

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
AUGUST 1, 2005 - 7:00 p.m.

1. ROLL CALL
2. MINUTES
 - A. July 11, 2005 Regular Meeting
3. COMMITTEE AND COMMISSION REPORTS
 - A. Development Review Committee (DRC) Report
 - B. Other Committee Reports
4. PUBLIC HEARINGS
 - A. Z-6-05/MP-4-05 Warhill Tract
 - B. Z-8-05 Williamsburg Wicker and Ratten
 - C. MP-9-05/SUP-21-05 Olde Towne Timeshares
 - D. Z-7-05/MP-5-05 Jamestown Retreat
 - E. Z-12-05 Toano Business Center
 - F. AFD-7-86 Mill Creek AFD – Findley Addition
 - G. SUP-25-05/MP-10-05 Prime Outlets Master Plan Amendment
 - H. SUP-24-05 Williamsburg Winery – Gabriel Archer Tavern
 - I. SUP-22-05 Shops at Norge Crossing
 - J. SUP-23-05 TGI Friday's
 - K. SUP-20-05 USA Waste of Va. Landfills, Inc. Renewal
 - L. SUP-19-05 Branscome Burrow Pit Renewal
 - M. Z-4-05/SUP-7-05 New Town, Langley Federal Credit Union
 - N. Z-10-05/SUP-17-05/MP-7-05 The Villages at Whitehall (LaGrange)
 - O. Z-11-05/SUP-18-05/MP-8-05 The Villages at Whitehall
(Task, Neck, Rochambeau)
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 ELEVENTH DAY OF JULY, TWO-THOUSAND AND FIVE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1.	<u>ROLL CALL</u>	<u>ALSO PRESENT</u>	<u>ABSENT</u>
	Jack Fraley	Marvin Sowers, Planning Director	Don Hunt
	Ingrid Blanton	Leo Rogers, County Attorney	George Billups
	Jim Kennedy	Matthew Arcieri, Senior Planner	
	Mary Jones	Tamara Rosario, Senior Planner II	
	Wilford Kale	Karen Drake, Senior Planner II	
		Ellen Cook, Planner	
		Leo Rogers, County Attorney	
		Larry Foster, General Manager JCSA	
		Darryl Cook, Environmental Director	
		Scott Thomas, Civil Engineer	
		Christy Parrish, Administrative Services Coordinator	

2. MINUTES

Mr. Fraley corrected page one to add “and provide adequate athletic fields” to the last paragraph and corrected “Mr. Kale motioned the approved the report” to “Mr. Kale motioned to approve the report.”

Mr. Kale motioned to approve the minutes as circulated and amended.

Ms. Blanton seconded the motion.

In a unanimous voice vote the minutes were approved as circulated and amended (5-0), (Hunt and Billups absent).

3. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley presented the report. The DRC considered three cases at its July 6th meeting.

The DRC unanimously recommend preliminary approval, subject to agency comments of the July 2005 quarterly update for shared parking in New Town, Section 2&4, Blocks 2,3,4,5,6,7, 8 & 10 as well as continuation of quarterly parking update presentations to the DRC. The Committee also recommend preliminary approval, subject to agency comments, of S-53-05 Kingsmill- Spencer’s Grant, of the cul-de-sac waiver, and approval of the sidewalk waiver by a vote of 3-1.

Lastly, the DRC recommended disapproval of case S-91-04 Marywood proposal by a voice vote of 3-1. The DRC determined that the proposal did not properly minimize environmental

impacts and created a traffic situation harmful to the safety, health and general welfare of the public.

Ms. Jones motioned to approve the report.

Mr. Kale seconded the motion.

In a unanimous voice vote the report was approved (5-0) (Hunt and Billups absent)

B. OTHER COMMITTEE REPORTS - None

4. PLANNING COMMISSION CONSIDERATION

A. Initiating Resolution – Zoning Ordinance Amendment – Wireless Communications Facilities.

Mr. Marvin Sowers presented the request and stated that this was a housekeeping resolution which adds Section 24-122 to permit towers in the R-4 Zoning District.

Mr. Fraley asked if there was any discussion from the Board.

Ms. Blanton motioned to approve the request.

Ms. Jones seconded the motion.

In a unanimous voice vote the request was approved (5-0) (Hunt and Billups absent).

