots 1-20 & 25-34

### B. PENDING FINAL APPROVAL

S-037-02	The Vineyards, Ph. 3
S-094-02	Powhatan Secondary Ph. 7-C
S-108-02	Scott's Pond, Sec. 3
S-044-03	Fenwick Hills, Sec. 3
S-049-03	Peleg's Point, Sec. 5

### EXPIRE DATE

5 /4 /2005
12/30/2004
1 /13/2005
6 /25/2005
7 /3 /2005

S-055-03	Colonial Heritage Ph. 1, Sec. 5	8 /4 /2005
S-056-03	Colonial Heritage Ph. 1, Sec. 4	9 /8 /2005
S-076-03	Wellington, Sec. 4	11/3 /2005
S-098-03	Stonehouse Glen, Sec. 1	4 /5 /2005
S-099-03	Wellington, Sec. 5	2 /3 /2005
S-100-03	Colonial Heritage Ph. 2, Sec. 1	12/8 /2005
S-101-03	Ford's Colony - Sec. 35	2 /2 /2005
S-106-03	Colonial Heritage Ph. 2, Sec. 3	1 /12/2005
S-002-04	The Settlement at Monticello (Hiden)	3 /1 /2005
S-009-04	Colonial Heritage Public Use Site B	3 /18/2005
S-033-04	2011 Bush Neck Subdivision	5 /4 /2005
S-035-04	Colonial Heritage Blvd. Ph. 2 Plat	4 /28/2005
S-036-04	Subdivision at 4 Foxcroft Road	6 /15/2005
S-037-04	Michelle Point	7 /12/2005
S-038-04	Greensprings West Ph. 4B & 5	6 /9 /2005
S-045-04	ARGO Ph. 1	6 /28/2005
S-059-04	Greensprings West Ph. 6	9 /13/2005
S-062-04	2400 Little Creek Dam Road	11/1 /2005
S-065-04	133 Magruder Avenue - Sadie Lee Taylor Prop.	8 /4 /2005
S-071-04	Cowles Subdivision -163 Howard Drive	9 /3 /2005
S-075-04	Pocahontas Square	9 /16/2005
S-077-04	James River Commerce Center	10/4 /2005
S-081-04	Subdivision for Lot 3 Norge Neighborhood	10/11/2005
S-090-04	Minichiello Villa	10/21/2005
S-095-04	3338 Racefield Drive (Leonituk Family Subdivision)	10/26/2005
S-097-04	Cowles Estate BLA	11/4 /2005
S-109-04	Scott's Pond, Sec. 3B	1 /13/2005

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

#### **DATE**

S-078-03	Monticello Woods - Ph. 2	11/23/2004
S-055-04	117 Winston Terrace	11/14/2004
S-084-04	Greensprings Condominiums	11/5 /2004
S-094-04	Armistead Point - Kingsmill	11/9 /2004

**DEVELOPMENT REVIEW COMMITTEE ACTION REPORT**  
**December 1, 2004**

**Case No. SP-110-04**

**Christian Life Center Phase I**

Mr. Wayne Powers of AES Consulting Engineers submitted a site plan on behalf of Christian Life Center proposing the addition of a fellowship hall. The proposed site is located at 4451 Longhill Road and is further identified as parcel (1-3) on James City County Tax Map (32-3). DRC review is required because the plan proposes a second driveway.

**DRC Action:** The DRC recommended approval for the case subject to agency comments and a pending agreement with VDOT.

**Case No. SP-121-04**

**Williamsburg Crossing, Parcel 23**

Mr. Wayne Powers of AES Consulting Engineers submitted a site plan proposing retail/office and warehouse buildings at 5286 John Tyler Highway in the Williamsburg Crossing shopping center. The property is further identified as parcel (22-23) on James City County Tax Map (48-1). DRC review is necessary for all plans requiring a total combined floor area of over 30,000 square feet. The DRC also considered a waiver request for the yard regulations.

**DRC Action:** The DRC recommended approval for the case subject to agency comments and approved a waiver of the rear setback requirement.

**Case No. S-080-04**

**Williamsburg Winery Subdivision**

Mr. Ken Jenkins, of LandTech Resources, submitted a subdivision plan to create four residential lots on Jockey's Neck Trail road. The property is further identified as parcel (1-10B) on James City County Tax Map (48-4). DRC review is necessary due to the existence of unresolved issues between the applicant and adjacent property owners.

**DRC Action:** The DRC recommended approval for the case subject to agency comments and approval by the County Attorney's office regarding legal access to Jockey's Neck Trail.

**Case No. C-104-04**

**Greensprings Trailhead Parking**

Mr. Paul Tubach of James City County Parks and Recreation submitted a conceptual plan proposing the location of parking facilities for Greensprings Trailhead. The site would be located at 3751 John Tyler Highway and the property is further identified as parcel (1-2D) on James City County Tax Map (46-1). DRC review is required of any public area, facility, or use not shown on the adopted Comprehensive Plan.

**DRC Action:** The DRC found the application consistent with the Comprehensive Plan.

**Case No. S-091-04**

**Marywood Subdivision**

Mr. Jason Grimes of AES Consulting Engineers submitted a subdivision plan proposing the creation of 115 lots on property adjacent to Kingswood and Druid Hills neighborhoods. The property is further identified as parcel (1-47) on James City County Tax Map (47-2). DRC review is required as the applicant proposes a development of more than 50 lots, a cul-de-sac waiver, and a sidewalk waiver. Further, the DRC considered proposed open space to determine if it meets the requirement for conservation and recreation.



**DRC Action:** The DRC deferred the case.

**Case No. SP-127-04**

**New Town Retail Phase I**

Mr. Bob Cosby of AES Consulting Engineers submitted a site plan proposing the first phase of commercial development in New Town. The site is located at 5206 Monticello Avenue and is further identified as parcel (1-50) on James City County Tax Map (38-4). DRC review is required as the plan proposes over 30,000 square feet in total floor area.

**DRC Action:** The DRC recommended approval for the case.

**SUP-23-04. Action Park of Williamsburg**  
**Staff Report for the December 6, 2004, 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:

Building F Board Room; County Government Complex  
November 1, 2004, 7:00 p.m. (deferred)  
December 6, 2004

**SUMMARY FACTS**

Applicant:

Mr. Bob Miller, Action Park of Williamsburg

Land Owner:

Action Park of Williamsburg

Proposed Use:

New Amusement Attraction - Disk'O

Location:

6870 Richmond Road

Tax Map and Parcel No.:

(24-3)(1-18)

Primary Service Area:

Inside

Parcel Size:

3.82 acres (Total Park - 8.09 acres)

Existing Zoning:

B-1, General Business

Proposed Zoning:

B-1, General Business

Comprehensive Plan:

Mixed Use

Staff Contact:

Matthew Arcieri - Phone: 253-6685

**STAFF RECOMMENDATION:**

During preparations for this case, staff discovered that in 1996 a new SUP was approved by the Board of Supervisors that replaced SUP-34-94. The 1996 SUP does not contain the provision requiring DRC approval of new rides. The applicant has withdrawn this case and will proceed with site plan approval for the new ride.

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Matthew D. Arcieri

Attachment:

1. Withdrawal Letter

**REZONING CASE NO. Z-10-04 112 INGRAM ROAD**

**Staff Report for the December 6, 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.*

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**PUBLIC HEARINGS**

Planning Commission:

**7:00 p.m.; Building F Board Room; County Government Complex**

December 6, 2004, 7:00 PM

Board of Supervisors:

Indefinite Deferral

**SUMMARY FACTS**

**Applicant:**

Mr. Scott Evans, Scott Evans Contracting, LLC

**Land Owner:**

Ms. Marjorie Gray, et al

**Proposal:**

To rezone 0.37 acres from R-8, Rural Residential, to B-1, General Business, with proffers, for the construction of an approximately 3,900-square foot, four-unit office building.

**Location:**

112 Ingram Road

**Tax Map/Parcel**

(47-1)(1-23)

**Parcel Size**

0.37 acres

**Proposed Zoning:**

B-1, General Business, with proffers

**Existing Zoning:**

R-8, Rural Residential

**Comprehensive Plan:**

Mixed Use

**Primary Service Area:**

Inside

**STAFF RECOMMENDATION**

The applicant has requested indefinite deferral of this case in order to resolve issues associated with the property ownership. Staff concurs with this request.

**Staff Contact:**

Trey Davis, Planner

Phone: 253-6685

**Attachments:**

1. Deferral letter



# Scott Evans Contracting, Inc.

Industrial • Commercial • Residential

---

December 1, 2004

Mr. Trey Davis, Planner  
James City County  
Department of Development Management  
101-E Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187

RE: Z-10-04; 112 Ingram Road Rezoning

Dear Mr. Davis:

I would like to request a deferral on the submission of our rezoning application indefinitely until we can acquire all of the information requested by the County from the current owner.

Thank you for all your help on this project and I look forward to working with you further.

Sincerely,

Scott Evans  
President

**REZONING -6-04 / MASTER PLAN -6-04. Lightfoot Mixed Use Development  
Staff Report for the December 6, 2004, 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:	7:00 p.m.; Building F Board Room; County Government Complex
	July 12, 2004 (Deferred)      October 4, 2004 (Deferred)
	August 16, 2004 (Deferred)      November 1, 2004 (Deferred)
	September 13, 2004 (Deferred)      December 6, 2004
Board of Supervisors:	January 11, 2005 (Tentative)

**SUMMARY FACTS**

**Applicant:** Richard A. Costello, AES Consulting Engineers

**Land Owner:** Noland Properties, Inc.

**Proposed Use:** A mix of uses including a maximum of 144,800 square feet of commercial space on 13.5 acres along Richmond Road and a maximum of 244 multi-family residential units on the remaining 38.5 acres with a gross residential density of 6.3 units per acre.

**Location:** 6601 Richmond Road, Stonehouse District

**Tax Map/Parcel** (24-3)(1-35)

**Parcel Size** 53.24 acres, with 52.0 acres for development; the Chesapeake Bank site is not included in the master plan or proffers.

**Proposed Zoning:** MU, Mixed Use with proffers

**Existing Zoning:** B-1, General Business with proffers

**Comprehensive Plan:** Mixed Use

**Primary Service Area:** Inside

**STAFF RECOMMENDATION**

At the Planning Commission meeting on October 4, 2004, this case was deferred at applicant's request. At the meeting, Commissioners requested additional information on traffic, housing and the project's fiscal impact. The information has been included in this report.

The applicant requested another deferral at the November 1<sup>st</sup> Planning Commission Meeting. This deferral allowed time for the applicant to revise General Note #10 on the master plan to earn the Environmental Division's recommendation of approval on a previously outstanding issue. Additionally, the applicant increased the cash contributions from \$750 per dwelling unit to mitigate the impact of the development on emergency services, school uses, off-site road improvement, library uses and public use sites to \$1205 per dwelling unit. The \$1205 allocates \$605 to mitigate impacts on school uses and \$600 to mitigate impacts on emergency services, off-site improvements, library uses and public uses sites.

Staff continues to find that the proposed rezoning is consistent with surrounding development and consistent

with the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of the rezoning and master plan and acceptance of the voluntary proffers, Staff also recommends that the Planning Commission approve the applicant's perimeter setback modification requests as shown on the Master Plan.

**Staff Contact:**

Karen Drake, Senior Planner

Phone: 253-6685

**PROJECT DESCRIPTION**

Mr. Richard Costello has applied on behalf of Noland Properties, Inc. to rezone 52.0 acres located on Richmond Road (Route 60) northwest of the junction with Lightfoot Road, from B-1, General Business with proffers to Mixed Use, MU with proffers. The applicant has proposed 144,800 square feet of commercial and light industrial development on 13.5 acres with frontage on Richmond Road and 244 multi-family dwelling units in the back of the parcel on 38.5 acres. Two entrances would provide access to the development from Richmond Road with the main entrance at the existing median crossover. The residential units are proposed to be "for sale" with up to 10% of the units proffered to have limited sales prices. The commercial area is proposed to have a mix of uses including mini-storage, retail sales, offices and restaurants. A special use permit has previously been granted for Chesapeake Bank which is located on the same parcel; it is not subject to this rezoning.

**EXISTING ZONING AND DEVELOPMENT**

**Development Area:**

Vacant with abandoned restaurant, shops and house  
B-1 with proffers under Case No. Z-12-89, L.A. & G Corporation.

**Adjacent Properties:**

- ◆ **North** Distribution center, A-1 General Agricultural / B-1 General Business  
Undeveloped bank site on the same parcel, B-1
- ◆ **East** Commercial uses across Richmond Road, M-1 Limited Business/Industrial
- ◆ **South** Church, hotels, restaurant along Richmond Road, B-1  
Outlet mall at corner of Centerville and Richmond Roads, M-1
- ◆ **West** Manufactured home park on Centerville Road with a density of approx. 3.0  
units per acre and vacant parcels, A-1

**PUBLIC IMPACTS**

**ARCHAEOLOGY:**

The County archaeological policy is proffered.

**ENVIRONMENTAL IMPACTS:**

**Watershed:**

Yarmouth Creek

**Environmental:**

An outstanding issue at the September 13, 2004 Planning Commission meeting was a note regarding the Yarmouth Creek Watershed Management Plan. The applicant has revised General Note #10 on the proposed master plan to now read as follows: *This project is located in Subwatershed 105 of the Yarmouth Creek Watershed Management Plan in James City County. An on-site Regional Stormwater Management Facility will be located in or above the degraded portion of the stream. This facility will be designed to meet or exceed current James City County Standards and policies with the intent to largely reduce runoff flows to a (predevelopment) level that will permit the streambed to*

*reestablish itself in a stable natural condition. At the time when this facility is converted to its final Stormwater configuration (at or near the end of the development process), the streambed will be inspected and areas or portions not reestablished to a stable natural condition will be restored in accordance with the Yarmouth Creek Watershed Management Plan within a year. The Bond on the Stormwater Facility will be extended (and modified as necessary) to include the necessary stream work. This revision is acceptable to the Environmental Division.*

**Proffers:** The applicant has proffered to provide a master stormwater plan for the entire property prior to approval of any development plans. (Proffer #10b) The applicant has also proffered a construction setback for buildings to be located a minimum of ten feet from the Resource Protection Area buffer. (Proffer #10c)

**Staff Comments:** The proffer for a master stormwater plan satisfies staff's earlier concerns about how stormwater would be treated on the property. The proffer for a construction setback for buildings is acceptable.

#### **FISCAL IMPACTS:**

**Impact Study:** The fiscal impact study prepared by Wessex Group, Ltd., estimates that the annual fiscal impact of the proposal is estimated to be a net deficit of \$2,227.

**Proffers:** The applicant has revised the proffers from a cash contribution of \$750 per dwelling unit to mitigate impacts from the physical development and operation of the property on emergency services, school uses, off-site road improvement, library uses and public use sites to \$1205 per dwelling unit. (Proffer #3d and #3e) The \$1205 per dwelling unit contribution allocates \$605 to mitigate impacts on school uses and \$600 to mitigate impacts on emergency services, off-site improvements, library uses and public uses sites. The applicant has also proffered to phase at least 25,000 square feet of commercial development in advance of residential development. (Proffer #9)

**Staff Comments:** Staff finds that the project's annual recurring operating deficit would likely be much larger than the one forecast by the applicant's study. The exclusion of capital cost impacts due to overcrowded schools is the most significant reason for this difference.

#### **HOUSING:**

**Proffer:** The applicant changed the affordable housing proffer between the September and October Planning Commission meetings. The proffer was originally for 10% of the residential dwelling units to be offered at a sales price of \$110,000. The proffer is now for at least 5% of the units to be offered at \$110,000 and 5% at a sales price of \$135,000. (Proffer #8) The applicant has also proffered that all units will be offered "for sale". (Proffer #20)

**Staff Comment:** While the earlier proffer represented an offer for housing that would be more affordable, the current proffer guaranteeing a mix of housing prices remains consistent with the Comprehensive Plan for moderate density development within mixed use areas and consistent with the Housing section of the Plan because the project would create a mixed income community with some affordable housing.

**SCHOOLS:**

Per the Adequate Public Facilities Test policy adopted by the Board of Supervisors, all special use permit and rezoning applications should pass the test for adequate public school facilities. The test is based on whether the schools which would serve the development have adequate design capacity to accommodate the additional students. The applicant estimates that the residential units will generate 0.2 students per unit for a total of 49 students. The following information was provided by the applicant:

School	2004 Enrollment*	Design Capacity	Projected Students Generated by Development
Norge Elementary	644	760	23
Toano Middle School	811	775	12
Lafayette High School	1536	1250	14

*\*These September 30, 2004 enrollment figures were released by the Williamsburg-James City County Public Schools on October 5, 2004 and updated for this report.*

**Staff Comments:** The proposal passes the adequate public facilities test for elementary schools. Regarding high schools, the capacity of Jamestown High School is clearly exceeded, however the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP then the application will be deemed to have passed the test. On November 2, 2004 voters approved the third high school referendum; therefore staff believes that this proposal passes for the high school.

The proposal does not pass the adequate public facilities test for middle schools. The applicant suggests that by redistricting the middle school areas, sufficient capacity currently exists within the County for middle school students generated by the development. Staff believes that redistricting would not present a long term solution to overcrowding.

**PUBLIC UTILITIES:** The site is served by public water and sewer. James City Service Authority (JCSA) has not approved a water model for the entire development. This issue will need to be addressed to the satisfaction of JCSA at the development plan stage.

**Proffers:** Water conservation: Water conservation measures shall be submitted for review and approval prior to subdivision or site plan approval. (Proffer #2)  
Sewer: A contribution of \$382.50 for each residential unit and a contribution based on non-residential sewage flow usage factoring in previous development uses on the property are proffered for sewer system improvements. (Proffer #3 b and c)  
Water: A cash contribution of \$630.00 per residential dwelling unit has been proffered for development of alternative water sources or JCSA water system improvements. (Proffer #3a)



**JCSA Comment:** Proffers are acceptable.

**TRAFFIC IMPACTS:**

**Existing Conditions:** A median crossover with left-turn lane is in place on Richmond Road.

**Proposed Traffic Improvements:** A traffic study by DRW Consultants concluded that the traffic forecast for the development at buildout is “borderline for traffic signalization at the existing crossover.” The applicant estimates trip generation of 445 AM Peak Hour trips and 689 PM Peak Hour trips and a total daily site generation of 6,264 trips. All streets are proposed to be private.

**Traffic Counts:** The James City County Traffic Count Summary and Comprehensive Plan for Richmond Road in the area of the proposed development find the following:

2003 Traffic Counts:	18,828 (Croaker Rd to Lightfoot Rd)
2026 Volume Projected:	33,500 (Croaker Rd to Centerville Rd)

**Level of Service:** Intersection Level of Service (LOS) at Development – Main Driveway:  
Existing - AM Peak Hour, LOS - B / PM Peak Hour, LOS - C

2020 with Lightfoot Mixed Use development and unsignalized -  
AM Peak Hour, LOS – C / PM Peak Hour, LOS - D

**Proposed Road Improvements:** A study by DRW Consultants concluded that the traffic forecast for the development at buildout is “borderline for traffic signalization at the existing crossover.”

**Proffers:** The applicant proffers to provide an updated traffic impact study for review and approval: 1) prior to the issuance of building permits for 70% of commercial square footage and 50% of residential units or 2) in the case a proposed use generates materially higher trip generation than the uses in the current traffic study. If an updated traffic study finds that a traffic signal and/or an additional turn lane are warranted, the owner has proffered to provide the improvements. (Proffer #6) An entrance taper has been proffered for construction at the right-in right-out driveway. (Proffer #4)

**VDOT Comments:** The traffic study did not clearly define when left turn improvements or a traffic signal will be warranted.

**Staff Comments:** Staff finds that the revised proffer for an updated traffic study will more clearly define what improvements are necessary and that any improvements shall be provided by the owner if warranted.

**RESIDENTIAL DEVELOPMENT CONSIDERATIONS:**

**Conceptual Plan Review Proffer:**

In lieu of providing a detailed master plan of the residential area of the project, the applicant has proffered to provide a conceptual plan of the residential area prior to the submittal of a site plan for the property.

**Staff Comment:** The proffer has been revised to include review and approval by the Planning Director and now satisfies staff's earlier concerns.

**Recreation Proffer:**

The applicant proposes to provide recreational facilities in the residential area as set forth in the County's Recreation Master Plan or to make cash contributions in accordance with the Recreation Master Plan.

**Staff Comment:** The proffer has been revised and now satisfies staff's earlier concerns.

**Pedestrian Connections Proffer:**

The applicant proposes to provide pedestrian connections between the property and the adjacent Williamsburg Outlet Mall and between each area shown on the Master Plan.

**Staff Comment:** The proffer has been revised and now satisfies staff's earlier concerns that the pedestrian connections be constructed along with infrastructure and buildings in each area.

**Streetscape Guidelines Proffer:**

The applicant has proffered streetscape improvements in accordance with the County's Streetscape Guideline policy for the entrance road in the commercial area and within residential areas.

**Staff comment:** The proffer has been revised to include streetscape improvements within residential areas and now satisfies staff's earlier concerns.