5. PUBLIC HEARINGS

- A. Z-6-05/MP-4-05 Warhill Tract
- B. Z-8-05 Williamsburg Wicker and Rattan
- C. MP-9-05/ SUP-21-05 Olde Towne Timeshares
- D. Z-7-05/MP-5-05 Jamestown Retreat
- E. SUP-19-05 Branscome Burrow Pit SUP Renewal
- F. SUP-20-05 USA Waste Burrow Pit Renewal

Mr. Fraley stated that the applicants for items 5-A through 5-F requested deferral of those cases until the August 1, 2005 meeting.

Mr. Fraley opened the public hearing.

Hearing no requests to speak, the public hearings were continued to the August 1, 2005 meeting.

G. Z-9-05/MP-6-05 Governor's Grove

Mr. Matthew Arcieri presented the staff report. Mr. Eric Nielsen, National Housing has submitted an application to rezone 23.23 acres located on John Tyler Highway from R-8 and B-1, to Mixed Use, with proffers. The property is bisected by John Tyler Highway into a northern portion of 14.93 acres and southern portion of 8.33 acres. If approved, the developer would construct 132 market rate condominiums on the northern portion to be known as Governor's Grove. On the southern portion the developer proposes preserving 5.33 acres as a permanent open space. The remaining three acres would be reserved for 25,000 square feet of office/commercial with access exclusively from Ironbound Road adjacent the Zooms Convenience Store.

The applicant has also requested modification to the perimeter setback for the commercial parcel. The proposal would reduce the buffer adjacent to the Zooms Convenience Store and open space from 50 to 25 feet. Staff believes the reduced buffers will still substantially preserve existing vegetation on the site. In addition, the applicant has proffered architectural and landscape review by the Planning Director of any structures built on the site.

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 Comprehensive Plan and the Primary Principles for Five Forks Area of James City County. Staff recommends the Planning Commission recommend approval of the rezoning and master plan applications and acceptance of the voluntary proffers. Staff also recommends the Commission approve the buffer modifications to the commercial parcel.

Ms. Ingrid Blanton asked staff to elaborate on the low impact design features for this project.

Mr. Arcieri stated that details of the low impact design features have not been spelled out specifically for this case. However, the features are generally addressed during the development plan review. The Storm Water Master Plan, as proffered, would give the Environmental Division significant leverage in working with the applicant to develop what those low impact design measures would be.

Mr. Kale asked if there had been any discussion about specific plans for the commercial parcel beside Zooms.

Mr. Arcieri stated that there were not, however, the proffers limit the parcel to an office use and in order to go to a more intense use a new traffic study would be required.

Mr. Kale asked since there were no plans for the parcel then, why would staff recommend a reduction in the buffers.

Mr. Arcieri stated that a reduction in the buffer adjacent to the open space does not have any impact on adjacent property owners and the buffer along Zooms will not impact the vegetation on that site. Due to the narrowness of the lot, the applicant felt they needed a little more space for the development.

The Board and staff discussed the issues concerning the buffer reduction requests and the appearance of the development.

Mr. Fraley asked if curbs and gutters were a requirement in the Mixed Use District.

Mr. Arcieri stated that it was not a requirement.

Mr. Fraley requested staff to encourage the developer to consider the elimination of curbs and gutters and to establish a Turf Management Plan between the Planning Commission and Board of Supervisors meetings.

Mr. Kennedy asked if irrigation systems would be allowed in this development.

Mr. Arcieri stated yes, however, the proffers state that the water must be drawn from surface ponds and not from a JCSA well.

Mr. Kennedy stated concerns about these arrangements being eliminated in the future like some other developments in the past.

Ms. Blanton stated that the Board had received some feedback from the Friends of Powhatan Creek Watershed concerning the encroachments into the 150' buffer such as pedestrian trails, entry ways, turning lanes etc. and asked if those concerns had been addressed in the way this buffer will be managed.

Mr. Arcieri discussed the applicant's plan for pedestrian trails, two areas of enhanced landscaping and a proffer for any disturbed area.

Ms. Blanton stated concerns of the tree line being thin.

Mr. Arcieri stated that staff has worked extensively to make sure that any turn lane improvements do not impact the first tree line and expose the power lines.

Ms. Jones asked why there was not a conservation easement on the open space across the street.

Mr. Arcieri deferred the question to the applicant

Mr. Fraley opened the public hearing.

Mr. Vernon Geddy, representing the applicant, gave a presentation outlining the application and asked the Planning Commission to recommend approval of this application. He also stated that this project is consistent with surrounding zoning and development, housing, land use, and community character elements of the Comprehensive Plan and believes it is the best plan for the property and the County.

Mr. Kale discussed with Mr. Geddy how adjacent properties affect other adjacent properties whether they are an infill or a continuation.

Ms. Jones asked about the conservation easement.

Mr. Geddy replied that there was a concern from their tax advisers that if it were proffered it might adversely impact their ability to get a charitable tax deduction.

Mr. Fraley and Mr. Geddy discussed the elimination of curb and gutters in order to capture more of the storm water runoff through infiltration and the suggestion of a Turf Management Plan.

Ms. Blanton encouraged the applicant to consider coordinating the Storm Water Management Plan with the neighboring Villas project.

Mr. Fraley asked about potential traffic patterns around the proposed commercial area.

Mr. Geddy stated that with the location of the turn lanes approaching the intersection, VDOT has made it very clear that it would be a right in and a right out.

Mr. Gerald Johnson, 4513 Wimbledon Way, President of the Historic Route 5 Association stated the following concerns: (1) traffic studies and when those studies were done; (2) traffic congestion in this area has increased; (3) potential traffic backups with additional cars in this area; (4) concern about a pull off lane instead of a right turn lane; (5) concern about conservation areas being renovated and restored; (6) a lack of information regarding the latest proposal to this revised plan.

Ms. Judy Fuss, 3509 Hunter's Ridge, representing the Powhatan Crossing HOA stated that while Powhatan Crossing is not contiguous to this parcel, the development as proposed will negatively affect the residences in many ways. While this proposal reduces the per acre density, there is little that elevates prior concerns of traffic and additional school age children on already strained resources. The program capacity of Clara Byrd Baker and Jamestown High School and the total design capacity for all three schools that serves this area are already exceeded. The staff says that the project meets the adequate school facilities test, however, this test is based on designed instead of program capacity and does not reflect building use. There are concerns that vehicle trips from the development will strain the Ironbound/Route 5 intersection. VDOT's requirement that all traffic exit southbound on Ironbound Road shifts this problem from this parcel's driveway to nearby areas such as the school, shopping center and the Villas neighborhood. After comments made tonight, they remain concerned about the 150' buffer on the north side of Route 5, the existing vegetation is of poor quality and many elements are proposed to be inside the buffer reducing its effectiveness. National Housing has made little effort to assess the special character of this area or to communicate with its residents. The overall project is not consistent with the spirit of Five Forks Principles or the character of the surrounding community.

Melissa Gagne, 4716 Bristol Circle, expressed concerns about the height of buildings not being consistent with the Five Forks Area. Ms. Gagne also noted that the housing is all market

priced and there is not a proffer stating that 20% will be one bedroom. It is not mixed for a variety of people. There is concern about community care and workforce housing.

Mr. David Fuss, 3008 Chelsford Way, of Friends of Powhatan Creek stated that volunteers have met the developer on three different occasions concerning this project. The Friends of Powhatan Creek do not feel that this project fully meets the high standards for the Five Forks Area. The following are the observations and concerns the group had: (1) project within the Powhatan Creek watershed; (2) prefers that the project be developed under the existing allowable density; (3) encourage the use of a conservation easement on the south parcel; (4) site has never had as much impervious cover as what is proposed on the plan; (5) high impervious cover as proposed for the north parcel leads to deterioration of water quality; (6) the width of the buffer from Powhatan Creek (needs to be fully vegetative); (7) the intrusions within the 150' buffer along Route 5; (8) no areas on the Master Plan shown to be dry swales; (9) need more details on the environmental features; (10) appreciates the \$500 per unit proffer for offsite stream stabilization or storm water management but it should be never construed as a substitute for controlling storm water on site; (11) concerns about the absence of the Nutrient Management Plan; (12) encourages joint storm water management with the adjacent Villas at Five Forks; (13) Water Conservation Plan is commendable. Native drought tolerant planting should be used to reduce water consumption. The Friends of Powhatan Creek recommends denial until some of these concerns are worked out.

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

Mr. Fraley asked for discussion from the Commission.

Ms. Blanton commented that as a whole, the project is a good idea. As the project moves forward and to the DRC, the environmental concerns will be explored further. Ms. Blanton further stated that she encourages one-bedroom units to be included to provide affordable housing for our workforce.