**COMPREHENSIVE PLAN**

**Land Use Map designations:**

- Mixed Use area within the Lightfoot Mixed Use Area
- Community Character Corridor

**Mixed Use Area:**

Mixed Use areas are centers where higher density development and/or a broader spectrum of land uses are encouraged. They are intended to provide flexibility in design and land uses in order to enhance the character of the area. The Comprehensive Plan's specific recommendations for Lightfoot Mixed Use area are that: "For lands west of Richmond Road (Route 60 West), the principal suggested uses are moderate density housing, commercial developments and office developments. The commercial uses should not be developed in a 'strip' commercial fashion and should emphasize shared access and parking as well as consistent treatment for landscaping and architecture. Measures to mitigate traffic congestion will be critical to maintain the economic vitality of the area and to maintain an acceptable degree of mobility."

**Staff Comment:** The proposed principal uses are generally consistent with those in the Comprehensive Plan. The square shape of the commercial site and the location of the proposed entrance road will mitigate against strip commercial development. As noted earlier in the staff report, the proffer for the updated traffic study is acceptable to staff as it helps guarantee that an acceptable degree of mobility will be maintained.

**Community Character Corridor:**

The section of Richmond Road in front of the proposed development is an urban Community Character Corridor. The applicant has proffered to only place monument signs within the Community Character buffer

and to provide a limited list of materials for building walls facing Route 60. All rooftop mechanical equipment will be screened from view. Because extensive fencing may be used within the commercial land use area along Richmond Road, the applicant has also proffered to limit the types of fencing and to provide extra shrubs to hide any chain link fencing within 200 feet of Richmond Road.

**Staff comment:** Staff is satisfied with the revisions to the proffers to assure that the visual impact of development will be consistent with the Comprehensive Plan.

### **SETBACK MODIFICATION REQUESTS**

Mixed Use districts require a 50-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 and staff recommendations are summarized below:

**Request A:** To reduce perimeter buffer from 50 feet to 20 feet along the southern property boundary with the Zaharopolus property. The applicant has proffered to provide up to 125% enhanced landscaping in the buffer and that any fence in the buffer shall be setback at least 19' from the property line.

**Staff comment:** The part of the Zaharopolus property that is adjacent to the proposed development is wooded and undeveloped. Given the treatment of the buffer with landscaping and given the adjacent property's commercial zoning, staff recommends the Planning Commission approve this modification to the setback buffer.

**Request B:** To reduce perimeter buffer from 50 feet to 20 feet along the southern property boundary with property owned by Smith Memorial Baptist. The applicant has proffered to provide enhanced landscaping and to construct a brick wall for mini-storage warehouses facing the church property. By proffer, any fence in the buffer shall be setback at least 19' from the property line. Any fence in the front 200 feet of the property facing Richmond Road shall be either a wood fence, a dark metal picket fence or a dark vinyl coated chain-link fence or chain-link fencing supplemented with additional shrubs.

**Staff comment:** Staff is satisfied that the revisions to the proffer on chain-link fencing, the design will sufficiently mitigate impacts from adjacent uses and recommends that the Planning Commission approves this waiver request.

**Request C:** To reduce perimeter buffer to 15 feet (with 20 feet building setback) for area behind Chesapeake Bank. The reduction will integrate with adjacent uses.

**Staff Comment:** Staff finds that this request is in keeping with the criteria for better integrating surrounding uses with the development and recommends that the Planning Commission approve the waiver request. The applicant has not shown a setback

along the entrance road, staff believes that this is appropriate for reasons noted above.

**Request D:** To provide 25' landscape buffer and a total of 50' building setback in areas adjacent to the northern property line with Wythe-Will.

**Staff Comment:** Due to the location of an existing access easement between the two properties, the applicant cannot provide an undisturbed buffer adjacent to the property line. Staff supports the request because it will better integrate the property with surrounding development.

**Recommendation for Setback Modification requests:**

Staff recommends that the Planning Commission approve all setback modification requests to the perimeter buffer.

**STAFF RECOMMENDATION**

At the Planning Commission meeting on October 4, 2004, this case was deferred at applicant's request. At the meeting, Commissioners requested additional information on traffic, housing and the project's fiscal impact. The information has been included in this report.

The applicant requested a deferral at the November 1<sup>st</sup> Planning Commission Meeting. This deferral allowed time for the applicant to revise General Note #10 on the master plan to earn the Environmental Division's recommendation of approval on a previous outstanding issue. Additionally, the applicant increased the cash contributions from \$750 per dwelling unit to mitigate the impact of the development on emergency services, school uses, off-site road improvement, library uses and public use sites to \$1205 per dwelling unit. The \$1205 allocates \$605 to mitigate impacts on school uses and \$600 to mitigate impacts on emergency services, off-site improvements, library uses and public uses sites.

Staff continues to find that the proposed rezoning is consistent with surrounding development and consistent with the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of the rezoning and master plan and acceptance of the voluntary proffers, Staff also recommends that the Planning Commission approve the applicant's perimeter setback modification requests as shown on the Master Plan.

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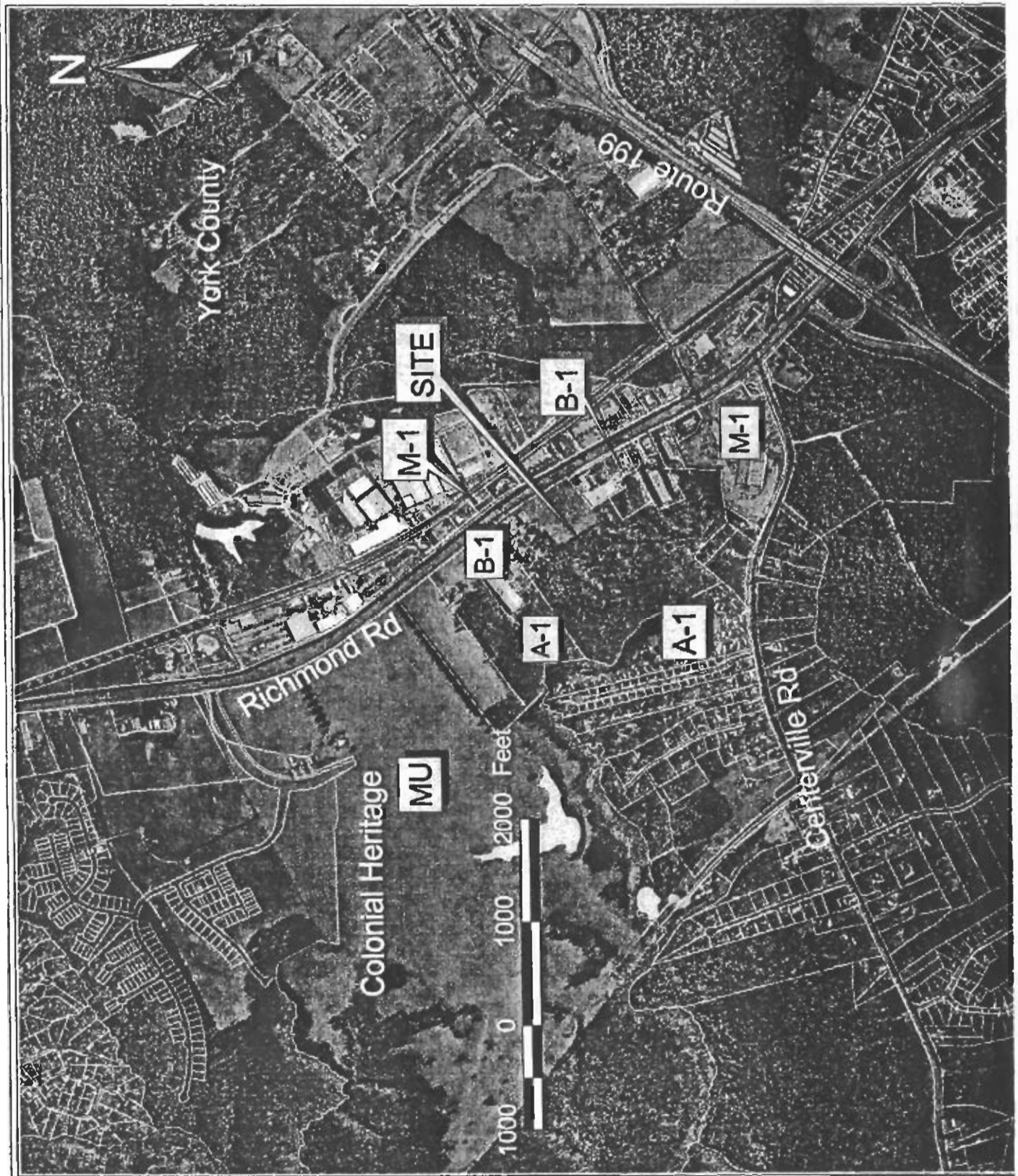
Karen Drake

**Attachments:**

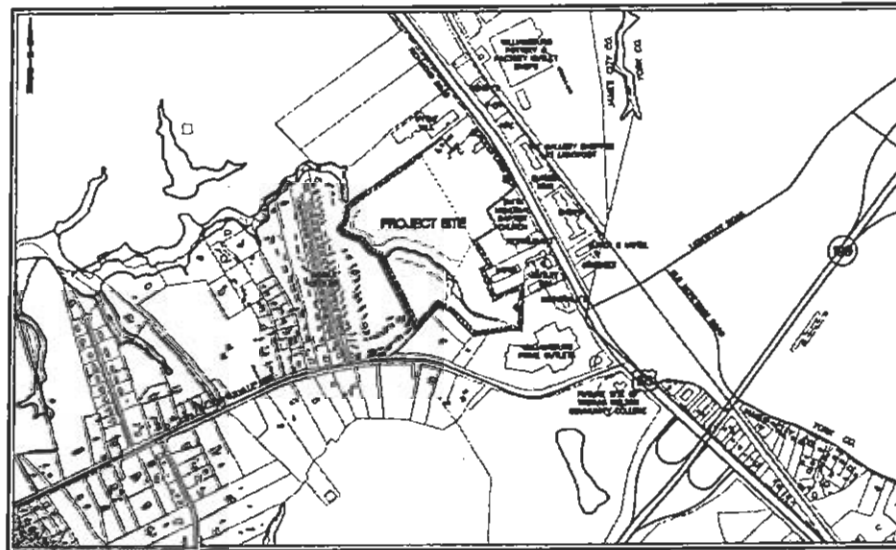
1. Location map
2. Master Plan
3. Fiscal Impact study
4. Setback request letter
5. Setback request map
6. Proffers

# Z-6-04/MP-6-04 Lightfoot Mixed Use Development

Photo Copyright 2002 State of Virginia



Master Plan for Rezoning  
of  
Lightfoot Mixed Use Development  
for  
Noland Properties, Inc.  
James City County, Virginia



MAP (APPROX. SCALE 1"=300')

DATE: AUG 02, 2004  
REVISED ON SEPTEMBER 17, 2004  
REVISED ON NOVEMBER 22, 2004  
AES PROJECT # 0353



**AES**  
CONSULTING ENGINEERS

8840 Old Town Road, Suite 1  
Williamsburg, Virginia 23185  
(757) 352-0040  
Fax (757) 352-6884

INDEX OF SHEETS

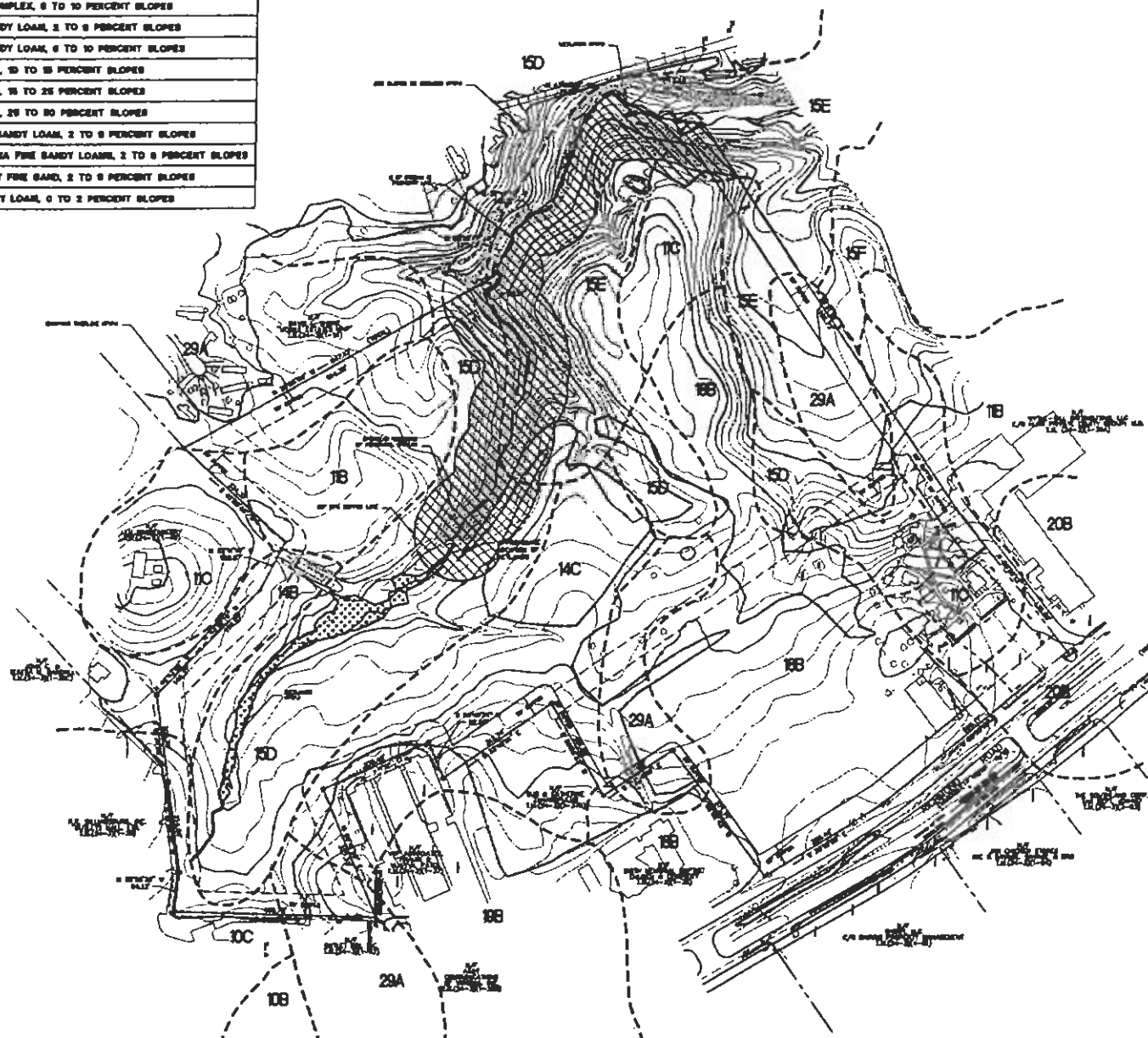
SHEET NUMBER	DESCRIPTION
1	COVER SHEET
2	ENVIRONMENTAL INVENTORY
3	MASTER PLAN FOR REZONING

AS SUBMITTED TO THE COUNTY  
SEPTEMBER 17, 2004

General Notes for Rezoning

- The intent of this Master Plan is a rezoning to Mixed Use (MU) with profits.
- Owner:  
Noland Properties, Inc.  
3700 Washington Avenue, Suite 408  
Newport News, Virginia 23607  
Contact Person: Ben A. Williams, President and CEO.
- Property address:  
8801 Richmond Road  
Williamsburg, Virginia.
- Parcel ID # 3430100035.
- Total area: 52.0 acres.
- Existing zoning: B-1.
- Topographic information is based on 2-foot contour intervals by AES.
- Sheet 2, Environmental Inventory, indicates 36% slopes, soil inventory, and the locations of forested wetlands. Sheet 3 indicates the approximate location of Resource Protection Area (RPA). For further information on the Environmental Inventory, refer to the Community Impact Statement.
- Applicant shall follow guidelines for development for the Community Character Area as described on the JCC Comprehensive Plan.
- This project is located in Subwatershed 108 of the Yorktown Creek Watershed Management Plan in James City County. An on-site Regional Stormwater Management Facility will be located in or across the degraded portion of the stream. This facility will be designed to meet or exceed current James City County Standards and policies with the intent to largely reduce runoff flows to a (development) level that will permit the streambed to reestablish itself in a stable natural condition. At the time when this facility is incorporated to the final Stormwater configuration lot or near the end of the development process, the streambed will be inspected and areas or portions not reestablished to a stable natural condition will be restored in accordance with the Yorktown Creek Watershed Management Plan within a year. The Bond on the Stormwater Facility will be extended (and modified as necessary) to include the necessary stream work.
- Curb or curb gutter streets shall be present at all locations of the multi-family component.
- Building perimeter planting shall conform with Article 3, Division 4 of the JCC Zoning Ordinance. Site perimeter setbacks of the multi-family component shall be as follows: in its natural, undeveloped state (if currently wooded) or planted (if currently open or mowed or previously farmed land) in accordance with Section 24-627 (b) of the JCC Zoning Ordinance.
- All streets within the development will be privately owned and maintained.

SYMBOL	SOIL DESCRIPTION
10B	CRAYEN FINE SANDY LOAM, 2 TO 6 PERCENT SLOPES
10C	CRAYEN FINE SANDY LOAM, 6 TO 10 PERCENT SLOPES
10E	CRAYEN-UCHOE COMPLEX, 2-6 PERCENT SLOPES
10F	CRAYEN-UCHOE COMPLEX, 6 TO 10 PERCENT SLOPES
14B	EMPORA FINE SANDY LOAM, 2 TO 6 PERCENT SLOPES
14C	EMPORA FINE SANDY LOAM, 6 TO 10 PERCENT SLOPES
16D	EMPORA COMPLEX, 10 TO 15 PERCENT SLOPES
16E	EMPORA COMPLEX, 15 TO 25 PERCENT SLOPES
16F	EMPORA COMPLEX, 25 TO 30 PERCENT SLOPES
10S	KEMPVILLE FINE SANDY LOAM, 2 TO 6 PERCENT SLOPES
10H	KEMPVILLE-EMPORA FINE SANDY LOAM, 2 TO 6 PERCENT SLOPES
20B	KEMPVILLE LOAMY FINE SAND, 2 TO 6 PERCENT SLOPES
29A	BLAQUE FINE SANDY LOAM, 0 TO 2 PERCENT SLOPES



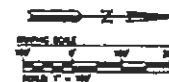
#### AREA CALCULATIONS

TOTAL SITE = 62.0 ACRES  
 TOTAL WETLANDS = 20.8 ACRES (33.5%)  
 TOTAL STREAM = 2.03 ACRES (3.28%)  
 TOTAL STEEP SLOPES = 2.44 ACRES (3.93%)  
 TOTAL 90' PERIMETER BUFFER = 2.71 ACRES (4.37%)

#### NOTES

WETLANDS DELINEATED BY WILLIAMSBURG ENVIRONMENTAL GROUP, INC. (WEG) AND CONFIRMED BY US ARMY CORPS OF ENGINEERS ON FEB. 11, 2004. PERENNIAL STREAM DELINEATION BY WEG AND CONFIRMED BY JCC ENVIRONMENTAL DIVISION ON JULY 14, 2004.

- WETLANDS
- 100' SPA BUFFER
- PERENNIAL STREAM
- SLOPES 25% OR GREATER



**AES**  
 CONSULTING ENGINEERS

8348 Old Town Road, Suite 1  
 Williamsburg, Virginia 23185  
 (757) 853-8060  
 Fax (757) 230-8884

ENVIRONMENTAL INVENTORY  
 LIGHTFOOT MIXED USE DEVELOPMENT  
 for  
 Holland Properties, Inc.  
 PREPARED BY: JCC ENVIRONMENTAL DIVISION

DATE: 7/14/04  
 DRAWN BY: JCC  
 CHECKED BY: JCC  
 2 OF 3



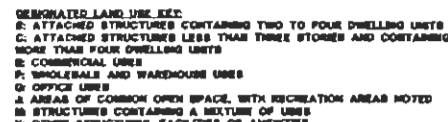
**PERCENTAGE OF TOTAL PROJECT AREA (SEE AGJ SUMMARY)**

	DESCRIBED AREA	ACRES	% OF NET DEVELOPABLE	% OF OVERALL PROPERTY
OPEN SPACE AREAS	AREAS WITHIN NON-DEVELOPABLE AREAS	3.41	N/A	0.8%
	AREAS WITHIN DEVELOPABLE AREAS	17.0	36%	32.7%
	TOTAL PROJECT OPEN SPACE	20.41	N/A	38.5%

DEVELOPMENT TABULATION

\* DENSITY PER GROSS ACRE \* DWELLING UNITS/ ACRE  
\*\*25% W/ CHESAPEAKE BANK SITE (1.4 AC.) INCLUDED AS PART OF  
PARENT PARCEL (78248)

RESIDENTIAL STATISTICS:  
1. TOTAL AREA (AREAS 2,3,4,5) 384.6 ACRES (74.7% OF SITE)  
2. TOTAL NUMBER OF UNITS = 244 DWELLING UNITS (MAXIMUM)  
3. OVERALL DENSITY = 0.30 DWELLING UNITS/ACRE  
MIXED USE (I.E. DEMONSTRATIONS) PERMITS 10 (3) TO 35 (3) UNITS PER  
ACRE OVERALL MAXIMUM DENSITY. WITHIN ANY AREA (AREAS 2, 4 OR  
5) THE DENSITY WILL BE LIMITED TO A MAXIMUM OF 30  
DWELLING UNITS/ACRE. DENSITIES SHOWN ABOVE IN TABLE ARE BASED  
ON CONCEPTUAL PLAN YIELD AND ARE NOT INTENDED TO BE THE  
DESIGN DENSITY FOR A PARTICULAR AREA OR OVERALL. THE MAXIMUM  
NUMBER OF UNITS WILL NOT EXCEED 244 DWELLING UNITS OR 0.30  
DWELLING UNITS/ACRE. AREAS 2, 3, 4 AND 5 COMBINED. ALL RESIDENTIAL UNITS  
WILL BE FOR SALE UNITS.  
THE RECREATION AREA IS SHOWN CONCEPTUALLY IN AREA 2; HOWEVER,  
THE RECREATION AREA MAY BE LOCATED WITHIN AREAS 2, 4 OR 5 AND  
WILL SERVE ALL THE RESIDENTIAL UNITS WITHIN THE DEVELOPMENT. THE  
OFFICE/RETAIL BUILDING WITHIN THE RESIDENTIAL AREA WILL COMBINE  
PROPERTY NEAR EXISTING STATE HIGHWAY 100. THE ASSOCIATION  
OFFICE, OR COMMUNITY OFFICE/MEETING ROOMS, OR SIMILAR UNITS.