Mr. Kennedy stated he would echo much of what Ms. Blanton stated. The project as a whole addressed many of the concerns of the past project. The project is a positive step forward. He also stated he would encourage the developer to include some one-bedroom units.

Mr. Kale stated that this is a far superior project to the one before. This project is complimentary to the Five Forks Study which encouraged housing in a situation where people could walk to the area. He stated he would also like to see less density but sees the economic reality of trying to put a project together. Mr. Kale urged the developer to solidify the open space property so that it could be a real asset and also to include the one-bedroom units.

Ms. Jones stated she agreed with the others and that the density is fine. This project complies with the Comprehensive Plan and the Five Forks Principles, and she likes the mixed cost housing. She encouraged the applicant to include a percentage of one bedroom units. Ms. Jones also stated that she appreciated the attention to the environmental issues. She concluded by stating that this was an overall good project and liked the open space but was concerned about the potential traffic coming in and out of the commercial area.

Mr. Fraley stated he would like to echo all the other comments and encourages staff to work with the applicant on the environmental issues so we get a project that we can be absolutely proud of. Lastly he stated that this area is an eyesore and is proud to support this plan.

Mr. Kennedy motioned approval.

Ms. Jones seconded the motion.

The Planning Commission voted 5-0 to support the application: YES: (5) Jones, Fraley, Blanton, Kennedy, Kale NO: (0) Absent: (2) Hunt, Billups

H. Z-4-05/SUP-7-05 New Town, Langley Federal Credit Union

Ms. Tamara Rosario presented the staff report. Mr. Tom Horner of Langley Federal Credit Union has applied for a setback modification, special use permit, and rezoning of approximately 2 acres from M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers. The applicant seeks to construct a two-story, 16,000 square-foot bank and office building on the northeast corner of Monticello Avenue and New Town Avenue in the New Town area. As shown on the attached master plan, the proposal also includes six drive-thru teller lanes and one drive-thru ATM lane at the rear of the building. Access to the site is from a side street off New Town Avenue. The property is located at 5220 Monticello Avenue and is further identified as Parcel (1-55) on James City County Tax Map (38-4).

Although staff finds the master plan for the proposal generally consistent with the New Town Design Guidelines and surrounding development, the original proffers in the Commission's meeting packet do not properly effectuate the master plan, provide adequate mitigation of public impacts, or provide sufficient safeguards for the orderly development of the area in accordance with its Mixed Use land designation. The ramifications of these shortcomings are important not only for this application, but also for the precedent it sets for the New Town rezonings anticipated in the near future. For these reasons, the staff report recommends the Planning Commission deny the setback modification, special use permit, and rezoning for the proposed use.

Since the staff report was prepared, the applicant has related to staff that the Langley Federal Credit Union has decided to join the New Town Owner's Association and forwarded new proffers to staff to that effect. This resolves staff's questions regarding storm water management and the proposal's fulfillment of the intent of the Mixed Use land designation. In addition, they have also agreed to make all revisions to the proffers to clarify the improvement of the side street, the exit lane, the cash contribution, the binding Master Plan, and the development of the streetscapes. Based on the recent development and assurances by the developer that the proffers will be revised and signed prior to the Board of Supervisors meeting, staff now recommends the Planning Commission approve the setback modification, special use permit and rezoning for the proposed use.

Ms. Blanton and Ms. Rosario discussed whether the project has any formal arrangements for shared parking.

Ms. Blanton stated that six or seven drive-thru lanes is not consistent with the New Town pedestrian community and asked whether there was discussion of that issue.

Ms. Rosario stated that staff related to the DRB during their review process staff's concerns with the number of drive-thru lanes as well as the visual effect on Monticello Avenue. The DRB concurred with staff and encouraged the applicant to redesign the Master Plan and architectural features of the property. Since the original proposal, they have reoriented the lanes, extended a wall to the drive-thru lanes to block some of the view, provided enhanced landscaping and added architectural elements to the drive thru itself. With these modifications, the DRB approved the proposed number of drive-thru lanes.

Ms. Blanton asked why was there a need for so many drive-thru lanes for a community that is supposed to be so pedestrian oriented.

Ms. Rosario deferred the question to the applicant.

Mr. Kale asked for clarification whether there were six or seven proposed drive-thru lanes.

Ms. Rosario stated that there were six drive-thru lanes and one drive up ATM.

Mr. Kale discussed his concerns with the amount of drive-thru lanes proposed for this project.

Mr. Kennedy stated his concerns with the number of banks moving to New Town.