GENERAL NOTES:

1. THE BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY A&S DATED MAY 14, 1978.
2. TOPOGRAPHY SHOWN HEREON IS 2-FOOT CONTOUR INTERVAL BY A&S.
3. ACCORDING TO PERMA MAPPING PANEL, 10001-10005 DATED FEB. 6, 1951, THERE IS NO DRAINAGE TO THE WEST OF THE PROPERTY.
4. AREA DESIGNATED UNDEVELOPABLE IS A COMBINATION OF 25% BUSHES, SPA AND ASSOCIATED BUFFERS AND WETLANDS. THE ACRAGE INDICATED IS NOT TO BE CHANGED.
5. THE OWNER DESIRES THE RIGHT TO LOCATE UTILITIES, BMP FACILITIES, AND RECREATION FEATURES, WITHIN THE OPEN SPACE AREA. BMP FACILITIES LOCATED WITHIN OPEN SPACE AREA WILL NOT BE COUNTED TOWARDS LIMITED WETLANDS POTENTIAL DRAINAGE COURSE.
6. SIDEWALKS WILL BE LOCATED ON AT LEAST ONE SIDE OF ALL ROADS WITHIN THE DEVELOPMENT.
7. THE DEVELOPMENT WILL BE A COMMUNITY CHARACTER COMMERCIAL BUFFER ALONG INCHON ROAD WILL BE EXCLUSIVE OF TRANSPORTATION PROJECTS BUT NOT EXCLUSIVE OF UTILITIES, STORAGE, SIDEWALKS AND LANDSCAPING.
8. NO WETLAND OR ENVIRONMENTAL PERMITTING IS GIVEN WITH THE APPROVAL OF THIS MASTER PLAN.
9. THE TRAFFIC VOLUME AND TRAFFIC FLOW WILL BE ESTABLISHED BETWEEN THE RESIDENTIAL AND COMMERCIAL LAND USES. THE PEDESTRIAN TRAIL SYSTEM SHALL BE MAINTAINED DURING REMEDIATION AND/OR SITE PLAN REVIEW. THE TRAFFIC VOLUME AND TRAFFIC FLOW WILL BE ESTABLISHED BY THE COMMUNITY SHOWN HEREON SHALL BE PRIVATE AND SHALL CONFORM TO MOOT CONSTRUCTION STANDARDS. ALL PRIVATE STREETS SHALL BE CERTIFIED TO BE THE ACTION OF THE COUNTY THROUGH AN RESOLUTION BY SECTION 16-40 OF THE COUNTY ORDINANCES. ALL PRIVATE STREETS WILL BE MAINTAINED BY THE DEVELOPER. PROPERTY OWNER ASSOCIATION.
10. AN ADVANCED DRAINAGE DESIGN SHALL BE SUBMITTED TO THE 10-FOOT MIXED USE DEVELOPMENT INTERNAL PRIVATE ROADS, A MAINTENANCE COST SHARING AGREEMENT SHALL BE PROVIDED AND ANY TIME LANE OR TRAFFIC STOPPING REQUIREMENTS SHALL BE PROVIDED. THE DEVELOPER SHALL BE SOLELY THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER.
11. ADDITIONAL WETLAND-TYPE STORAGE MAY BE LOCATED INTERNALLY WITHIN THE PROPERTY.
12. A 10' TOTAL AND 10' EXCEPT ALONG ROADS OF UNPAVED ACCESS, THE LANDSCAPE TREATMENT SHALL BE LITELY ADJUSTED PANELS ON THE WEST SIDE OF ONE PARCEL SHALL BE DIVERSE THE LANDSCAPE TREATMENT WILL BE PERMITTED ALONG THE LANDSCAPE TREATMENT.
13. THE DESIGN OF ALL STORMWATER FACILITIES WILL BE IN ACCORDANCE WITH THE DESIGN CRITERIA LATEST EDITION OF THE SUDAS DESIGN AND CONSTRUCTION OF STORMWATER MANAGEMENT BMP'S.
14. PERMANENT STREAM DEGRADATION BY USE HAS BEEN COMPLETED BY JAMES BEVERLY, CIVIL ENGINEER, DATED JULY 16, 2004.
15. THE HEAD-CUT LOCATION AT THE UPPER END OF THE PERMANENT STREAM WILL BE ADDRESS WITH THE PLACEMENT OF THE NEW FACILITY AND ROAD.
16. A 10' TOTAL AND 10' EXCEPT ALONG ROADS OF UNPAVED ACCESS, THE LANDSCAPE TREATMENT SHALL BE LITELY ADJUSTED PANELS ON THE WEST SIDE OF ONE PARCEL SHALL BE DIVERSE THE LANDSCAPE TREATMENT WILL BE PERMITTED ALONG THE LANDSCAPE TREATMENT.
17. CHARGES, ADVOCACY FOR THE FIRM ENGINEERS WILL BE COMPLETED.
18. HISTORIC STRUCTURE 1004-4238 IS SHOWN EVALUATION BY JAMES BEVERLY, CIVIL ENGINEER, DATED JULY 16, 2004.
19. THE BOUNDARIES OF THE SIGNIFICANCE OF POTENTIALLY HISTORICALLY RELATED SITE GATHERS AND GATHERS WILL BE INCLUDED IN THIS REPORT AS THE HISTORIC POTENTIAL OF THE COMMUNITY GATHERS WAS DETERMINED BY J&A AND DOES NOT EXIST.
20. EXISTING UTILITIES, ACCESS, AND EXISTING EASEMENTS ON THE PROPERTY AND THE RESULTS OF THE A&S SURVEY PROVIDED IN THE COMMUNITY IMPACT STUDY.
21. THE PROPERTY HAS BEEN SURVEYED BY WILLIAMSBURG ENVIRONMENTAL SCIENCE, THESE DATA AND RESULTS ARE SUBJECT TO THE INSURANCE OF THE UNPAVED ROADS, AS THEATERS AND ENHANCED SPACES WITH POOLING. THE SURVEY REPORT DATED JULY 16, 2004, INCLUDED IN THE COMMUNITY IMPACT STUDY.
22. PHASING SHOWN HEREON DOES NOT REPRESENT CHRONOLOGICAL ORDER HOWEVER, FOR THE PROPOSED, PLANNING SQUARE FEET OF THE COMMERCIAL LAND USES HAVE BEEN DETERMINED TO BE SUBJECT TO THE INSURANCE OF THE UNPAVED ROADS, AS THEATERS AND ENHANCED SPACES WITH POOLING. THE SURVEY REPORT DATED JULY 16, 2004, INCLUDED IN THE COMMUNITY IMPACT STUDY.



**Lightfoot Mixed Use Development**

**Fiscal Impact in James City County, Virginia  
May 2004**

**Prepared for:**

**AES Consulting Engineers**

**Prepared by:**

***The Wessex Group, Ltd.***  
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# **Lightfoot Mixed Use Development**

## **Fiscal Impact in James City County, Virginia**

### **EXECUTIVE SUMMARY**

As part of a master plan and rezoning application submitted to James City County by AES Consulting Engineers, this report from *The Wessex Group, Ltd.* (TWG) presents estimates of the fiscal impact of developing the Lightfoot Mixed Use Development proposed near the intersection of Centerville Road and Richmond Road (Route 60) in the Lightfoot area. This proposed development includes commercial, office, restaurant, light industrial and residential development that will cover approximately 53.44 acres. Development plans include the following:

- 244 residential for sale units
  - 100 units in (10) ten-plex homes
  - 144 units in (36) quad-plex homes
- Chesapeake Bank (approximately 3,400 square feet)
- Restaurant (approximately 6,700 square feet)
- Mini self-storage facility (approximately 39,125 square feet)
- Approximately 23,800 square feet of Class B office space
- Noland Company facility (approximately 28,800 square feet) including counter sales, showroom, office space and outside storage space

The site includes recently approved SUP 30-03 for the Chesapeake Bank. The 1.4± acre bank site will remain B-1 and is not included in the rezoning application but is included in this fiscal impact study as the bank is integral to the overall mixed use development.

The suggested ten-plex and quad-plex layout of the residential development may change, but the maximum number of housing units would remain at 244. While the master plan is based on the estimated commercial square footage presented above, there is a possibility as suggested by the property owner that several of these facilities (the restaurant, Noland Company and mini self-storage facility) may be larger. Since this is the case, the reader should keep in mind that the estimates in construction investment, retail sales tax and meals tax revenues presented in this analysis could potentially be greater causing the county to realize greater revenues.

**Development Schedule and Construction Investment:** The property owner anticipates that the residential development of 244 units will be built over a four year period (start in Year 2) and fully occupied by buildout in Year 6. The incremental residential population is estimated at 512 persons. Total residential construction investment is estimated at \$39.6 million including off-site improvements of \$25,000. Amenities for this residential development include a clubhouse, swimming pool, tot lot, and walking trails creating a recreational area offering a variety of activities for the families living in this development. The property owner estimates that the units within the ten-plexes, once constructed, will be valued at an average market price of \$135,000 and the quad-plex units at \$180,000 in 2004 dollars. The commercial sections of this Lightfoot Mixed Use Development will be built over a five year period (start in Year 1 and end in Year 5). Total commercial construction investment is estimated at \$9.5 million. The cumulative construction investment for both the residential and the commercial developments is estimated at \$49.1 million.

**County Revenues, Expenditures and Net Fiscal Impact:** Residential developments in James City County generate several types of revenues just as the commercial developments. These revenues

include real estate tax, personal property tax, and retail sales tax. At buildout, the Lightfoot Mixed Use Development will provide an estimated \$918,573 annually in new revenues for the county. In turn, the services that the county will provide to this community include police protection, fire protection and public education for the school children living in the development. Once fully developed and occupied, the Lightfoot Mixed Use Development will incur costs for county services of approximately \$920,800 per year. Once the construction phase has been completed in Year 6, the net fiscal impact is estimated at a (\$2,227) annually, as shown in Table A below. All dollar figures contained in this report are expressed in 2004 dollars, and all fiscal impact estimates are based on James City County's FY 2004 Adopted Budget. No attribution for economic inflation has been made.

**Table A**  
**Lightfoot Mixed Use Development - Net Fiscal Impact**

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Buildout</u>
<b>Total Annual County Revenues</b>	\$21,900	\$225,900	\$559,488	\$726,088	\$921,673	\$918,573
<b>Total Annual County Expenditures</b>	\$1,100	\$15,300	\$247,700	\$473,400	\$704,500	\$920,800
<b>Annual Net Fiscal Impact (Revenues Less Expenditures)</b>	\$20,800	\$210,600	\$311,788	\$252,688	\$217,173	(\$2,227)

**Lightfoot Mixed Use Development**  
**Fiscal Impact in James City County, Virginia**

**TABLE OF CONTENTS**

<b>EXECUTIVE SUMMARY.....</b>	<b>I</b>
<b>INTRODUCTION TO THE STUDY .....</b>	<b>1</b>
<b>DEVELOPMENT PLANS AND CONSTRUCTION INVESTMENT .....</b>	<b>1</b>
<b>EMPLOYMENT AND PAYROLL .....</b>	<b>3</b>
<b>LOCAL GOVERNMENT REVENUES .....</b>	<b>4</b>
<b>LOCAL GOVERNMENT EXPENDITURES .....</b>	<b>7</b>
<b>NET FISCAL IMPACT.....</b>	<b>8</b>

## **Lightfoot Mixed Use Development**

### **Fiscal Impact in James City County, Virginia**

As part of a master plan and rezoning application submitted to James City County by AES Consulting Engineers, this report from *The Wessex Group, Ltd.* (TWG) presents estimates of the fiscal impact of the development planned for a 53.44-acre site in James City County, Virginia. The proposed development would be located near the intersection of Centerville Road and Richmond Road (Route 60) in the Lightfoot area. For the purpose of this report, the site will be referred to as the "Lightfoot Mixed Use Development."

#### **Introduction to the Study**

The purpose of this report is to describe estimates of the fiscal revenues and expenditures that this development will generate for the local government of James City County. Fiscal impacts are those that directly affect a municipality's budget. Any new development that attracts new county residents generates the need for public services, such as emergency medical services, police, and fire protection. In turn, the development generates additional tax revenue for the county. The major portion of the county's revenues from residential development is derived from real estate taxes and local household spending. The commercial developments involved in this development will generate revenues in several ways such as retail, meals, real property and personal property taxes. All dollar figures contained in this report are expressed in 2004 dollars, and all fiscal impact estimates are based on James City County's FY 2004 Adopted Budget. No attribution for economic inflation has been made.

The plans and estimates included in this report cover the development and sales schedules, construction investment, the employment directly associated with the construction of this development, and the local spending of new residents in the development. Employment estimates are used to calculate the marginal cost of government services and no attribution is made as to the residence location of any employees. The fiscal impacts that flow from the development efforts and new residents are the new revenues that James City County will collect and the new expenditures that James City County will incur to provide government services to the Lightfoot Mixed Use Development.

#### **Development Plans and Construction Investment**

The proposed development plans for the Lightfoot Mixed Use Development include the following:

- 244 residential for sale units
  - 100 units in (10) ten-plex homes
  - 144 units in (36) quad-plex homes
- Chesapeake Bank (approximately 3,400 square feet)
- Restaurant (approximately 6,700 square feet)
- Mini self-storage facility (approximately 39,125 square feet)
- Approximately 23,800 square feet of Class B office space
- Noland Company (approximately 28,800 square feet) including counter sales, showroom, office space and outside storage space

The suggested ten-plex and quad-plex mix of residential units may change, but the maximum number of housing units would remain at 244. On site improvements will include infrastructure (internal roads, sewer lines, water lines, parking lots, etc.) along with a recreational area offering a variety of activities for the residents of this development including a clubhouse, swimming pool, tot lot, walking trails and sidewalks. Residential development is assumed to begin in Year 2 with buildout and full occupancy by Year 6. The commercial development will begin in Year 1 with buildout in Year 5.

The property owner estimates that the construction of residential units will total \$39.6 million including an estimated \$25,000 in off site improvements including a turn lane. The commercial pieces of this development will vary in cost per square foot as shown below.

- Noland Company (\$50/sq. ft.) (An average cost per square foot has been used since this facility will have different types of space involving varying construction costs – office, warehouse, outside storage facility, etc.)
- Chesapeake Bank (\$160/sq. ft.)
- Restaurant (\$125/sq. ft.)
- Office Space – Class B (\$115/sq.ft.)
- Mini self-storage facility (\$50/sq. ft.) (An average cost per square foot has been used since this facility will have different types of space involving varying construction costs– office, actual storage units)

The construction cost for these commercial facilities is estimated at \$9.5 million including infrastructure cost of \$1,956,000. The total construction cost to build this development is estimated at \$49.1 million. The development schedule and costs are shown in Table 1 following and continued on the next page.

**Table 1**  
**Development Schedule and Construction Investment**

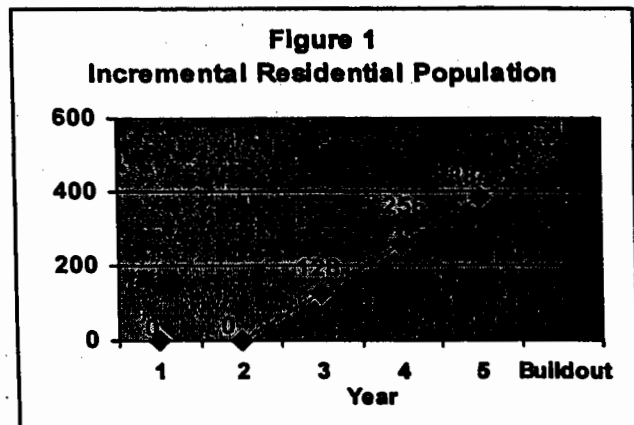
	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
<b>Residential Development</b>						
Ten-Plex Housing Units	0	25	25	25	25	0
Four-Plex Housing Units	0	36	36	36	36	0
<b>Total Annual Units Developed</b>	<b>0</b>	<b>61</b>	<b>61</b>	<b>61</b>	<b>61</b>	<b>0</b>
<b>Cumulative Residential Units</b>	<b>0</b>	<b>61</b>	<b>122</b>	<b>183</b>	<b>244</b>	<b>244</b>
<b>Unit Occupancy Schedule</b>						
Annual Units Occupied	0	0	61	61	61	61
<b>Cumulative Units Occupied</b>	<b>0</b>	<b>0</b>	<b>61</b>	<b>122</b>	<b>183</b>	<b>244</b>
<b>Incremental Residential Population</b>	<b>0</b>	<b>0</b>	<b>128</b>	<b>256</b>	<b>384</b>	<b>512</b>
<b>Commercial Square Footage per Type of Development</b>						
Noland Company	0	14,400	14,400	0	0	0
Chesapeake Bank	1,700	1,700	0	0	0	0
Restaurant	0	0	6,700	0	0	0
Office Space – Class B	0	0	6,900	6,900	10,000	0
Mini Self-Storage Facility	0	0	39,125	0	0	0
<b>Total Annual Commercial Sq. Footage</b>	<b>1,700</b>	<b>16,100</b>	<b>67,125</b>	<b>6,900</b>	<b>10,000</b>	<b>0</b>
<b>Cumulative Commercial Sq. Footage</b>	<b>1,700</b>	<b>17,800</b>	<b>84,925</b>	<b>91,825</b>	<b>101,825</b>	<b>101,825</b>

**Table 1**  
(Continued from previous page) **Development Schedule and Construction Investment**

	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
<b>Construction Investment (\$ Millions)</b>						
Residential	\$0.0	\$10.0	\$9.9	\$9.9	\$9.9	\$0.0
Commercial	\$1.3	\$2.0	\$4.3	\$0.8	\$1.2	\$0.0
<b>Total Annual Construction Investment (\$ Millions)</b>	<b>\$1.3</b>	<b>\$12.0</b>	<b>\$14.2</b>	<b>\$10.6</b>	<b>\$11.0</b>	<b>\$0.0</b>
<b>Cumulative Construction Investment (\$ Millions)</b>	<b>\$1.3</b>	<b>\$13.3</b>	<b>\$27.4</b>	<b>\$38.1</b>	<b>\$49.1</b>	<b>\$49.1</b>
<b>Construction Materials &amp; Supplies (\$ Millions)</b>						
Annual Total	\$0.6	\$6.0	\$7.1	\$5.3	\$5.5	\$0.0
Annual Purchases in James City County	\$0.1	\$0.6	\$0.7	\$0.5	\$0.6	\$0.0

Area contractors indicate that construction materials account for approximately 50% of all construction costs. The annual cost of materials for this project will average about \$4.9 million per year during development. It is estimated that 10% of construction materials will be purchased in James City County, resulting in average sales of \$490,658 a year for county businesses during the development phase.

**Incremental Population:** To estimate the incremental residential population of the Lightfoot Mixed Use Development, the average household size of 2.1 persons has been used. The estimate was calculated by taking the total number of those 18 years or older living in James City County (approximately 42,000) and divided by the number of James City County households (22,189) to estimate 1.9 adults per household. This method of estimation indicates that the population of the proposed development will reach 512 persons at 100% occupancy at buildout (Figure 1).



## Employment and Payroll

The number of incremental FTE employees is included in this fiscal impact analysis because it is one basis of local government expenditure estimates attributed to new the construction activity. Assuming that payroll is 40% of construction costs and that construction workers earn an average of \$34,950 per year (based on wage data obtained from the Virginia Employment Commission), the construction efforts should provide jobs for an average of 170 workers per year through Year 5, as indicated in Table 2 on the next page.

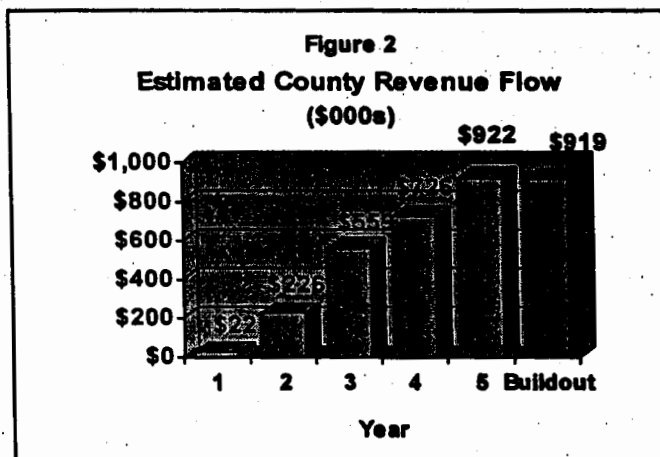
**Table 2**  
**Employment Schedule**

	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
<b>Construction Employment</b>						
Full Time Employees	5	70	80	60	65	0
Part Time Employees	10	140	160	120	130	0
Total Employees	15	210	240	180	195	0
<b>Construction FTE Employment</b>						
	10	140	160	120	130	0

On a Full Time Equivalent (FTE) basis, the construction employment averages approximately 110 annual positions. FTE employment is based on the assumption that 50% of all workers are full time and that part time employees work half time.

### Local Government Revenues

Residential developments in James City County generate several types of revenues, including real estate tax, personal property tax, and retail sales tax. Also, commercial developments generate revenues such as business personal property tax, retail sales tax (Noland, Inc sales), meals tax (food sales from the restaurant), and business and professional license tax. Figure 2 illustrates the annual revenue streams that the county can expect from this development, including the ongoing annual revenue at buildout. The annual line-item estimates are contained in Table 3 below and assumptions associated with the various components of the revenue stream follow.



**Table 3**  
**Local Government Revenues**

Revenue Component	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Real Property Taxes	\$10,500	\$113,700	\$235,500	\$327,100	\$421,800	\$421,800
Personal Property Taxes	0	7,500	60,985	112,685	166,070	217,770
Meals Tax	0	0	35,876	39,176	42,576	45,876
Retail Sales Tax	0	0	65,527	76,927	88,227	99,627
Business & Professional License Tax	2,000	19,200	35,800	32,400	35,300	19,900
Building Permits, Water & Sewer, etc.	5,100	63,200	71,900	61,600	62,200	0
Recordation	4,000	17,200	21,200	17,200	18,500	3,300
Miscellaneous Revenues	300	4,500	29,900	53,400	78,500	99,000
<b>Total Annual Revenues</b>	<b>\$21,900</b>	<b>\$225,900</b>	<b>\$559,488</b>	<b>\$726,088</b>	<b>\$921,673</b>	<b>\$918,573</b>



- **Real Property Taxes:** James City County's 2004 Adopted Budget indicates that the current real estate tax rate is \$0.86 per hundred dollars of assessed value, and no change in this rate is assumed for this analysis. The assessed value of the property is assumed to be the construction value of both the residential and commercial development, although this revenue estimate has been adjusted to exclude the real estate tax the county currently receives for this site. At buildout, real property taxes are estimated to reach \$421,800 and stay at that level. *The Wessex Group's* research of county assessments indicates that it is appropriate to apply 1% for real growth to the value of the housing units. The market value of the commercial property planned for this site is assumed to be the total development cost with no appreciation in value.
- **Personal Property Tax:** James City County collects about \$18,800,000 in personal property taxes, including car tax relief from the state. This amount has been used to estimate the personal property tax revenue generated by the Lightfoot Mixed Use Development and applied to all residential units. Also, business equipment, machinery, and tools of the commercial developments are assessed at 25% of capitalized cost and taxed \$4.00 per \$100. The following business personal property estimates have been provided by the property owner and included in this calculation: Noland Company (\$500,000) and Restaurant (\$250,000). For the office space, a conservative estimate of \$15/square foot has been used since the tenants of this space are unknown at this time. Banks do not pay personal property tax, so it is not included in this calculation. Once built out and fully occupied, the residential and commercial developments are expected to generate \$217,770 per year in personal property taxes.
- **Meals Tax:** James City County levies a four-cent tax on restaurant food and beverages. The county anticipates that approximately 30% of its meals tax revenues will be generated by local residents rather than by tourists. Therefore, of the \$4 million in meals taxes budgeted for the 2004 fiscal year, \$1.2 million is expected to come from local residents dining out in restaurants located in the county, a per household average of \$55.09. By buildout, the 244 households in the Lightfoot Mixed Use Development will generate about \$13,400 of meals tax revenues annually.

As estimated by the property owner, the new restaurant will generate approximately \$1,500,000 annually in food sales. To determine what percentage of these food sales will be net new versus being shifted from other restaurants in the county, *The Wessex Group* added the estimated 2004 population from the restaurant's market draw (James City County, Upper York County, City of Williamsburg, and eastern New Kent County) and divided by James City County's population (source: U.S. Census Bureau). This method determined that 54% of the food sales would be net new to James City County ( $\$1,500,000 \times 54\% = \$811,903$  in net new sales). The four-cent meals tax applied by James City County was then applied to the net new food sales, and by buildout, the new meals tax generated by the restaurant will be \$32,476. By buildout, both the residential and commercial developments will generate about \$45,876 in meals tax revenues for the county.

- **Retail Sales Tax:** Typically, approximately one third of a household's income is spent on local retail sales (Bureau of Business Research). The household income of the Lightfoot Mixed Use Development residents is assumed to be the median household income in the county (reported to be \$62,168 by the U.S. Census Bureau). The county will realize 1% of retail sales, which is returned by the State of Virginia. By buildout, the residents of the development should be generating approximately \$45,500 annually in retail sales tax revenue.

Also, the proposed Noland facility will generate retail sales tax for the county from the counter sales in the store. A small existing Noland facility is currently located in James City County on Ironbound Road, but it will close when the new proposed Noland facility is open. Noland Company has estimated that the new Noland facility will generate incremental sales for the county of \$10 million due to the size and location of the building. To exclude purchases that are tax exempt by use of a

certificate or purchases by governmental agencies, the Chairman and CEO of Noland Company has estimated that about 85% of sales will be taxable for sales tax purposes. To determine net new sales to James City County by this facility, the same process used for meals tax generated by the restaurant has been applied. It is most likely that Noland will draw from the counties of James City, Upper York, eastern New Kent, and the City of Williamsburg. These populations were added and divided by James City County population to arrive at an estimated 54% of sales will be net new or incremental to the county. By buildout, Noland will generate approximately \$46,000 in retail sales tax from its sales. In total by buildout, the residential and commercial developments will create \$99,627 in retail sales tax for James City County.

- **Business License Tax:** The estimated business license tax is based on value of construction on the site and the retail sales that the residents of this development will generate. The county's tax rate for retailers is \$0.20 per \$100. Contractors doing business in James City County pay a rate of \$0.16 per \$100 of the total construction investment. The incremental revenue from this tax will fluctuate each year and will range from about \$2,000 to \$35,800. At buildout when generated only by retail sales tax from the new households, it is estimated to level off at \$19,900 per year.
- **Building Permits:** Building permit fees are estimate at \$991 per residential unit and \$0.17 per square foot of office/commercial development. Also, rezoning fees paid by the property owner of \$4,800 were included in the first year of development.
- **Recordation:** James City County collects recording taxes on real estate transfers. These include a deed recording tax of \$0.05 per \$100 of the selling price, an additional recording tax of \$0.05 per \$100 of the selling price, and a deed of trust recording tax of \$0.05 per \$100 of the face value of the mortgage. For the development schedule shown for this project, cumulative recording taxes will be approximately \$81,400. Because of turnover in existing homes (estimated at 5% annually after a home has existed at least 5 years), the county will continue to receive recording tax payments at buildout and after of approximately \$3,300 per year.
- **Miscellaneous Taxes and Revenues:** Other taxes and revenues collected by James City County include public service taxes, a variety of licenses, permits and fees, fines and forfeitures, revenues from the use of money and property, revenues from the Commonwealth and the Federal government, and charges for services. As can be seen in the chart below, the county's FY 2004 Adopted Budget shows that miscellaneous revenue sources (excluding revenue from the Commonwealth for public education and recording taxes) are expected to total about \$12.0 million, or \$214.76 per county resident.

County Budget Line Item	Budget Amount
Public Service	\$1,750,000
Bank Franchise Tax	228,516
Telecommunications Taxes	1,000,000
Motor Vehicle Licenses	51,000
License Tax-Utilities	260,000
Dog Licenses	7,000
Cable TV Franchise Fee	420,000
Interest on Short-Term Investments	1,800,000
HB 599 Payments	1,143,793
ABC Profits	53,741
Wine Tax	65,916
Rolling Stock Tax	30,805
Shared Expenses (excluding Sales Tax for Education)	1,674,498
Categorical Aid	202,242

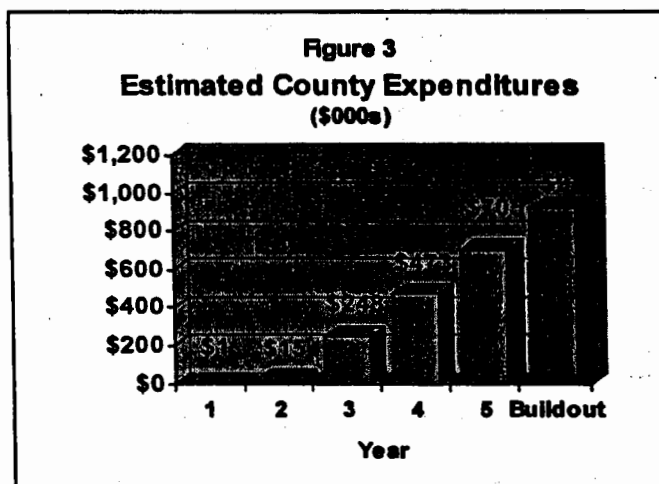
County Budget Item	Budget Amount
Revenue from the Federal Government	7,000
Charges for Current Services	3,162,615
Miscellaneous Revenue	129,520
<b>TOTAL</b>	<b>\$11,986,646</b>

Applying the figure to the population estimated for the proposed development, results in cumulative revenues of \$265,600. After buildout, the county should realize nearly \$99,000 annually.

- **State Tax for Education:** To account for this revenue, the amount received has been subtracted from the public education expenditure estimates rather than added to incremental revenue totals. The county's budget indicates that this revenue will total \$6,066,435 in FY 2004.

## Local Government Expenditures

The county's estimated costs for providing public services to the Lightfoot Mixed Use Development are shown in Figure 3. The data reflected in the figure can be seen in Table 4 below. By buildout, the development will generate estimated county expenditures of about \$920,800 each year.



**Table 4**  
**Local Government Expenditures**

Expenditure	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
General Government & Administration	\$0	\$500	\$17,800	\$34,900	\$52,100	\$69,000
Health & Welfare	0	0	8,000	15,900	23,900	32,000
Statutory, Unclassified	200	3,200	15,200	25,700	37,400	46,000
Recreation & Culture	100	1,100	20,400	39,300	58,600	77,000
Public Safety	600	7,800	38,700	66,300	96,600	119,000
Public Works	100	900	22,400	43,500	64,900	85,000
Capital Improvements (Non-School)	100	1,800	8,500	14,400	20,900	26,000
Capital Improvements-Schools	0	0	13,300	26,600	39,900	53,200
Education-Operating Costs	0	0	103,400	206,800	310,200	413,600
<b>Total Annual Expenditures</b>	<b>\$1,100</b>	<b>\$15,300</b>	<b>\$247,700</b>	<b>\$473,400</b>	<b>\$704,500</b>	<b>\$920,800</b>

To estimate the incremental expenditures that this development will generate for James City County's government (excluding capital improvements for schools and education operating costs), the current per capita costs, as reported in the county's budget, have been applied to the estimated population for the households in this scenario. The population estimate by buildout is 512. Based on the county's 2004

population projection of 55,814, the per capita costs of government in the county's budget are presented on the next page. The capital improvements for schools (debt service) and education operating costs have been calculated using James City County's estimate of 0.2 children per household for this type of residential development, and the estimated spending per pupil including debt service (\$9,565) as presented in the 2004 budget.

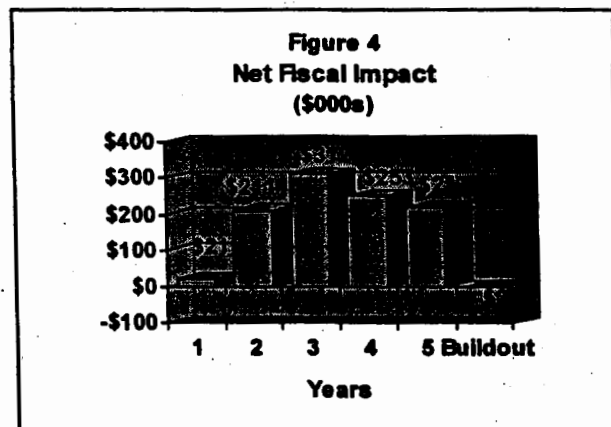
Expenditure Category	Per Capita Budget
General & Administrative	\$134.43
Public Safety	\$232.58
Health & Welfare	\$62.13
Recreation & Culture	\$149.88
Public Works	\$166.73
Statutory & Unclassified	\$89.62
Capital Improvements (Non-School)	\$50.08

The construction of the Lightfoot Mixed Use Development and the supporting infrastructure will generate some incremental county expenditures. Dr. Robert W. Burchell's Employment Anticipation Method has been used on a per FTE employee basis. This is a method of marginal costing that is based on an extensive study of the increase in a locality's government costs generated by new, non-residential development. The Employment Anticipation Method predicts the change in municipal costs by using the coefficients developed in the study by Dr. Burchell, the per capita cost of government, and the number of incremental FTE employment positions.

As indicated in Table 4 on the previous page, the operating costs associated with public education will generate the largest single expenditure, estimated to be about \$413,600 annually at buildout and beyond. The next largest category of expenditures will be for police and fire protection, which is estimated at \$119,000 annually.

## Net Fiscal Impact

The net fiscal impact of a development on the local government is calculated simply by subtracting government expenditures from government revenues. The annual estimated net fiscal impacts during the development period and at buildout are illustrated in Figure 4. This data is shown in more detail in Table 5 below.



**Table 5**  
**Net Fiscal Impact**

Cash Inflow and Outflow	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Total Annual Revenues	\$21,900	\$225,900	\$559,488	\$726,088	\$921,673	\$918,573
Total Annual Expenditures	\$1,100	\$15,300	\$247,700	\$473,400	\$704,500	\$920,800
Net Fiscal Impact	\$20,800	\$210,600	\$311,788	\$252,688	\$217,173	(\$2,227)

***The Wessex Group, Ltd.***

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# Memo

TO: John McDonald, FMS  
FROM: Donald J. Messmer  
CC:  
DATE: July 19, 2004  
SUBJECT: In Response to Fiscal Impact Statement Memo – Lightfoot Mixed Use Area –  
Z-6-04/MP-6-04

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Mr. McDonald,

This memo is a response to your comments prepared on June 15, 2004 regarding the *Lightfoot Mixed Use Development Fiscal Impact in James City County, Virginia* study submitted by *The Wessex Group, Ltd.* for AES Consulting Engineers. As can be seen below, each comment stated in the memo is followed by a response from our firm. I hope this clarifies the issues that have surfaced regarding the study.

Comment 1:

Staff are skeptical of several underlying modeling assumptions. They are general reactions and are not restricted to this application. Using "per capita" figures based on the current budget to project increases in future years in HB599 revenue, wine tax, ABC profits and School aid is one such assumption. These revenues are formula driven and the formula is not built on population.

Response:

Our analysis does not include projected future increases in HB599 revenue, wine taxes, ABC profits, or School aid for James City County. The analysis merely allocates these dollars as listed in the FY 2004 James City County Budget to the Lightfoot development. In regards to revenues on a "per capita" basis, these estimates are the same as allocating the revenues received proportional to JCC population. TWG has no way of predicting the allocation of formula driven revenues in future years.

Comment 2:

Evaluating a fiscal, as opposed to an economic, model tends to focus staff on recurring local government revenues and expenditures, those shown at build out. Projections of purchases of construction material from JCC businesses, building permit/fees and/or the FTEs or payroll of construction employees are being given little weight.

**Response:**

In regards to projections of purchases of construction material from JCC businesses, Table 1 on Page 3 of the report includes estimates of the annual purchases in James City County due to the development. We estimated that 10% of the construction materials would be purchased in James City County resulting in average sales of \$490,658 a year for county businesses during the development phase. Our estimate is based on area contractors estimates as given to TWG.

In response to the issue of payroll for construction employees, page 3 and 4 of the report briefly discuss the number of FTE construction employees generated from the Lightfoot development. Provided below is a more detailed table describing construction FTE employment, permanent employment, and payroll estimates for these employees. As can be seen, annual payroll for construction and permanent employees will average approximately \$4.1 million per year during the construction phase. It is estimated that retail spending by the new residents will generate jobs for about 30 people, or 20 FTE positions.

Employment Estimate	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Construction Employment						
Full Time Employees	5	70	80	60	65	0
Part Time Employees	10	140	160	120	130	0
Total Employees	15	210	240	180	195	0
Construction FTE Employment	10	140	160	120	130	0
Permanent Employees	0	7	13	20	30	30
Permanent Full Time Equivalent Employment	0	4	8	12	18	20
Total Employees-Construction & Permanent	15	217	253	200	225	30
FTE Employees-Construction & Permanent	10	144	168	132	148	20
Estimated Payroll-Construction & Permanent (\$000s)	\$500	\$4,886	\$5,837	\$4,517	\$4,789	\$430

In regards to building permit fees, TWG used an estimate of \$991 for each residential unit. TWG has researched this estimate with area contractors and feel it is reasonable. Commercial building permit fees have been estimated at a rate of \$0.17 per square foot of commercial development. This rate has been established by TWG based on its prior experience with other studies.

For these reasons, TWG believes the report fairly represents the fiscal consequence of the proposed development and reports the employment estimated for the project. It is the county staff's role to determine the appropriate weights to give to the various factors in the report.

**Comment 3:**

Total annual revenues at build out, shown in Table 3 of the Fiscal Analysis, are approximately \$920,000. These revenues include those expected to come from Chesapeake Bank, previously approved and not submitted as part of this rezoning.

**Response:**

There are several reasons Chesapeake Bank should be included in the fiscal analysis. Chesapeake Bank was interested in building another bank in James City County and found a site that was part of the parent 53.5 acre site in the county that was appealing. The parent tract was for sale in its entirety. Due to regulations of any bank, it could not purchase all of the land. At this same time, the Noland Company also was looking for



a site for their expansion into the Williamsburg market. Noland pursued purchasing the parent tract with a side contract with the bank for the corner parcel that the bank wanted. While Noland negotiated with the owner of the parent parcel, the bank wanted to move its process forward knowing that it had to get a Special Use Permit (SUP) from the county because the bank site would generate traffic levels of more than 100 trips per hour. It has since been granted the SUP. The bank will share the costs incurred by this development including the roadways, storm water and traffic costs. The County required that Chesapeake Bank be included in the traffic study and environmental study submitted to it for this development. For these reasons, TWG and the property owner feel it also should be included in the fiscal impact analysis. A fiscal impact study for the Chesapeake Bank site has not previously been submitted. Proffers for the parent parcel will be written to include the bank parcel sharing development and maintenance costs with the parent parcel as the bank has agreed to be subject to these shared costs.

**Comment 4:**

The revenue estimate is built on a tax rate of \$0.86 per \$100 for real property, despite the fact that the rate has been lowered for FY2005 and the BOS has adopted a plan to lower it further in FY2006.

**Response:**

The Wessex Group used the real property rate of \$0.86 which was the relevant rate at the time the analysis was conducted. Recently, the 2005 Adopted Budget has been made a public document (not available during the time of the analysis), and it provides a proposed real property tax rate of \$0.85 for 2005 and a proposed tax rate of \$0.84 for 2006. Our firm is in no position to assume the county will actually adopt these rates. Since this is an issue of concern to the county, TWG has created a scenario for the development using the proposed real property tax rate of \$0.85, and the output is provided below. Under this assumption, the county would realize a slight decrease of \$4,900 at buildout than originally reported.

Revenue Component	2004	2005	2006	2007	2008	Buildout
Original Revenue	\$10,500	\$113,700	\$235,500	\$327,100	\$421,800	\$421,800
Adjusted Revenue	\$10,400	\$112,400	\$232,800	\$323,300	\$416,900	\$416,900
Net Decrease	\$100	\$1,300	\$2,700	\$3,800	\$4,900	\$4,900

**Comment 5:**

We can not determine how the personal property tax estimate was made, from the information provided, for the residential units.

**Response:**

A very brief description of the calculation is stated on page 5 of the fiscal analysis study. To further explain, a total of \$18,800,000 in personal property taxes was reported in the 2004 Adopted Budget and used in the estimate for residents of the residential development being proposed. In order to get to per household personal property tax amount, \$18,800,000 was divided by the number of households in JCC (22,189) totaling \$847.27. Next, the number of occupied units each year for the residential units was multiplied by the \$847.27 per household figure for personal property taxes. The output from this calculation is provided below.