Mr. Kennedy also discussed with staff his concerns with traffic counts and the level of service anticipated on Monticello Avenue.

Mr. Fraley asked if there had been discussions concerning the previously stated concerns with the New Town DRB.

Ms. Rosario stated that there had been some discussion about the number of drive thru lanes and its compatibility with the New Town area. In general, they felt comfortable with the number of lanes given the proposed pedestrian enhancements described on the Master Plan, architectural features and screening.

Mr. Fraley opened the public hearing.

Mr. Raymond Suttle, representing the applicant, gave a brief overview of Langley Federal Credit Union and the project. He stated the need for the drive-thru lanes is during certain peak hours and the site is large enough to accommodate those lanes.

Ms. Blanton discussed with the applicant the number of drive-thru lanes and if their other locations were more pedestrian friendly.

Mr. Kale stated he was not impressed with the design and felt that the project does not need seven drive-thru lanes for two peak hours. He also stated he did not like the design of the parking spaces and feels that the location of the site is more conducive for open space. The building appears to be an attractive building but is overwhelmed by what is outside.

Mr. Kale stated that he finds the density, amount of impervious cover and lanes cumbersome; it encourages people to drive thru rather than walk and thought that the applicant can come up with a better idea instead of using the property to the maximum. He suggested the applicant consider shared parking and providing more open space.

Mr. Suttle stated that he understands his concerns but the DRB had reviewed the project.

Mr. Kales stated that they had to get the rezoning from the Planning Commission.

Mr. Rich Costello, AES Consulting Engineers, stated that the drawing was incorrect. There are not seven lanes but five drive-thru lanes and one ATM drive up with more landscaping along the front. The project has a significant amount of pedestrian features on the two streets. As shown in a study, credit unions have more drive-thru lanes than banks. He also discussed work between the applicant and the DRB to resolve these concerns and the DRB was very satisfied with the pedestrian access points.

Mr. Fraley commented that there were financial institutions fronting on Monticello Avenue that did not have that many drive-thru lanes.

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

Mr. Fraley asked staff if they would support fewer drive-thru lanes.

Ms. Rosario stated that staff would be supportive.

Mr. Kale stated that he would like to see three drive-thru lanes and one ATM drive up because he did not think that Langley is as big as the Bank of America. Mr. Kale requested to see the proffer changes and other elements resolved prior to voting on this case and suggested a deferral of this project.

Ms. Jones stated that that it was a good idea to defer the project due to discrepancies between the plans presented and that she would prefer to see a reduction of drive-thru lanes.

Ms. Blanton agreed with a deferral and would also support a reduction in drive-thru lanes to three and one and she also encouraged shared parking.

Mr. Kennedy stated concerns that New Tow was becoming a large relocation town for existing businesses. He also discussed concerns with the number of drive-thru lanes but realizes that the DRB's review process is pretty tough. He stated he is comfortable with the deferral and would also like to see the drive thru lanes reduced but it would not be a deal breaker.

Mr. Fraley stated he would like to see Langley Federal Credit Union come to New Town; however, he realizes there are several issues up in the air. He could not say he had a preference for fewer drive thru lanes but would feel comfortable with the deferral.

Mr. Kale moved to defer the application until the August 1, 2005 meeting.

Ms. Jones seconded the motion.

The Planning Commission voted 5-0 to defer the application until August 1, 2005 YES:
(5) Jones, Fraley, Blanton, Kennedy, Kale NO: (0) Absent: (2) Hunt, Billups

The Commission adjourned for five minutes.

- I. Z-10-05/SUP-17-05/MP-7-05 -The Villages at Whitehall (LaGrange)
- J Z-1105/SUP-1605/MP-8-05 – The Villages at Whitehall
(Task, Neck, Rochambeau)

Mr. Fraley discussed with the Commission to hear the two cases jointly.

Mr. Kale and Mr. Fraley congratulated and thanked Ms. Karen Drake for her work and service to the County and wished her well in her new endeavors.

Ms. Karen Drake presented the staff report. Mr. Vernon Geddy has submitted an application on behalf of Rauch Development to rezone approximately 160 acres from A-1, General Agricultural and B-1, General Business, to R-2, General Residential District, Cluster Overlay, with proffers; R-5 Multifamily Residential District, Cluster Overlay, with proffers; and B-1, General Business District, with proffers.

If approved, the applicant would develop within the next ten years four related neighborhoods collectively called “The Villages at White Hall” proposing a total of 522 new homes.