Revenue Component	2004	2005	2006	2007	2008	Buildout
Residential Personal Property Taxes	\$0	\$0	\$51,683	\$103,367	\$155,050	\$206,733

Comment 6:

Due to its location close to York County retail developments in Lightfoot, we are skeptical that the JCC sales and meals tax benefits attributed to the residential units will be realized.

Response:

Slightly more than half of the revenues attributed to this site are assumed to be net new to James City County. It is felt this percentage is very conservative especially since retail sales to JCC residents are not considered in our analysis. The estimate of 54% is based on the percentage of population living outside of JCC for the trading areas of the proposed facilities. Also, there are very few restaurants located in the Lightfoot area of York County for residents to dine.

Comment 7:

Expenditure estimates have been prepared in Table 4 of the analysis using per capita estimates of general fund expenditures, with the exception of education costs. The State Auditor of Public Accounts identifies \$2,381 per capita as the operating costs of JCC government in FY2003. Assuming no general cost increases between FY2003 and the build out of this project, the total spending would be \$1.2 million, 40% more than the \$841,600 in County O&M costs shown in the fiscal impact at build out.

Response:

As is well understood by the county, the Commonwealth's Auditor of Public Accounts attempts to capture all expenditures aid in support of public education, whether the funds that support these expenditures originate from the Commonwealth general fund or from the federal government. The report prepared by TWG does not include the funds from the general fund or federal sources either as revenues or expenditures. The formulas and/or governing bodies that determine the allocations of these funds are not under the control of the locality. Further, it is assumed that all non-local revenues are matched exactly with expenditures regardless of the specific economic development activities being evaluated. The focus of the fiscal impact statements generated by TWG is to identify those costs and revenues that are controllable by the locality and on which local development has an impact. It is believed that this approach provides a more realistic estimate of the "net" fiscal impact than any attempt on our part to predict a formula result or a legislative allocation of funds. For this reason, the per capita cost of JCC operations, as shown in the FY03 operating budget is \$1,674 per person as compared to the \$2,381 figure cited by staff.

Comment 8:

Education spending accounts for some of the difference (referencing Comment 7 above) FY2003 County school operating spending was \$1,283 per capita – almost \$660,000 for the 512 residents projected in this development. The fiscal impact analysis used \$413,600 for schools by projecting standard rate (0.2 students/unit) to estimate public school enrollment per unit but changes the mix of elementary/middle/high school enrollment from what is actually in place. More of the children are shown as elementary, where capacity exists, and fewer are shown as high school students, where no capacity exists. As an example, the WJCC Schools have 31.4% of the total enrollment in high school – the model uses 29%.

Response:

TWG did not consider the mix of elementary/middle/high school enrollment as presented in the Community Impact Statement prepared by AES Consulting Engineers. TWG's method used to calculate estimated education costs generated by the development is as follows and as stated on page 8 of the fiscal impact analysis report.



The county has estimated that townhomes and condominiums on average generate 0.2 school aged children per unit, and the Lightfoot residential development includes this type of home. TWG multiplied the 0.2 children per occupied household by the estimated spending per pupil of \$9,565 (includes debt service for WJCC schools and education operating costs). The education costs to the county generated by the Lightfoot development are presented on the next page.

Expenditure Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Debt Service - Schools	\$0	\$0	\$13,300	\$26,600	\$39,900	\$53,200
Education Operating Costs	\$0	\$0	\$103,400	\$206,800	\$310,200	\$413,600
Total	\$0	\$0	\$116,700	\$233,400	\$350,100	\$466,800

**Comment 9:**

Another failing of the model is the exclusion of debt service costs for non-schools projects – such as the emergency radio system financing that should be allocated to all taxpayers until the debt is retired.

**Response:**

In the analysis, TWG added non-departmental debt service (\$1,753,000) and contribution to capital projects (\$1,042,000) provided in the budget to estimate debt service costs. TWG has reviewed the budget, and these figures appear to include all costs pertaining to this category. We feel this calculation is appropriate and does not exclude selected non-schools debt service costs.

**Comment 10:**

We did not see that the fiscal impact statement included the \$750 per dwelling unit proffered for County capital projects. That would produce \$183,000. It will cost the County \$30,000 to \$35,000 per student for new schools so that may be the reason it was not included.

**Response:**

These proffers were offered after TWG submitted the fiscal impact analysis for the Lightfoot development to James City County. The analysis has been adjusted to include the described proffers above, and the output is provided below. An increase in revenues realized by the county from these proffers totals \$183,000.

Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Revenues	\$21,900	\$271,650	\$605,238	\$771,838	\$967,423	\$918,573
Expenditures	\$1,100	\$15,300	\$247,700	\$473,400	\$704,500	\$920,800
Fiscal Impact	\$20,800	\$256,350	\$357,538	\$298,438	\$262,923	(\$2,227)

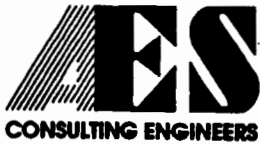
**Comment 11:**

The conclusion of the fiscal impact statement assumes a small negative annual impact at build out. That annual deficit would be larger without the bank, which isn't part of this rezoning, and larger still if certain of the revenue and cost assumptions were changed. There are other assumptions used in the application that WJCC Schools could avoid the impact on Toano Middle School by realigning attendance zones with James Blair and the assumption that the new high school will be build in the same timeframe that these new residential units will be added. Another basic assumption is that the residential and commercial developments will be build at the same time and all within 5 or 6 years.

We agree with the applicant that this project will cause an annual recurring operating budget deficit for the County, very likely much larger than the one forecast. It will also increase school enrollments at two schools that currently have enrollments exceeding their capacity. If possible, a decision on the residential elements of this proposal should be delayed until the results of the November referendum question on a third high school are known and only approved if the referendum passes. It should also be approved with a binding schedule of construction, allowing the proposed residential development to begin construction only when triggered by a proportional development of the non-residential component. The bank should not be considered in that formula.

Response:

The property owner does not choose to exclude the residential units in this analysis as it is an integral part to the Lightfoot development. It is the decision of the property owner, and not TWG, to decide if it wishes to proceed if the county withholds approval pending the November election.



5248 Olde Towne Road • Suite 1 • Williamsburg, Virginia 23188  
(757) 253-0040 • Fax (757) 220-8994 • E-mail aes@aesva.com

September 3, 2004



Ms. Sarah Weisiger, Planner  
James City County Department of Planning  
P.O. Box 8784  
Williamsburg, Virginia 23187-8784

**RE: Request for Modification, Lightfoot Mixed Use Development  
AES Project No. 9353**

Dear Mr. Sowers:

AES, on behalf of our client, Noland Properties, Inc. is requesting a modification of the setbacks required by James City County Ordinance Sec. 24-527(b) in accordance with Sec. 24-527(d) for the proposed Mixed Use site at Richmond Road (Route 60) between Smith Memorial Baptist Church and Wythe Candy. The site is being rezoned to Mixed Use and is currently zoned B-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 that this perimeter setback be reduced in several locations as shown on the attached "Waiver Exhibit". The reductions to the 50-foot setback are as follows:

**AREA A:**

A reduction of the perimeter setback to twenty feet (20') is requested along the side of portions of the Zaharopulus property tax map (24-3)(1-37A). This area will be subject to extensive landscaping as well as architectural treatment to the building facades that face this church property. No roadways will abut the twenty foot (20') setback.

**AREA B:**

A reduction in the perimeter setback to twenty feet (20') is requested along the side of portions of the Smith Memorial Baptist Church property tax map (24-3)(1-36). This area will be subject to extensive landscaping as well as architectural treatment to the buildings that face this property. No roadways will abut the twenty foot (20') setback.

**AREA C:**

A reduction in the perimeter setback to twenty feet (20') is requested along the future boundary of the 1.4± acres of the approved Special Use Permit for the Chesapeake Bank. Along the future boundary with Chesapeake bank we desire visibility for the proposed commercial uses. 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." The bank and the

office uses are compatible and normally would not require buffers and screening. A wide heavily landscaped yard will be detrimental to the proposed commercial uses and the required setback and screening are requested to be reduced to 20-feet on each side for a total combined yard of 40-feet. These setbacks are consistent with the current B-1 zoning. As a result, a fifteen foot (15') landscape and twenty foot (20') building setback will be provided. The County's current Comprehensive Plan designates these properties as Mixed Use, so modified setbacks within an overall designated use area is consistent with the plan.

#### AREA D:

This property has "unusual conditions" with existing gravel parking and an ingress/egress easement on its western boundary. This easement and pavement prohibits landscaping along the boundary and reduces the developable portion of the property when combined with setbacks and yards. A full 50-foot setback is provided in the area that includes the ingress/egress easement and a reduction to 25-feet is requested along the remaining boundary up to the residential portion of the mixed use property. Along the easement portion, the full 50-feet is provided of which 25-feet are outside the easement and the gravel pavement. In this 25-foot area an effective screening will be achieved through intense plantings. In the remaining setback area reduced to a 25-foot setback there is sufficient area to provide an effective screening through intense plantings.

The County's 2003 Comprehensive Plan designates the adjacent Wythe property as Mixed Use, so modified setbacks within an overall designated use area are consistent. Fifty foot (50') buffers are still proposed where residential development is proposed adjacent to land not so designated.

#### INTERNAL AREAS:

Within Area 1A and 1C, warehouse uses are proposed adjacent to each other. In order to better utilize the space, yet still provide the opportunity for some landscape separation, a ten foot (10') landscape yard is proposed between the two uses. This landscape yard could be all on one property or split evenly with fencing permitted either on the landscape setback or in the center of the 10-foot yard.

Thank you for your consideration of this Request for Modification.

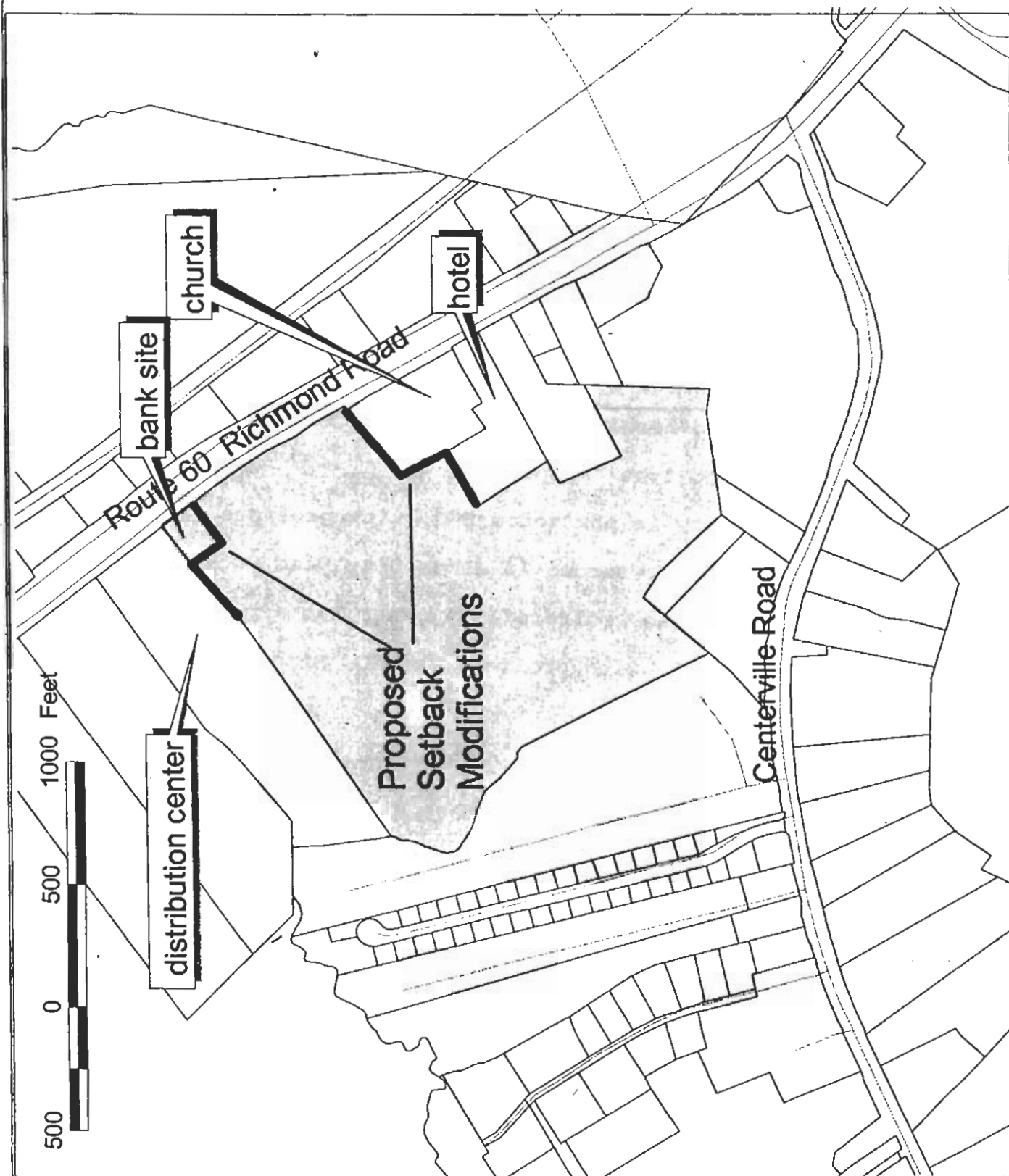
Sincerely,

AES Consulting Engineers



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

cc: Mr. Vernon Geddy, III



## PROFFERS

THESE PROFFERS are made this 24<sup>th</sup> day of November, 2004 by NOLAND PROPERTIES, INC., a Virginia corporation (together with its successors in title and assigns, the "Owner").

## RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 6601 Richmond Road, Williamsburg, Virginia and being a portion of Tax Parcel 2430100035 containing approximately 52 acres as shown on the Master Plan (defined herein), being more particularly described on Schedule A hereto (the "Property").

B. The Property is now zoned B-1, with proffers dated November 15, 1989 and recorded in James City Deed Book 458 at page 126 (the "Existing Proffers"). Owner has applied to rezone the Property from B-1, with proffers, to MU, Mixed Use District, with proffers.

C. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Lightfoot Mixed Use Development for Noland Properties, Inc." prepared by AES Consulting Engineers dated September 3, 2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance. Owner has submitted to the County a traffic impact analysis entitled "Traffic Analysis for Lightfoot Mixed Use Development" prepared by DRW Consultants, Inc. dated March 3, 2004 (the "Traffic Study") for the Property.

D. Owner desires 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. Upon the approval of the requested rezoning, the Existing Proffers are replaced and superceded in their entirety by these Proffers. If the requested rezoning is not granted by the County, these Proffers shall be null and void and the Existing Proffers shall remain in full force and effect.

#### CONDITIONS

1. Owners Association. There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each 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 areas (including open spaces) under the jurisdiction of each Association 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 each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

2. Water Conservation. (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority 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. The standards



shall be approved by the James City Service Authority prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering in the area of the Master Plan designated as Areas 2, 4 or 5 it shall provide water for irrigation utilizing surface water collection from the two surface water ponds that are shown on the Master Plan and shall not use James City Service Authority ("JCSA") water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet), well to supplement the surface water impoundments.

3. Cash Contributions for Community Impacts. (a) A contribution of \$630.00 for each residential 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. 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 \$382.50 for each residential 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. 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 for each non-residential building on the Property in an amount equal to \$1.53 per gallon per day of average daily sanitary sewage flow as determined by JCSA based on the use of the building(s) shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. Contributions for buildings on Area 1B shown on the Master Plan shall be reduced by a credit based on flows from the prior use of that Area as a restaurant. Contributions for buildings on Area 1D shown on the Master Plan shall be reduced by a credit based on flows from the prior use of that Area as retail shops. 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.

(d) A contribution of \$600.00 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, off-site road improvements, library uses, and public use sites.

(e) A contribution of \$605.00 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 school uses.

(f) The contributions described above shall be payable for each dwelling unit or non-residential building on the Property at the time of subdivision or site plan approval for such unit or building.

(g) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 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) through (d) 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.

4. Entrances/Taper. There shall be no more than two entrances into the Property to and from Route 60 in the general locations shown on the Master Plan. An eastbound 150 foot right turn taper on Route 60 shall be constructed at the right-in, right-out 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 for a building utilizing that entrance.

5. Private Streets. All streets on the Property shall be private and shall conform to VDOT construction standards. Private streets shall be maintained by the Association(s). The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the Association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

6. Updated Traffic Study. (a) If any use is proposed to locate on the Property with a materially higher trip generation based on ITE trip generation figures than the use used in the Traffic Study which results in an overall materially higher trip generation from the Property, then Owner shall submit with the proposed site plan for the new use an updated traffic impact study to the Director of Planning and VDOT based on the new

proposed use for their review and approval and shall implement the recommendations of the approved updated study prior to issuance of certificate of occupancy for the new use.

(b) In any event, the Owner shall submit an updated traffic impact study to the Director of Planning and VDOT for their review and approval prior to the time of the issuance of building permits for (i) 70% of the commercial square footage permitted on the Property under the Master Plan and (ii) 50% of the total number of residential units permitted on the Property under the Master Plan, unless the Director of Planning and VDOT waive such requirement. Both thresholds shall be met before the study is required to be performed. The updated traffic study shall include actual traffic counts from the developed portions of the Property and utilize ITE trip generation figures for undeveloped portions of the Property and shall account for all other traffic utilizing the entrance road into the Property and shall determine whether a traffic signal and/or second left turn lane at the main entrance to the Property are warranted. If the approved updated study determines such a signal and/or additional turn lane are warranted, the County shall not be obligated to issue any further building permits for further development on the Property until such second westbound left turn lane at the main entrance into the Property from Route 60 and/or traffic signal at the main entrance have been installed or their installation commenced and surety for their completion in form acceptable to the County

Attorney have been posted with the County. Any such traffic signal shall include signal preemption equipment for emergency use and , if required by VDOT, shall be coordinated with other traffic signals along Route 60.

7. Landscaped Setback. The 20 foot buffer adjacent to Smith Memorial Baptist Church property (Tax Map #(24-3)(1-36) and the Zaharopulus property (Tax Map #(24-3)(1-37A) shall contain enhanced landscaping, defined as 125% of the landscaping otherwise required by the County zoning ordinance. No fence located in the buffer shall be closer than 19 feet to the Property boundary line. The facade of the mini-storage warehouses facing Smith Memorial Baptist Church shall be brick and no road or driveway shall be permitted between the 20 foot buffer adjacent to Smith Memorial Baptist Church and the mini-storage warehouses.

8. Affordable Housing Units. (a) At least 5% (rounded down to the nearest whole unit) of the residential dwelling units on the Property shall be reserved and offered for sale at prices of \$110,000.00, subject to adjustment as provided below, and at least 5% (rounded down to the nearest whole unit) of the residential dwelling units on the Property shall be reserved and offered for sale at prices of \$135,000.00, subject to adjustment as provided below. The maximum price set forth herein shall be adjusted annually as of January 1 of each year by increasing such

prices by the cumulative rate of inflation as measured by the Consumer Price Index - Urban, U.S. City Average annual average change for the period from January 1, 2005 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis. The units subject to this Condition shall be constructed prior to the County being required to issue building permits for more than 200 residential dwelling units on the Property.

9. Development Phasing. The County shall not be obligated to issue building permits for any residential dwelling units on the Property until the County has issued building permits for at least 25,000 square feet of floor area within areas designated as Area 1 on the Master Plan and construction thereof (defined as footings dug and foundations poured and passed required inspections) has commenced.

10. 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 Area 3 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 County shall not be obligated to issue land disturbing permits for areas with preliminary plan or plat approval until the County has approved the exact location of the Conservation Area on such plats or plans. 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. The stormwater BMP shown on the Master Plan may be located in the Conservation Area with road crossings/dam structure generally in the location shown on the Master Plan, unless otherwise approved by the County. 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, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area. 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 and in accordance with the following ratios and sizes: 2:1 for canopy trees (using 1.5 inch caliper tree), 1.5:1 for sub-canopy trees (using 1 inch caliper tree) and 1:1 for shrubs (using 5 gallon container). 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) Owner shall submit to the County a master stormwater management plan for the entire Property, including the regional stormwater management facility generally as shown on the Master Plan, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(c) There shall be a 10 foot construction setback adjacent to all Resource Protection Areas on the Property. No building shall be permitted in this setback area. This setback shall be reflected on all development plans for those areas of the Property.

11. Route 60 Community Character Buffer. Owner has submitted to the County a conceptual landscape plan for the fifty foot average width community character corridor buffer shown and described on the Master Plan ("CCC Buffer") along the Route 60 frontage of the property (the "Landscaping Plan"). All site plans for development including any portion of the CCC Buffer shall contain landscaping generally consistent with the Landscaping Plan, with such landscaping to be subject to review and approval by the Director of Planning. All signs located within the CCC Buffer shall be monument signs with a consistent monument structure. The building walls of all buildings facing Route 60 shall be constructed of brick, glass, masonry or better split faced block, dryvit, stone, manufactured stone, or siding as determined by the Director of Planning. All rooftop mechanical equipment will be screened from view from Route 60.

12. Conceptual Review. Prior to submission of a preliminary site plan for any residential development in Areas 2, 4 and 5 of the Property, Owner shall submit a more detailed

conceptual site plan for the development to the Director of Planning for review and approval.

13. Pedestrian Connections. Owner shall provide pedestrian connections with a durable surface between the Property and the adjacent property upon which Williamsburg Outlet Mall is located and between each of Areas 1 - 5 shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Area in question. Pedestrian connections shall be constructed between Areas shown on the Master Plan at the time of site construction of each of the Areas being connected. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy for any buildings in each such Area.

14. Streetscape Guidelines. The Owner shall provide and install streetscape improvements on both sides of the main entrance road into the Property in Area 1 as shown on the Master Plan and along the private roads in Areas 2, 4 and 5 as shown on the Master Plan in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process.

15. Reserved Right of Way. Owner shall reserve the area shown on the Master Plan as "Possible Future Connections to Adjacent Parcel (Light Duty Only)" for a possible future road connection to the adjacent parcel to the north of the Property. Owner shall have no responsibility to construct a connecting road in this area and shall not be obligated to permit the owner of the adjacent parcel to construct a road in such area unless and until Owner and the owner of the adjacent parcel have entered into an agreement providing for the equitable sharing of the cost of maintenance of such road and the main entrance road into the Property, agreed upon a restriction limiting the use by the adjacent parcel of such roads to cars and light duty trucks and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements warranted by the additional traffic from the adjacent parcel.

16. Special Fence Requirement Area. Within the area shown on the Master Plan as "Special Fence Requirement Area" all fencing shall be either wood, dark metal picket fence or dark vinyl coated chainlink fence. If chain link fencing is used in this area it shall be supplemented with evergreen shrubs at four foot spacing along 75% of its length, with the exact location of such shrubs to be subject to the review and approval of the Director of Planning. Barbed wire or similar security fencing

material shall not be used along the top of any fencing in this Area.

17. Lighting. All exterior lighting on Area 1 of the Property 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. Modifications to this requirement may be approved by the Planning Director if it is determined that the modifications do not have any adverse impact on the Property or the surrounding property.

18. Recreation. There shall be provided in Areas 2, 4 and 5 recreational facilities meeting the standards set forth in the County's Recreation Master Plan or in lieu of a portion thereof Owner shall make cash contributions to the County in amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 3(f)) or some combination thereof. All cash contributions proffered by this Proffer 18 shall be used by the County for recreation capital improvements. 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.

19. Archaeology. A Phase I Archaeological Study for the entire Property 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 Property and the clearing, grading or construction activities thereon.

20. Residential Units For Sale. All residential units constructed on the Property shall be offered for sale by the developer thereof.

WITNESS the following signature.

NOLAND PROPERTIES, INC.  
By: [Signature]  
Title: AUTHORIZED SIGNATORY

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

The foregoing instrument was acknowledged this 24th day of November, 2004, by Robert J. Singley, Jr. as Authorized Signatory of NOLAND PROPERTIES, INC. on behalf of the corporation.

[Signature]  
NOTARY PUBLIC

My commission expires: 12/31/04.



## SCHEDULE A

ALL that certain piece or parcel of land, situate, lying and being in James City County, Virginia, containing 53.44 acres more or less shown on a plat entitled "ALTA/ACSM LAND TITLE SURVEY A PARCEL CONTAINING 53.44 ACRES +/- OWNED BY EASTERN OREO, INC." dated May 10, 1995, made by AES Consulting Engineers of Williamsburg, Virginia, together with the buildings and improvements thereon, which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia in Plat Book 61, page 79.

LESS AND EXCEPT that certain parcel of land containing approximately 1.4 acres constituting a portion of the property described above shown and set out as "Proposed Chesapeake Bank Site, 1.4 AC." on the Master Plan.

**REZONING 12-04 / SPECIAL USE PERMIT 29-04. JCSA, Cardinal Acres Duplex  
Staff Report for December 6, 2004, 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:

Building F Board Room; County Government Center

December 6, 2004 7:00 p.m.

Board of Supervisors:

January 11, 2005 7:00 p.m. (Tentative)

**SUMMARY FACTS**

**Applicants:**

Michael Putt of First Investments of Virginia, LLC and the James City Service Authority

**Land Owner:**

James City Service Authority

**Contract Purchaser:**

Michael Putt

**Proposed Use:**

Two Family Dwelling

**Location:**

1899 Jamestown Road; Jamestown District

**Tax Map/Parcel:**

(46-4)(1-3)

**Parcel Size:**

0.46 acres

**Existing Zoning:**

R-8, Rural Residential

**Proposed Zoning:**

R-2, General Residential, with Proffers

**Comprehensive Plan:**

Moderate Density Residential

**Primary Service Area:**

Inside

**STAFF RECOMMENDATION**

Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the proposed rezoning and acceptance of the voluntary proffers. Staff also recommends that the Planning Commission recommend approval of this Special Use Permit application with the conditions contained in this staff report:

**Staff Contact:**

Christopher Johnson

Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. Larry Foster, on behalf of the James City Service Authority, and Michael Putt of First Investments of Virginia, LLC, have applied for a rezoning and special use permit to allow the construction of a two family dwelling on a portion of the property located at 1899 Jamestown Road. A duplex is a specially permitted use in the R-2, General Residential, zoning district. The 0.46 acre site is located in the Cardinal Acres subdivision east of the Foxfield subdivision, south of the Pointe at Jamestown subdivision and west of the Jamestown 1607 subdivision. The property can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-4).

## **HISTORY**

The subject property has been utilized as a well lot by the JCSA since the Cardinal Acres subdivision was platted and developed. Recent improvements to the public water distribution system negated the need to continue to operate the well on the site. The JCSA has a contract to sell a 15,000 square foot portion of the property to Michael Putt who wishes to construct a duplex on the site similar to those within the rest of the subdivision. Mr. Putt, the contract purchaser, owns two other duplexes on adjacent lots within the same subdivision, including the parcel which contains the driveway which would be utilized to access the new lot via an ingress/egress easement. The lot is bordered by the recreation lot in The Pointe at Jamestown subdivision to the north and townhouse development within Jamestown 1607 to the east.

## **PUBLIC IMPACTS**

### **Environmental Impacts**

<b>Watershed:</b>	Powhatan Creek
<b>Environmental Comments:</b>	No comments.

### **Public Impacts**

<b>Utilities:</b>	The site is served by public water and sewer.
<b>JCSA Comments:</b>	The applicant shall be responsible for developing water conservation standards for this development.
<b>Staff Comments:</b>	Staff has included a condition which requires the development of Water Conservation Standards for the proposed development.

### **Traffic Impacts**

<b>Proposed Traffic:</b>	20 vehicle trips per day
<b>2003 Traffic Counts:</b>	7,242 vehicle trips per day
<b>2026 Volume Projections:</b>	10,000 vehicle trips per day
<b>VDOT Comments:</b>	No comments.
<b>Staff Comments:</b>	The addition of a duplex on the last available lot within the Cardinal Acres subdivision should not have any appreciable negative impact on the overall traffic flow in the surrounding area. Jamestown Road is well under capacity on this section of roadway.

## **COMPREHENSIVE PLAN**

The site is located off of Jamestown Road, a suburban Community Character Corridor

- A suburban CCC is characterized as an area that has moderate to high traffic volumes, moderate to high levels of existing or planned commercial or moderate to high density residential uses, and may contain some wooded buffer along roads. The objective of these CCCs is to ensure that James City County retains a unique character and does not become simply another example of standard development. The predominant visual characteristic of the suburban CCC should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. The scale and placement of buildings in relation to each other, the street, and parking areas should be compatible with the character.

The property is designated Moderate Density Residential

- Moderate Density Residential areas are residential developments or land suitable for such developments with a minimum gross density of four dwelling units per acre, up to a maximum of twelve units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, and the degree to which the development is consistent with the Comprehensive Plan. Suggested uses include townhouses, apartments, attached cluster housing, recreation areas and manufactured home parks.

**Staff Comments:** Staff believes that the proposed in-fill development of a duplex on the last available lot in the Cardinal Acres subdivision is consistent with the surrounding development and the Moderate Density Residential designation.

## **CONCLUSIONS AND CONDITIONS**

Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the proposed rezoning and acceptance of the voluntary proffers. Staff also recommends that the Planning Commission recommend approval of this Special Use Permit application with the following conditions:

1. If construction has not commenced on this project within thirty-six (24) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundation.
2. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to issuance of a building permit for the duplex. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures to promote water conservation and minimize the use of public water resources.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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Christopher Johnson

CONCUR:

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O. Marvin Sowers, Jr.

ATTACHMENTS:

1. Location Map
2. Proffers

# Z-12-04/SUP-29-04; JCSA

## Cardinal Acres Duplex



## PROFFERS

THESE PROFFERS are made this 29th day of November, 2004 by JAMES CITY SERVICE AUTHORITY, a political subdivision of the Commonwealth of Virginia (together with its successors and assigns, the "Owner"), and FIRST INVESTMENTS OF VIRGINIA, LLC, a Virginia limited liability company (together with its successors and assigns, the "Purchaser")

## RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia, containing approximately 0.459 acres with an address of 1899 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4640100003 (the "Property"), more particularly described on Exhibit A attached hereto and made a part hereof. The Property is now zoned R-8.

B. Purchaser has contracted to purchase approximately .344 acres of the Property (the "New Parcel") conditioned upon the rezoning of the Property.

C. Owner and Purchaser have submitted a preliminary plat to the County depicting the property lines of the New Parcel.

D. Owner and Purchaser have applied for a special use permit to allow the construction of a two-family dwelling on the New Parcel, consistent with the surrounding neighborhood.

E. Owner and Purchaser have applied to rezone the Property from R-8 to R-2, with proffers, consistent with the surrounding neighborhood.

F. Owner and Purchaser desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

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, the Owner and Purchaser agree 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. Water System Contributions. A contribution of \$750.00 per dwelling unit developed on the Property shall be made by the Purchaser to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the dwelling units. 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.

2. Timing of Cash Contributions. The cash contributions required in Proffer 1 above shall be made at the time the New Parcel is transferred to the Purchaser and shall be disbursed directly to JCSA.

WITNESS the following signature:

JAMES CITY SERVICE AUTHORITY

By:   
Larry M. Foster, General Manager

FIRST INVESTMENTS OF VIRGINIA, LLC

By:   
Michael K. Putt, Managing Member

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF James City, to-wit:

The forgoing instrument was acknowledged this 29<sup>th</sup> day of November, 2004,  
by Larry M. Foster, JCSA General Manager.

My commission expires:

12-31-04

  
NOTARY PUBLIC



STATE OF VIRGINIA AT LARGE

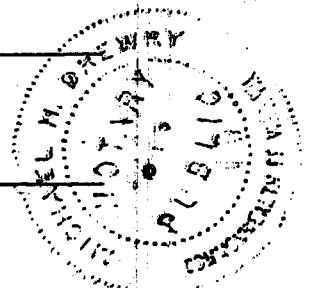
CITY/COUNTY OF James City, to-wit:

The forgoing instrument was acknowledged this 29<sup>th</sup> day of November, 2004,  
by Michael K. Putt, Managing Member of First Investments, LLC..

My commission expires:

12-31-04

  
NOTARY PUBLIC





**SPECIAL USE PERMIT 27-04, Williamsburg Community Chapel Expansion  
Staff Report for the December 6, 2004, 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 F Board Room; County Government Center

December 6, 2004 7:00 p.m.

Board of Supervisors:

January 11, 2005 7:00 p.m. (Tentative)

**SUMMARY FACTS**

**Applicant:**

John A. Rhebergen of Gossen Livingston Associates, Inc.

**Land Owner:**

Williamsburg Community Chapel

**Proposed Use:**

Expansion of the House of Worship

**Location:**

3899 John Tyler Highway; Berkeley District

**Tax Map/Parcel:**

(46-1)(1-2A)

**Parcel Size:**

± 15 acre site

**Zoning:**

R-8, Rural Residential

**Comprehensive Plan:**

Low Density Residential

**Primary Service Area:**

Inside

**STAFF RECOMMENDATION**

Staff recommends the Planning Commission recommend approval of this application. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development.

**Staff Contact:**

Christopher Johnson

Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. John Rhebergen of Gossen Livingston Associates, Inc, on behalf of Williamsburg Community Chapel, has applied for a special use permit to allow an expansion to the existing house of worship at 3899 John Tyler Highway. The expansion would add approximately 58,000 square feet of building footprint and approximately 48,000 square feet of second floor space. The expanded main sanctuary will seat approximately 1,650 attendees and choir members. Concurrent services will be held for Student Ministries in the current sanctuary, plus a series of Sunday School and counseling sessions are anticipated for approximately 400 people. The total campus attendance is expected to be about 2,750 persons. An additional 511 parking spaces will be added to the rear of the site. A house of worship is a specially permitted use in the R-8, Rural Residential, zoning district. An expansion of a specially permitted use requires the issuance of a special use permit. The 15 acre site is located east of Jamestown High School and north of the Jamestown Hundred subdivision and can be further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (46-1).

## **HISTORY**

The existing church building contains 31,524 square feet, seats 700 people and the site contains 175 parking spots split between two parking bays on either side of the church building. In August 2003, the Board of Supervisors approved the release of a County conservation easement on the adjacent parcel to the church site where a second entrance will be constructed. The church conveyed a conservation easement of equal quantity and value to the County at the rear of the site and in Powhatan Secondary. Earlier this year, the church received approval of a rezoning request for a portion of the church property for the development of three infill single family residential lots in the Jamestown Hundred subdivision. The church will exchange the area for the additional lots for land currently in open space on an adjacent parcel to provide the access to the church site from Eagle Way.

## **PUBLIC IMPACTS**

### **Environmental Impacts**

#### **Watershed:**

Powhatan Creek

#### **Environmental Comments:**

Compliance with the County's stormwater management requirements, for both quality and quantity control, will be a major challenge for this site given the amount of proposed impervious cover. Several of the items proposed for demolition on the site were designed to bring the site into conformance with the Chesapeake Bay Preservation Ordinance as part of previously approved site plans in 1994 and 1996. Areas previously platted as Natural Open Space will be conveyed to Hampton Roads Development as part of the agreed upon exchange of land. In order for the proposed site improvements to be able to comply with the County stormwater management regulations, it must be demonstrated that appropriate methods to obtain the required BMP water quality points are proposed in acceptable areas and that the required points will be obtained for the entire site, including the proposed access to Eagle Way.

#### **Staff Comments:**

Staff believes that the largely graded and maintained fields to the rear of the church site that are proposed for development will pose significant engineering challenges for the applicant. Staff is

confident that these issues can be addressed during development plan review for this project.

### **Archaeological Impacts**

**Staff Comments:** The church conducted a Phase 1 archaeological assessment of the entire 15 acre site in 1994. The absence of cultural specimens, coupled with regional settlement models which suggest a low probability for either prehistoric or historic occupation, indicate that no archaeological sites are present within the project area. No further archaeological investigation of the church site is necessary. The Virginia Department of Historic Resources concurred with the conclusions of the assessment.

### **Public Impacts**

**Utilities:** The site is served by public water and sewer.  
**JCSA Comments:** The applicant shall be responsible for developing water conservation standards for this development. The applicant shall also confirm that the existing JCSA water system will provide adequate fire flow volume and duration as specified by the James City County Fire Department. The proposed on-site water system extension and fire main shall be private. The applicant shall confirm that the existing sanitary force main and pump station serving the existing on-site facilities has adequate capacity to serve the proposed expansion and/or make necessary improvements to the sanitary sewer system.

**Staff Comments:** These issues will be addressed at the development plan stage. Staff has included a condition which requires the development of Water Conservation Standards for the proposed development.

### **Traffic Impacts**

**Proposed Traffic:** 638 vehicle trips per weekday with 50 and 46 vehicle trips per hour entering and exiting the site during the AM and PM peak hours, respectively; on Sundays, 2,564 vehicles per day with 665 vehicles per hour entering and exiting the site during the AM peak hour  
**2003 Traffic Counts:** 10,821 vehicle trips per day - included in the "Watch" category  
**2026 Volume Projections:** 12,000 vehicle trips per day  
**Road Capacity:** A two lane collector has a capacity of 13,000 vehicle trips per day  
**VDOT Comments:** VDOT concurs with the traffic impact study and its recommendations.

**Staff Comments:** All existing traffic to the church site utilizes a single entrance on John Tyler Highway (Route 5). A police officer currently manages traffic flow during Sunday church services. VDOT concluded several years ago that the church would need to construct a left-turn lane from Route 5 into the site to accommodate its existing Sunday morning traffic generation. A previous traffic study supported VDOT's conclusion and stated that road widening to accommodate a left-turn lane with a 200 foot taper and 200 feet of storage would cause significant disturbance to the Route 5 buffer and tree canopy, which was a particular concern for staff.

By constructing the alternate access into the site through a private drive from Eagle Way, the church hopes to divert the majority of vehicle movements through the intersection at Route 5 and Eagle Way. The church will reconstruct the existing entrance on Route 5 to a right-in, right-out only configuration which will bring the levels of service on Route 5 within an acceptable range. Additionally, VDOT will no longer require a left-turn lane as left-turn movements off and onto Route 5 would be restricted.

Staff believes that traffic issues will be addressed adequately with the addition of the second entrance and reconfiguration of the existing entrance to the church site on Route 5.

## **COMPREHENSIVE PLAN**

The site is located on John Tyler Highway (Route 5), an suburban Community Character Corridor

- A suburban CCC is characterized as an area that has moderate to high traffic volumes, moderate to high levels of existing or planned commercial or moderate to high density residential uses, and may contain some wooded buffer along roads. The objective of these CCCs is to ensure that James City County retains a unique character and does not become simply another example of standard development. The predominant visual characteristic of the suburban CCC should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. The scale and placement of buildings in relation to each other, the street, and parking areas should be compatible with the character.

**Staff Comments:** With the proposed conditions, staff believes that the proposed church expansion is consistent with the Community Character Corridor guidelines. The existing 120 foot CCC buffer will be maintained and supplemented with additional plantings in the areas that will be disturbed during construction. Additional parking will be located at the rear of the site.

The property is designated Low Density Residential

- Low Density Residential areas are residential developments or land suitable for such developments with gross densities up to one unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. 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. Schools, churches, and community-oriented facilities should generally be located at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

**Staff Comments:** With the proposed conditions, staff believes that the proposed use is consistent with the Low Density Residential designation.

## **CONCLUSIONS AND CONDITIONS**

Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this Special Use Permit application with the following conditions

1. If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundation.
2. All exterior lighting on the property 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. Modifications to this requirement may be approved by the Planning Director if it is determined that the modifications do not have any negative impact on the surrounding properties.
3. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. A minimum of fifty (50) percent of the plantings within the Community Character Corridor buffer and perimeter buffers adjacent to residential lots shall be evergreen.
4. The plan of development shall be in accordance with the "Special Use Permit Plan , Williamsburg Community Chapel" dated October 14, 2004 and prepared by AES Consulting Engineers with such minor changes as determined by the Development Review Committee that does not change the basic concept or character of the development.
5. Prior to final site plan approval, the Planning Director shall review and approve the final building elevations and architectural design of the expansion of the existing church building. Such approval shall ensure that the design, building materials, colors and scale of the building expansion are compatible with the surrounding residential developments and scenic characteristics of Route 5.
6. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures to promote water conservation and minimize the use of public water resources.
7. No Kindergarten through Senior High School shall be allowed on the property.
8. The applicant shall implement all road improvements recommended by the traffic study "Traffic Impact Study, Proposed Expansion of Williamsburg Community Chapel, James City County, Virginia" prepared by Wilbur Smith Associates, April 26, 2002. All traffic improvements, including the reconstruction of the existing entrance for right-in, right-out traffic shall be constructed prior to the issuance of any Certificate of Occupancy for the expansion.
8. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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Christopher Johnson

CONCUR:

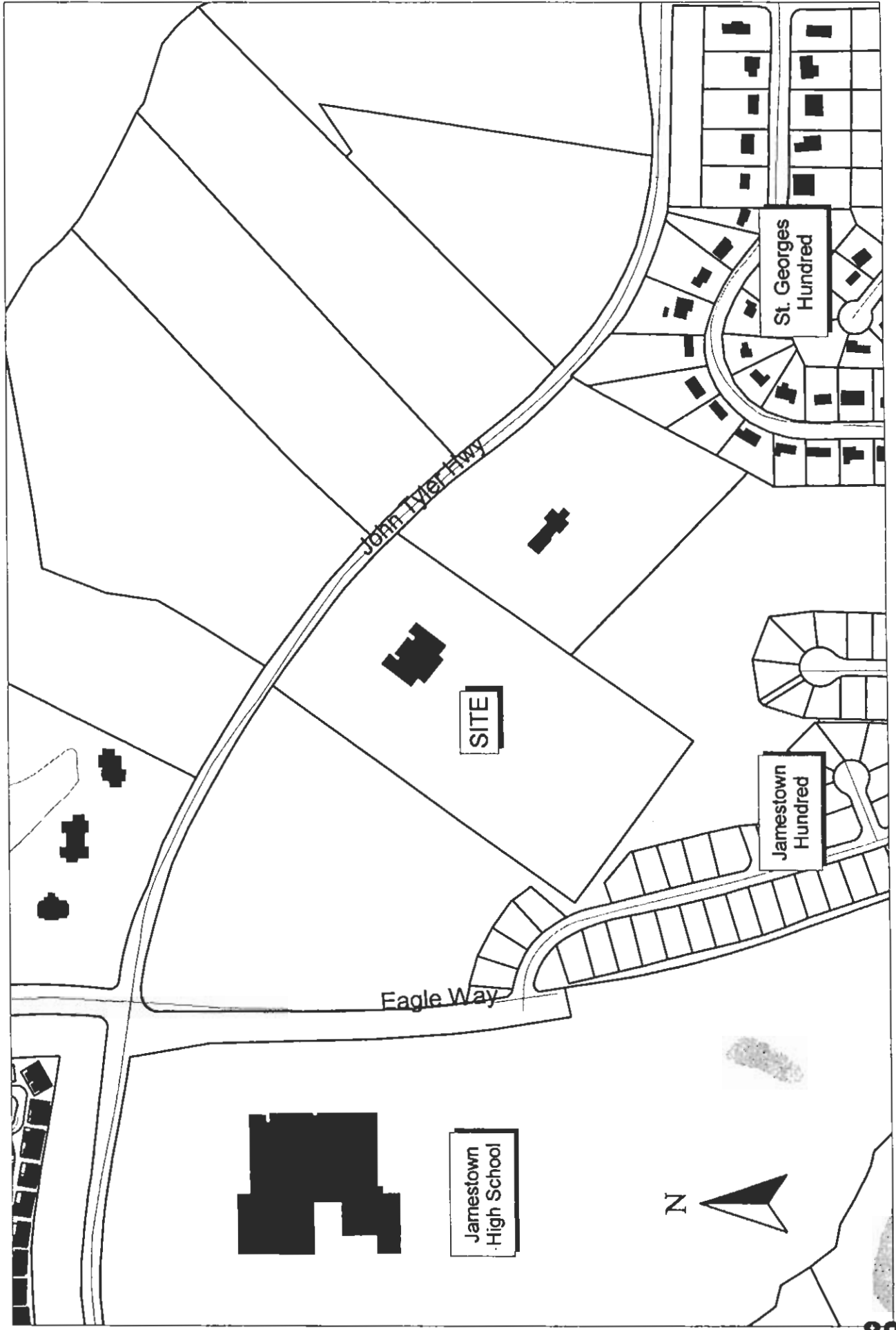
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O. Marvin Sowers, Jr.