1. La Grange Village: 20 three- and four-family building units with a total of 79 dwelling units.
2. Taskinas Village: 70 town home style multi-family units.
3. Rochambeau Village: 31 single family detached homes, 49 town home style multi-family units and 14 duplex two-family units for a total of 94 units.
4. Hickory Neck Village: The largest of the neighborhoods with 279 dwelling units, comprised of 237 single family detached homes and 42 duplex-style two-family units, tennis courts, clubhouse and swimming pool.

An 8,000 square foot commercial building is also proposed. This parcel is currently zoned B-1, General Business and is proposed to be rezoned to B-1, General Business with proffers prohibiting certain permitted by-right uses.

Staff recommends the Planning Commission approve the rezoning, special use permit and master plan application for LaGrange Village with the special use permit conditions listed in the staff report and acceptance of the voluntary proffers.

Staff recommends the Planning Commission deny the rezoning, special use permit and master plan application for the Taskinas, Rochambeau and Hickory Neck Village. However, if the Planning Commission should choose to approve this application, staff recommends acceptance of the voluntary proffers and approval of the special use permit conditions listed in the staff report.

Mr. Kale asked about the existing two ponds on the property and whether one feeds from the school property and the other one to the west feeds from the natural topography and if they were capable of sustaining the use as a BMP.

Ms. Drake deferred the question to Mr. Darryl Cook of the Environmental Division.

Mr. Cook stated the second pond is receiving drainage from the natural topography.

Mr. Kale asked if it receives drainage from the area that is being considered for development.

Mr. Cook stated that this part of the plan had not been examined yet by staff, but the applicant's engineer could possibly answer the question. It will need to be studied and the lakes reconstructed.

Mr. Kale asked Mr. Cook's opinion about what needed to be done to the ponds to make them capable to serve the proposed use.

Mr. Cook stated that they are going to need significant reconstruction. They have been there for some time and the one further west has significant leakage problems. The other will also need some upgrading.

Mr. Kennedy stated that he thought that the County needs to move in a direction where we require an active Turf Management Program especially with fertilizers and herbicides. The proposed Storm Water Management program comes up annually and the County keeps pushing it to the back burner until the point where it is really going to become problematic. He asked if Mr. Cook would recommend a Turf Management Program for this proposal.

Mr. Cook stated that he did believe that a Nutrient Management Program would be an important component of the overall storm water management for this site. The management plan should be structured such that the common areas would have criteria set for them and the privately owned properties would have more of an education and goal setting oriented program.

Mr. Kennedy and Mr. Cook discussed drainage concerns affecting the creeks and waterways and ways to educate the public about environmental friendly fertilizers.

Mr. Kennedy stated that he is receiving some concerns about the desal facility and the James City County water supply.

Mr. Kennedy and Mr. Foster discussed issues concerning annual daily demands, future water demand projections and development, the second desal facility, Newport News waterworks, Chikahominy Piney Point Aquifer, current population projections, etc.

Mr. Kennedy discussed with Ms. Drake the 10 year development plan and if there had been any discussion concerning development phasing caps.

Mr. Sowers stated that caps had not been addressed by staff or with the applicant but suggested that he could raise the issue with the applicant during his presentation.

Mr. Kennedy stated he was concerned with traffic on Old Stage Road and asked if staff had any concerns.

Ms. Drake stated that staff was relying on VDOT's comments and they had found the traffic study acceptable. The applicant is proffering all of the recommended traffic improvements.

Ms. Blanton asked how far the main entry on Richmond Road was from Anderson's Corner.

Ms. Drake estimated 1200 feet.

Ms. Blanton asked about the vision for Anderson's Corner and how this development fits into that vision.

Ms. Drake stated that Anderson's Corner is designated as a Mixed Use area on the Comprehensive Plan Land Use Designation map. Staff does not have any development plans in for the Anderson's Corner area, however because of the proximity of these three villages to LaGrange, the entrances, building set backs and types of buildings will establish where and how Anderson's Corner can be developed.

Mr. Kale asked if the corner where the commercial building is proposed will remain zoned B-1.

Ms. Drake replied yes.

Mr. Kennedy stated concerns about the lack of the commercial development and this project would send tax dollars from James City County to Wal-Mart, Lowes, and Home Depot in York County. He asked if there was any discussion about any commercial development in this area from the applicant to offset some of this residential development.