ATTACHMENTS:

1. Location Map
2. Special Use Permit Plan
3. Building Elevations

# SUP-27-04; Williamsburg Community Chapel Expansion



**SPECIAL USE PERMIT 30-04. JCSA, Riverview Plantation Water System Improvements  
Staff Report for December 6, 2004, 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:  
Board of Supervisors:

Building F Board Room; County Government Center  
December 6, 2004            7:00 p.m.  
January 11, 2005            7:00 p.m. (Tentative)

**SUMMARY FACTS**

**Applicants:**

James City Service Authority

**Land Owner:**

James City Service Authority and VDOT right-of-way

**Proposed Use:**

Installation of approximately 8,000 linear feet of 8-inch water m

**Location:**

The water main would connect to an existing water main at the intersection of Beech Road and Wrenfield Drive in the Wexford Hills subdivision, proceed in a northerly direction along the west side of Newman Road and in an easterly direction along the north side of Riverview Road to the intersection of Greenway Drive and Riverview Plantation Drive in the Riverview Plantation subdivision; Stonehouse District

**Tax Map/Parcel:**

(8-3)(1-2); (15-4)(2-69); (15-4)(2-70); and (15-4)(2-71)

**Existing Zoning:**

A-1, General Agricultural

**Comprehensive Plan:**

Rural Lands

**Primary Service Area:**

Outside

**STAFF RECOMMENDATION**

Staff finds that the extension of public utilities outside the Primary Service Area is inconsistent with the goals and objectives of the Comprehensive Plan; however, the JCSA Board of Directors is taking action to protect the public health, safety, and welfare of the residents of Riverview Plantation from a failing water system. The recommended conditions address staff's concern for future connections to the water main from properties located outside the PSA with identical language that has been adopted by the JCSA Board of Directors in the past. Staff recommends that the Planning Commission recommend approval of this Special Use Permit application with the conditions contained in this staff report.

**Staff Contact:**

Christopher Johnson

Phone: 253-6685



## **PROJECT DESCRIPTION**

The James City Service Authority has applied for a special use permit to allow the construction of approximately 8,000 linear feet of 8-inch water main from the Wexford Hills subdivision off of Newman Road to the Riverview Plantation subdivision at the end of Riverview Road in the Stonehouse District. The proposed water main would connect to an existing water main at the intersection of Beech Road and Wrenfield Drive in the Wexford Hills subdivision, proceed in a northerly direction along the west side of Newman Road before proceeding in an easterly direction along the north side of Riverview Road to the intersection of Greenway Drive and Riverview Plantation Drive in the Riverview Plantation subdivision. The proposed water main would be constructed within VDOT right-of-way and within JCSA easements that have been acquired specifically for this project. The properties can be identified as Parcel No. (1-2) on James City County Real Estate Tax Map No. (8-3) and Parcel Nos. (1-69), (1-70), and (1-71) on Tax Map No. (15-4).

## **HISTORY**

On October 28, 2003, the James City Service Authority Board of Directors adopted a resolution which authorized the JCSA to assume ownership of the privately-owned Riverview Plantation Water System. The Riverview Plantation Home Owners Association had asked the JCSA to acquire and operate the water system due to recurring problems with the water supply in the neighborhood. The Riverview Plantation HOA agreed to purchase the water system from the owner, Tidewater Water Supply Company, and give the system to the JCSA. The Board considered several water supply alternatives before deciding to extend a waterline from the Wexford Hills well facility approximately 8,000 feet to Riverview Plantation. The Wexford Hills well facility has adequate water production capacity to serve the Riverview Plantation neighborhood. Additional pumping capacity will be added to the facility to accommodate the water demand for the neighborhood. The costs to operate and maintain the waterline once constructed will be negligible.

## **COMPREHENSIVE PLAN**

The properties in the vicinity of this project are designated Rural Lands and Park, Public and Semi-Public Open Space on the Comprehensive Plan Land Use Map

- Rural Lands are areas containing farms, forests and scattered houses, exclusively outside the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Large concentrations of residential development are strongly discouraged as such subdivisions interrupt rural qualities and significantly increase the demand for urban services and transportation facilities.
- Park, Public, or Semi-Public Open Space consists of large, undeveloped areas owned by institutions or the public and used for recreation or open space. These areas serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.

### **Staff Comments:**

The Primary Service Area defines areas presently provided with public water and sewer, and high levels of other public services, as well as areas expected to receive such services over the next 20 years. The Comprehensive Plan strongly discourages development outside the PSA. Promoting efficiency in the delivery of public facilities and services through land use

planning and the timing of development is an important concept. The PSA concept encourages the efficient use of public facilities and services, avoids overburdening such facilities and services, helps ensure facilities and services are available where and when needed, increases public benefit per dollar spent, promotes public health and safety through improved emergency response time, and minimizes well and septic failures.

The County has allowed waterlines to be constructed outside the PSA in the past under unique circumstances. In this case, the JCSA Board of Directors is taking action to protect the public health, safety, and welfare from the failing water system in Riverview Plantation. Staff has included a condition that would allow only one water connection per parcel located adjacent to the water main and in existence on the date this SUP application was filed. There are ten parcels located along Riverview Road between the Wexford Hills and Riverview Plantation neighborhoods. In addition, there are 10 parcels within Riverview Plantation that will be fronted by the water main that currently obtain their water from private wells. If the waterline is constructed, these homes may someday desire to connect to the water system but will not be required to do so.

### **CONCLUSIONS AND CONDITIONS**

Staff finds the proposed extension of public utilities outside the PSA inconsistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the application with the following conditions:

1. If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction.
2. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections to the Riverview Plantation project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of November 4, 2004, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4" service line and 3/4" water meter.
3. Construction, operation, and maintenance of the water transmission main shall comply with all local, State, and Federal requirements.
4. All permits and easements shall be acquired prior to the commencement of construction for the water transmission main.
5. The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.
6. For water main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property. It is intended that the present and future results of the proposed water transmission main do not create adverse effects on the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.
7. Vehicular access to residences within the effected right-of-ways shall be maintained at all times.

8. All construction activity adjacent to existing development shall occur between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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Christopher Johnson

CONCUR:

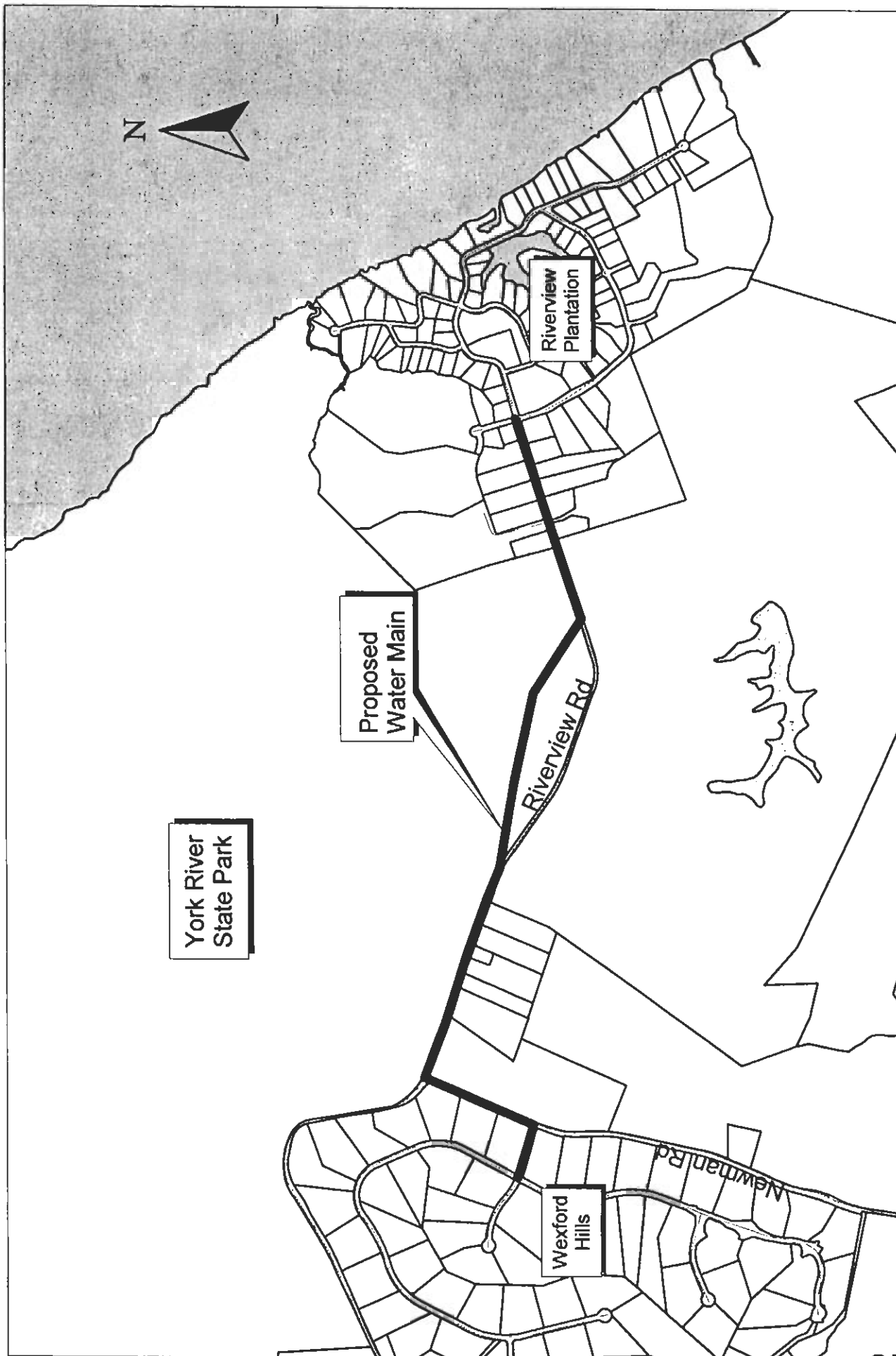
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O. Marvin Sowers, Jr.

ATTACHMENTS:

1. Location Map

# SUP-30-04; JCSA Riverview Plantation Water System Improvements



**REZONING-11-04/MASTER PLAN-9-04. Ford's Colony Master Plan Amendment  
Staff Report for the December 6, 2004, 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:

Building F Board Room; County Government Complex

Board of Supervisors:

December 6, 2004, 7:00 p.m.

January 11, 2005, 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:

Mr. Charles Records, AES Consulting Engineers

Land Owner:

Realtec, Inc.

Proposed Use:

Master plan amendment to permit the construction of fifty single family homes. The property is currently designated for a hotel/convention center. The proposal does not increase the overall units permitted in Ford's Colony.

Location:

185 and 245 Ford's Colony Drive

Tax Map and Parcel No.:

(31-3)(1-53), (31-3)(1-58)

Primary Service Area:

Inside

Parcel Size:

31.76 acres

Existing Zoning:

R-4, Residential Planned Community, with proffers

Proposed Zoning:

R-4, Residential Planned Community, with amended proffers

Comprehensive Plan:

Low Density Residential

Staff Contact:

Matthew D. Arcieri - Phone: 253-6685

**STAFF RECOMMENDATION:**

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan and the Comprehensive Plan Land Use Map designation. While staff has concerns over the lack of a water conservation proffer and the proposed payment schedule for cash proffers, staff believes these issues do not detract from the overall merits of the proposal and can be resolved prior to the Board of Supervisors taking action. Staff recommends the Planning Commission recommend approval of the rezoning and master plan applications and acceptance of the voluntary proffers.

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

## Project Description

AES Consulting Engineers has applied on behalf of Realtec Inc. to amend the existing Ford's Colony Master Plan. Approval of the master plan amendment would allow construction of fifty single family homes on 21.81 acres. The proposal does not raise the overall cap of 3,250 units.

The current (1998) master plan designates the 31.76 acres "core" property as a conference center and resort hotel with restaurant. In July of 2003 Realtec applied for subdivision approval to construct fifty lots on 21.81 acres of this property. The remaining acreage (9.95 acres) will become a commercial spa and 113 unit timeshare project. In September 2003, the Development Review Committee determined that converting commercial property to a residential use required a master plan amendment approved by the Board of Supervisors.

In addition to the change listed above, the proposed master plan reflects a number of changes approved by the Development Review Committee and Commission since the last master plan update in 1998. These changes have redesignated either recreation areas or higher density residential areas for single family residential use and did not raise the overall unit cap.

## Public Impacts

### *Environmental Impacts*

Watershed: Powhatan Creek

Staff Comments: The Environmental Division has no comments on this case.

### *Public Utilities*

Primary Service Area (PSA): The site is inside the PSA and served by public water and sewer.

Public Utility Proffers: Cash Contribution: For each of the fifty lots a cash contribution of \$796 is proffered

JCSA Comments: The JCSA has requested that water conservation measures be developed and submitted to the JCSA for review and approval prior to subdivision approval. This is not currently part of the proposed proffers; however, staff believes that a standard water conservation proffer can be added before the case is heard by the Board of Supervisors.

### *Fiscal Impact*

The applicant's fiscal impact report notes that the full scale hotel as originally proposed is not economically feasible for this site and therefore is unable to conclude if the elimination of the hotel results a less of an overall fiscal positive for Ford's Colony. It also notes the total projected value for the property at build-out (2015) would be approximately \$1.235 billion. This exceeds original projections done in 1986 by more than 100%.

Proffers: Cash Contribution for Community Impacts: For each of the fifty lots a cash contribution of \$750 is proffered.

Cash Contribution for Emergency Services: For each of the fifty lots a cash contribution of \$312 is proffered.

Cash Contribution for Community Services: The applicant has proffered a cash contribution of \$16,000 to Housing Partnerships and \$4,000 towards the County's Neighborhood Connections program in support of the County's neighborhood and affordable housing goals. This contribution is identical to one provided as part of the 1998 master plan amendment.

Staff Comments: The Department of Financial and Management Services concurs with the applicant's fiscal impact study. Staff is concerned that the proffers, as currently proposed (payment at the closing on a lot) will make collection of proffer payments difficult. Most cases propose making proffer pavements at the time of final subdivision approval. Staff believes that this issue can be resolved before the case is heard by the Board of Supervisors.

### *Recreation*

As part of this proposal, Ford's Colony has updated its amenities plan to reflect the current recreation provided to its residents. In addition to the golf courses and other outdoor amenities, there are two recreation areas available to its residents. The community club has been completed while the site plan for the Westbury Park recreation area pool has been approved for construction. Additional information on recreation can be found on the attached amenities plan.

Proffers: Cash Contribution for Greenways: In lieu of providing right-of-way for a County greenway to run through the property, the applicant has proffered \$20,000 to the Williamsburg Land Conservancy to be used towards greenway construction. This contribution is identical to one provided as part of the 1998 master plan amendment.

### *Schools*

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. Based on current enrollment levels in Ford's Colony, the Department of Financial and Management Services estimates that fifty homes in Ford's Colony would generate approximately ten school children distributed among D.J. Montague Elementary, Toano Middle and Lafayette High School. Of the three schools, design capacity is currently exceeded at the middle and high school.

Although the capacity of Jamestown High School is clearly exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP then the application will be deemed to have passed the test. On November 2, 2004 voters approved the third high school referendum; therefore staff believes that this proposal passes for the high school.

Although this proposal does not technically pass at the middle school level, staff notes that this proposal does not raise the total unit cap for Ford's Colony.

### *Traffic*

As this project does not raise the existing unit cap, no additional new traffic above that originally provided would be generated by the proposal. In addition the substitution of timeshare units for a full scale hotel will result in fewer trips being generated by the commercial portions of Ford's Colony.

Existing Ford's Colony proffers require a traffic impact study every five years. The most recent study, drafted in February of 2003 is under review by VDOT and is provided for reference purposes for the Commission to better understand current Ford's Colony traffic conditions.

Longhill Road/  
Williamsburg West

Drive Intersection: The existing intersection is forecasted to operate at a Level of Service “F”. VDOT has conducted signal warrant analysis and determined a signal is needed. This signal is already proffered under existing proffers and will be paid for by Ford’s Colony.

Longhill Road/  
Ford’s Colony

Drive Intersection: The existing intersection does not meet signal warrants and it does not appear, at current traffic generation rates, that signalization will be likely in 2008 or 2013. It appears that a right turn taper on eastbound Longhill Road will be required in 2008. The study also recommends reevaluating the intersection as part of the 2008 traffic study for a full eastbound right turn lane. These improvements are proffered and will be paid for by Ford’s Colony.

Other Intersections: Both the News Road and Centerville Road entrances to Ford’s Colony currently operate at a LOS “B”. The traffic study notes that it will likely require massive traffic growth on News Road to warrant signalization. All traffic improvements at the Centerville Road entrance have been completed.

VDOT Comments: VDOT has recommended the installation of a traffic signal at Longhill Road and Williamsburg West Drive. The other recommendations of the study are under review.

### **Comprehensive Plan**

The James City County Comprehensive Plan Land Use Map designates this property for low-density residential development. Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential community with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Depending on the extent of benefits, developments up to four units per acre will be considered for a special use permit. The location criteria for low density residential require that these developments be located within the PSA where utilities are available. 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.

Staff Comments: The proposal is consistent with the Land Use policies of the Comprehensive Plan.

### **Conclusions**



With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan and the Comprehensive Plan Land Use Map designation. While staff has concerns over the lack of a water conservation proffer and the proposed payment schedule for cash proffers, staff believes these issues do not detract from the overall merits of the proposal and can be resolved prior to the Board of Supervisors taking action. Staff recommends the Planning Commission recommend approval of the rezoning and master plan applications and acceptance of the voluntary proffers.

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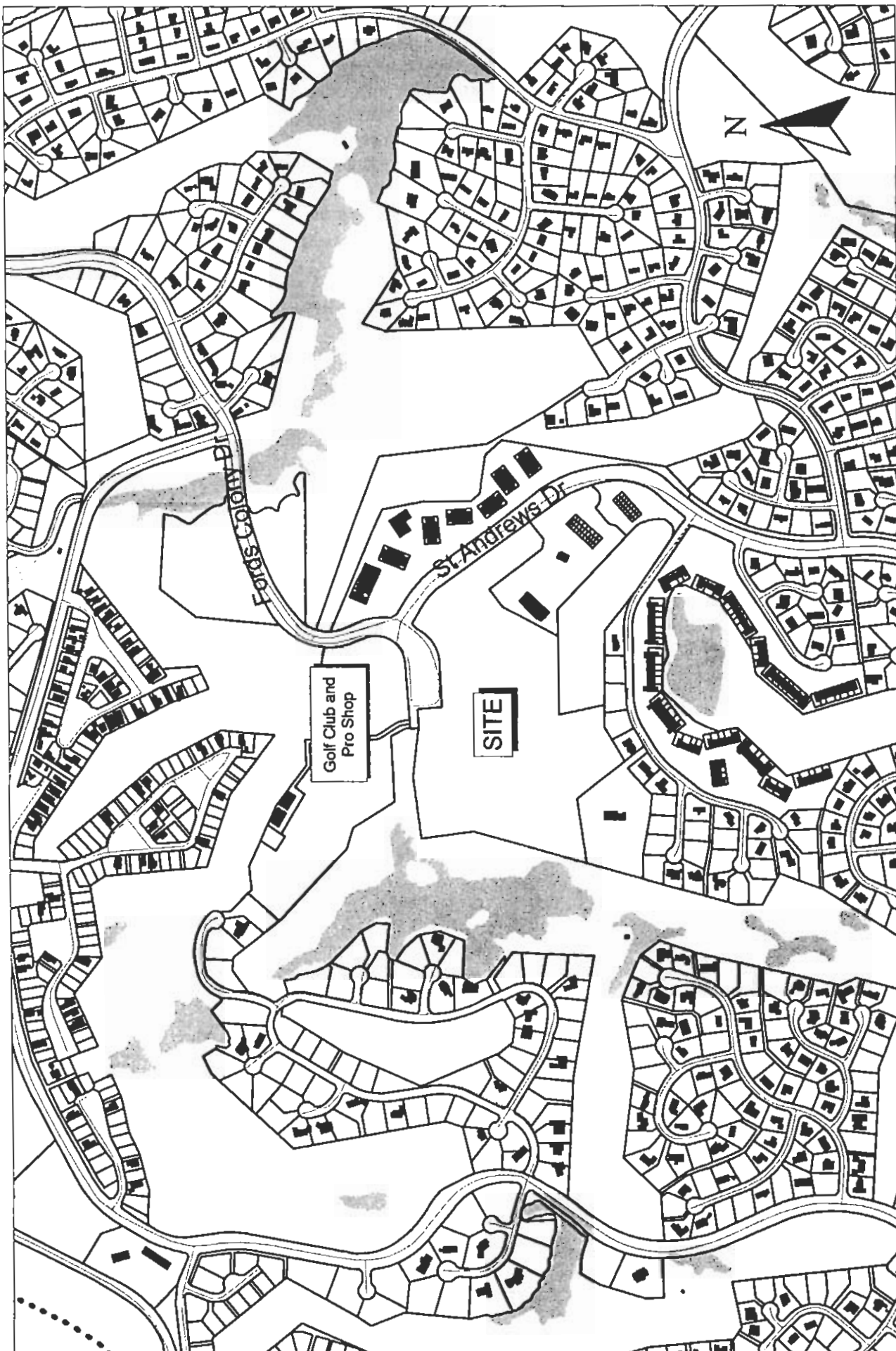
Matthew D. Arcieri

Attachments:

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



# Z-11-04;MP-9-04 Ford's Colony Master Plan Amendment



## AMENDED AND RESTATED FORD'S

### COLONY PROFFERS

These AMENDED and RESTATED FORD'S COLONY PROFFERS are made this 1st day of November, 2004 by REALTEC INCORPORATED, a North Carolina corporation (together with its successors and assigns, the "Owner").

### RECITALS

A. Realtec is the owner and developer of the Ford's Colony at Williamsburg development containing approximately 2,781.49 acres and which is zoned R-4, Residential Planned Community, with proffers, and subject to a Master Plan heretofore approved by James City County.

B. Realtec has applied to amend its existing Master Plan to change the Master Plan area designations of certain areas shown on the existing Master Plan as shown on the amended Master Plan entitled 2004 Master Plan submitted to the County prepared by AES Consulting Engineers dated October 15, 2004 and described in the October 2004 Addendum to the Ford's Colony at Williamsburg Community Impact Statement in Support of the October 2004 Master Plan Amendment prepared by AES Consulting Engineers. Among the changes are the location of 50 single family residential lots in Section A-33 (the "Lots").

C. In connection with prior Master Plan amendments, Realtec has entered into and James City County has accepted

Amended and Restated Ford's Colony Proffers dated as of September 20, 2002 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in James City as Instrument No. 020024840 and Richard J. Ford has entered into and James City County has accepted Richard J. Ford/Ford's Colony Proffers dated as of September 29, 1995 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in James City Deed Book 757, at page 529 (together, the "Existing Proffers"). Realtec now owns the property subject to the Richard J. Ford/Ford's Colony Proffers referenced above.

D. In consideration of the approval of the amendment of its Master Plan, Owner desires to amend and restate the Existing Proffers as set forth below. If the requested amendment of Master Plan is not approved by James City County, these Amended and Restated Ford's Colony Proffers shall be void and the Existing Proffers shall remain unchanged, in full force and effect.

#### RESTATEMENT AND AMENDMENTS

1. Restatement. The Existing Proffers are hereby restated and incorporated herein by reference.

2. Community Impacts. Owner shall make a contribution of \$750.00 to the County for each of the Lots. Such contributions shall be used by the County to finance off-site road improvements

on News Road, Longhill Road and/or Centerville Road, for schools, libraries or 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 Lots.

3. Emergency Services Contribution. Owner shall make a contribution of \$312.00 to the County for each of the Lots as herein provided. Such contributions shall be used by the County for emergency services purposes or 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 Lots.

4. Water System Contribution. A contribution of \$796.00 for each of the Lots 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 Lots. 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.

5. Timing of Cash Contributions. The cash contributions required by Proffers 2 - 4 above shall be made at the time of the initial sale of the Lot by Owner and shall be disbursed directly to the County and JCSA by the settlement agent for the closing from the proceeds to the Owner, provided, however, all unpaid per Lot contributions required by Proffers 2 - 4 shall be paid on or

before December 31, 2008.

6. Greenway Contribution. At the time of approval of the first final subdivision plat for any of the Lots, Owner shall make a restricted contribution to the Williamsburg Land Conservancy of \$5,000.00 for use by the Williamsburg Land Conservancy for the acquisition of greenways and/or development of trails within existing greenways within James City County. On or before the first, second and third anniversaries of the approval of the first final subdivision plat of Lots, Owner shall make additional restricted contributions to the Williamsburg Land Conservancy of \$5,000.00 for use by the Williamsburg Land Conservancy for the acquisition of greenways and/or development of trails within existing greenways within James City County. A further condition of these contributions shall be that if for any reason the Williamsburg Land Conservancy is unable or unwilling to use the contributions for their intended purpose within four years of the date of the initial contribution, that the Williamsburg Land Conservancy shall transfer the funds contributed to it pursuant to this Condition to the County's greenway fund included in the County's capital improvement program for the acquisition of greenways and/or development of trails within existing greenways within James City County. If any contribution required by this Proffer is not made when due, the County shall not be obligated to approve subdivision plats or

site plans until such contribution has been made.

7. Community Services Contributions. At the time of approval of the first final subdivision plat of any of the Lots, Owner shall make a contribution to Housing Partnerships of \$4,000.00 for use by Housing Partnerships within James City County and a contribution of \$1,000.00 to the County's Neighborhood Connections program. On or before the first, second and third anniversaries of the approval of the first final subdivision plat of Lots, Owner shall make additional contributions to Housing Partnerships of \$4,000.00 for use by Housing Partnerships within James City County and additional contributions of \$1,000.00 to the County's Neighborhood Connections program. If any contribution required by this Proffer is not made when due, the County shall not be obligated to approve subdivision plats or site plans until such contribution has been made.

WITNESS the following signatures.

REALTEC INCORPORATED

By: [Signature]  
Title: VP OPERATIONS

STATE OF VIRGINIA

CITY/COUNTY OF James City

The foregoing instrument was acknowledged before me this 1 day of November, 2004 by Drew Mulhare as Vice President of

Realtec Incorporated.

Karen J. Lead  
NOTARY PUBLIC

My commission expires: July 31, 2005



**To:           The Planning Commission**

**From:       Karen Drake, Senior Planner**

**Re:          Permitting Accessory Apartments in Mixed Use Districts**

**Date:       December 6, 2004**

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The New Town Design Review Board and New Town Associates have requested that the Planning Division review the Mixed Use District Zoning Ordinance to consider permitting accessory apartments within the district.

The James City County Zoning Ordinance Section 24-2 defines accessory apartments as:

A separate complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single family dwelling. The accessory apartment may not occupy more than 35% of the floor area of the dwelling.

As interpreted by the Zoning Administrator, an accessory apartment must be part of the primary structure and includes a kitchen and bathroom since accessory structures shall not be used for housekeeping. Accessory structures are defined in the Zoning Ordinance as a subordinate building located on the same lot occupied by the main use or building. Garages separated from the main dwelling unit cannot contain accessory apartments, but can have bathrooms. The Zoning Administrator has interpreted that a garage connected to the main dwelling unit by a breezeway or covered sidewalk is not attached, therefore cannot contain an accessory apartment because this scenario does not comply with the definitions of a single family detached unit or dwelling unit. JCSA permits one water meter per house, however the owner at his expense can install and maintain a sub-meter to the accessory apartment if desired.

Section 24-32 of the Zoning Ordinance further details special requirements for accessory apartments:

Accessory apartments shall comply with the following requirements:

- (1) Only one accessory apartment shall be created within a single family dwelling.
- (2) The accessory apartment shall be designed so that the appearance of the building remains that of a one family residence. New entrances shall be located on the side or rear of the building and the apartment may not occupy more than 35% of the floor area of the dwelling.
- (3) For purposes of the location and design, the accessory apartment is part of the main structure and shall meet all setback, yard and height regulations applicable to the main structures in the zoning district in which it is located.
- (4) Off-street parking shall be required in accordance with Section 24-53 of this chapter.

The following list summarizes in which zoning district accessory apartments are currently permitted, specially permitted or not permitted.

**Permitted Use in accord with Section 24-32**

A-1 General Agriculture  
R-2 General Residential  
R-5 Multi-Family Residential  
R-8 Rural Residential

**Specially Permitted in accord with Section 24-32**

R-1 Limited Residential  
R-6 Low Density Residential

**Not Permitted**

R-4 Residential Planned Community  
LB Limited Business  
B-1 General Business  
M-1 Limited Business/Industrial  
M-2 General Industrial  
RT Research and Technology  
PUD Planned Unit Developments  
MU Mixed Use

Note that the following zoning districts; LB, B-1, M-1, M-2, and R&T, all permit apartments for guards or caretakers as a secondary use of the property but not accessory apartments.

Regarding the 2003 Comprehensive Plan, accessory apartments are referenced in Housing Action #2 which states “in order to protect the character of established residential neighborhoods, installation of an accessory apartment will only be allowed with a special use permit.”

**Staff Recommendation**

1. Staff recommends that the Zoning Ordinance be amended *to permit accessory apartments as a by-right residential use in the Mixed Use Zoning District.* The purpose of the mixed used district is to promote a broad spectrum of land uses in more intensive development of lands. The mixed use district is designed to provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures, and common facilities; varied type design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths. Staff believes that accessory apartments will compliment residential uses already permitted in the mixed use district such as apartments, multiple family dwellings, townhouses, two family dwellings and single family dwellings.

2. Regarding the 2003 Comprehensive Plan Housing Action #2 that accessory apartments will only be allowed with a special use permit, staff notes that for new mixed use districts the property must be rezoned, thus providing an opportunity to review in a public hearing setting the impacts of accessory apartments along with the entire development.

For existing mixed used districts there are two possible scenarios. The first scenario is that the mixed use development's governing master plan will not permit accessory apartments without a rezoning and a public hearing. The second scenario is there are some existing mixed use projects that have the flexibility in their master plan to permit accessory apartments, such as New Town or Norge Neighborhood.

Therefore, staff recommends that an additional special requirement for accessory apartments proposed below be added to Section 24-32 of the Zoning Ordinance. This additional requirement will allow staff the opportunity to review administratively that parking and emergency access are available to the accessory apartment as well as the opportunity for review by the Development Review Committee if there is a controversy. The special requirement proposed is:

- (5) *All accessory apartments in mixed use districts shall be shown on and be approved along with the original site plan for a development and shall contain adequate parking and emergency service access as determined by the Planning Director.*

At the November 1, 2004 Planning Commission meeting, the initiating resolution for this Zoning Ordinance amendment was approved by a vote of 5-0. The Policy Committee met on December 2, 2004 to review this matter in greater detail and will be prepared to make their recommendation to the Planning Commission. Staff recommends approval of this Zoning Ordinance Amendment.

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Karen Drake  
Senior Planner

Attachment: Ordinance Amendment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, SECTION 24-32, SPECIAL REQUIREMENTS FOR ACCESSORY APARTMENTS; AND ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE, MU, SECTION 24-521, PERMITTED USES.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-32, Special requirements for accessory apartments; and Section 24-521, Permitted uses.

Chapter 24. Zoning  
Article II. Special Regulations  
Division 1. In General

**Sec. 24-32. Special requirements for accessory apartments.**

Accessory apartments shall comply with the following requirements:

*(5 )All accessory apartments in mixed use districts shall be shown on and be approved along with the original site plan for a development and shall contain adequate parking and emergency service access as determined by the planning director.*

Division 15. Mixed Use, MU

**Section 24-521. Permitted Uses.**

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

(1) Residential uses:

*Accessory apartments.*

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11<sup>th</sup>  
day of January, 2005.

**To: The Planning Commission**  
**From: Matthew Arcieri, Planner**  
**Re: Permitting Fast Food Restaurants in Mixed Use Districts**  
**Date: December 6, 2004**

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During its review of several recent mixed use cases, it has come to staff's attention that fast food restaurants are neither permitted nor specially permitted in the MU, Mixed Use Zoning District.

The James City County Zoning Ordinance Section 24-2 defines fast food restaurants as:

Any establishment whose principal business is the sale of pre-prepared and rapidly prepared food directly to the customer in a ready-to-consume state for consumption either at the restaurant or off premises.

The following list summarizes in which zoning districts fast food restaurants are currently permitted or not permitted.

**Permitted Use**

R-4 Residential Planned Community  
B-1 General Business

**Not Permitted**

A-1 General Agriculture  
R-1 Limited Residential  
R-2 General Residential  
R-5 Multi-Family Residential  
R-6 Low Density Residential  
R-8 Rural Residential  
LB Limited Business  
M-1 Limited Business/Industrial  
M-2 General Industrial  
RT Research and Technology  
PUD Planned Unit Developments  
MU Mixed Use

Restaurants (defined as any building in which, for compensation, food or beverages are dispensed for consumption on the premises) are also permitted in the R-4 and B-1. Note that restaurants, excluding fast food, are permitted in the MU, PUD and M-1 districts and specially permitted in the LB, R-8 and A-1 districts.

The James City County Zoning Ordinance Section 24-147 also requires that fast food restaurants be reviewed by the Development Review Committee.

**Staff Recommendation**

1. Staff recommends that the Zoning Ordinance be amended to permit fast food restaurants as a by-right residential use in the Mixed Use Zoning District. The purpose of the mixed used district is to promote a broad spectrum of land uses in more intensive development of lands. The mixed use district is designed to provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures, and common facilities; varied type design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths.

Staff believes that fast food restaurants are appropriate for inclusion in the mixed use district. The mixed use district is intended for more intensive development of the land. Given the higher traffic generation and other potential impacts of fast food restaurants (noise, lighting, late night operating hours), it is appropriate to include this use in the mixed use district. In addition, inclusion of this use satisfies the intention of the district to provide flexibility in land planning and development.

Staff notes that Section 24-147 of the James City County Zoning Ordinance requires all fast food restaurants to be reviewed by the Development Review Committee. Given this additional review requirement, staff is confident any proposal for a fast food restaurant will receive appropriate review by both staff and the Planning Commission.

There are four existing mixed use districts in James City County: New Town, Colonial Heritage, Norge Neighborhood and Ironbound Village:

1. New Town, through its Design Review Board, retains full control over the layout and design of any structure.
2. Colonial Heritage contains provisions in its proffers requiring design review standards for nonresidential uses be approved by the Planning Director and that all subsequent plans are reviewed by the DRC against these standards.
3. Norge Neighborhood prohibits fast food restaurants by proffer.
4. Ironbound Village does not permit any commercial use on its binding master plan.

Staff believes that adequate authority exists for review of fast food restaurants in any of the existing mixed use districts.

2. At the November 1, 2004 Planning Commission meeting, the initiating resolution for this Zoning Ordinance amendment was approved by a vote of 5-0. The Policy Committee met on December 2, 2004 to review this matter in greater detail and will be prepared to make their recommendation to the Planning Commission. Staff recommends approval of this Zoning Ordinance Amendment.

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Matthew Arcieri  
Planner

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24 ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE DISTRICT, MU, SECTION 24-521, PERMITTED USES.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning is hereby amended and reordained by amending Section 24-521, Permitted Uses.

Division 15. Mixed Use, MU

**Section 24-521. Permitted Uses.**

Restaurants, *fast food restaurants, tea rooms and taverns.*

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11<sup>th</sup> day of January, 2005.



Planning Commission 2005 Schedule						
Meeting Dates	Reserve Dates	Application Deadlines	Ad to the Press	Display Dates	APO/Applicant Letters	Packets Delivered
Jan 10	Jan 12	Nov 29	Dec 20	Dec 22 & 29	Dec 27	Jan 5
Feb 7	Feb 9	Dec 27	Jan 14	Jan 19 & 26	Jan 24	Feb 2
Mar 7	Mar 9	Jan 24	Feb 14	Feb 16 & 23	Feb 18	Mar 2
Apr 4	Apr 6	Feb 22	Mar 14	Mar 16 & 23	Mar 21	Mar 30
May 2	May 4	Mar 21	Apr 11	Apr 13 & 20	Apr 18	Apr 27
Jun 6	Jun 8	Apr 25	May 16	May 18 & 25	May 23	Jun 1
Jul 11	Jul 13	May 31	Jun 20	Jun 22 & 29	Jun 27	Jul 6
Aug 1	Aug 3	Jun 20	Jul 11	Jul 13 & 20	Jul 18	Jul 27
Sep 12	Sep 14	Aug 1	Aug 22	Aug 24 & 31	Aug 29	Sep 7
Oct 3	Oct 5	Aug 22	Sep 12	Sep 14 & 21	Sep 19	Sep 28
Nov 7	Nov 9	Sep 26	Oct 17	Oct 19 & 26	Oct 24	Nov 2
Dec 5	Dec 7	Oct 24	Nov 14	Nov 16 & 23	Nov 21	Nov 30

## DRC 2005 Schedule

Meeting Dates	Application Deadlines	Packets Delivered
Jan 5	Dec 1	Dec 30
Feb 2	Dec 29	Jan 28
Mar 2	Jan 26	Feb 25
Mar 30	Feb 23	Mar 25
Apr 27	Mar 23	Apr 22
Jun 1	Apr 27	May 27
Jul 6	Jun 1	Jul 1
Jul 27	Jun 22	Jul 22
Sep 7	Aug 3	Sep 2
Sep 28	Aug 24	Sep 23
Nov 2	Sep 28	Oct 28
Nov 30	Oct 26	Nov 23

## PLANNING DIRECTOR'S REPORT

December 2004

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

1. Corridor Enhancement Committee. The Committee met in November to continue work on the Jamestown Road demonstration project. Detailed landscape plans have been completed for two areas by Planning Division staff and were presented to the Committee in November. Planting is expected to take place this planting season. The Committee also drafted a grant incentive program to encourage property owners to enhance their buildings and grounds.
2. Virginia Capital Trail and Green Springs Trail Projects. Staff continued to work with VDOT and adjacent property owners on the design and location of the trail, screening for adjacent properties, and other issues. Meetings were held with individual property owners and will continue. The location of both trails has been staked and can be viewed from Route 5 and Greensprings Road. Construction is scheduled for 2005.
3. 2007 Community Activities Task Force. The Task Force continued to meet in November to plan and coordinate community activities and beautification efforts.
4. Site Planning Roundtable. The Roundtable met November 16 and completed its work. Discussions about implementation of the Roundtable's recommendations are underway.
5. Route 199 Opening. The widened section of Route 199 between Pocahontas Trail and South Henry Street opened on November 23. The project was completed 5 months ahead of scheduled and within budget.
6. Fernbrook Scenic Easement. The Fernbrook Home Owners Association brought to the County's attention encroachments into the 100 foot scenic easement along Greensprings Road by two property owners that had constructed fences. On November 23 the Board of Supervisors upheld the Zoning Administrators request to remove the fences.
7. Up-Coming Public Hearing Cases.

### **Case No. Z-13-04/MP-10-04/SUP-31-04. Monticello at Powhatan North**

**(Phase III)**. Mr. Tim Trant of Kaufman & Canoles has submitted an application to rezone 36.5 acres of land from R-8, Rural Residential District to R-2, General Residential District, Cluster, with proffers. The applicant proposes 96 apartment multi-family units. The property is at 4450 Powhatan Parkway, and is further identified as Parcel (1-1) on James City Real Estate Tax Map (38-3). The property is designated Low Density Residential on the Comprehensive Plan 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 gross density of 2.63 units per acre.

**SUP-32-04. Williamsburg Place.** Mr. Greg Davis and Dustin DeVore have applied on behalf of Diamond Healthcare of Williamsburg for a special use permit to expand the existing facility of Williamsburg Place located at 5477 Mooretown Road by enlarging the dining room, office space and adding 12 outpatient unit. Williamsburg Place is a highly structured, 24-hour residential, intermediate care facility that was established in 1989 with SUP-44-88 and expanded in 1992 with SUP-22-92.

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O. Marvin Sowers, Jr.