Ms. Drake stated there had not been.

Mr. Sowers suggested asking that question to the applicant and reminded the Commission that this area has a tremendous amount of existing commercially zoned property. The commercial on this site, was specifically identified in the Comprehensive Plan as a deliberate inconsistency and given its residential designation in recognition of the large amounts of commercial land that was already there.

Mr. Fraley opened the public hearing.

Mr. Vernon Geddy, representing the applicant, gave a presentation outlining the application's key features, design guidelines, preservation of open space and farm house and the benefits of Villages at Whitehall. He stated that the applicant has decided to increase the Route 60 buffer to 300 feet and reduce the density to 3.0 dwelling units per acre. Mr. Geddy asked the Planning Commission that if they did not want to vote on the project tonight, to please provide feedback on the project.

Mr. Kennedy discussed with Mr. Geddy his concerns of increased of traffic with this development.

Mr. Kennedy asked where the build out number of ten years came from.

Mr. Geddy stated they used a conservative number and model.

Mr. Kale discussed with Mr. Geddy issues concerning a Turf Management Plan and recreation facilities.

Mr. Kennedy and Mr. Geddy discussed whether or not they were actively pursuing acquiring the surrounding properties.

Ms. Blanton asked why the commercial in the earlier was removed.

Mr. Geddy stated that staff told us that this was low density residential land.

Ms. Jones and Mr. Geddy discussed the fiscal impacts of the development.

Ms. Terry Hudgins, 111 Knollwood Drive, stated she was the President of the Stonehouse District Citizens Association which opposes the Villages at Whitehall rezoning. She discussed concerns with proffers, associations, private roads, traffic along Rochambeau, right turn lanes, sidewalks, housing costs, reassessments, pedestrian connections to adjacent properties, etc She stated that overall this is not an appropriate place for the project with respect to traffic concerns, infrastructure, water, police, fire, and the other needs the County would have to provide.

Ms. Linda Rice with the Friends of Forge Road gave a presentation discussing the concerns of the Whitehall project. She asked the Commission to think hard about the cumulative impacts of

this size of development in upper James City County and to think about our friends in New Kent County and how the development is going to collide with the types of development there. They asked that the Commission not approve the rezoning as it is currently presented and discussed the following concerns: (1) financial impacts; (2) increase in property taxes; (3) more revenue or more debt; (4) education; (5) open space; (6) pedestrian connections; (7) buffers; (8) development pressure; (9) bike lanes; (10) conservation easements; (11) water ; (12) traffic; (13) energy efficiency; (14) type of water efficient landscaping; and (15) proffers for the PDR program. She suggested that Toano have some sort of guiding principles for development in this area, because the Village of Toano is under tremendous pressure similar to Five Forks and suggested a moratorium on development in non-PSA areas until the Rural Lands Use Study is complete.

Mr. Michael Delk, 205 Castle Lane, stated he was the rector of Hickory Neck Episcopal Church which is located at 8300 Richmond Rd. Mr. Delk stated that the vast majority of the people he had spoken with are not opposed to this project and as senior pastor and chief executive of Hickory Neck it is his responsibility to speak publicly on issues that impact the future of the congregation. He also stated he supported the Village at Whitehall for three main reasons: (1) a large swath of the property under consideration is zoned B-1 which could be developed by-right and a neighborhood of homes is preferable to the alternative of an office park or a cluster of retail stores; (2) no studies have shown an increase of traffic from this development will result in unacceptable levels of congestion; and (3) people need a place to live. If we prevent the development of a neighborhood that includes some relatively affordable housing, we will deprive the community of a needed asset. Teachers, police officers, clergy, firefighters and nurses generally cannot afford three acre lots and James City County cannot afford to do without basic service providers.

Mr. Rich Krapf, 2404 Forge Road, stated that this particular residential development is not the issue but how to guide growth in upper James City County is. Toano has rural vistas and a countryside which attracts people, but as more and more developments come in, that countryside changes and it becomes a different community. Mr. Krapf quoted from the Comprehensive Plan that "Anderson's Corner is one of the few remaining areas in the PSA with significant rural agriculture vistas and contains one of the few remaining rural historic structures in the County" and from the Vision Statement from the Primary Principles for the Five Forks Area of JCC which was adopted in September 2004. He discussed the unique heritage and invaluable natural resources in danger of being lost and urged the Planning Commission and Board of Supervisors to defer all rezoning requests until the following actions are done: (1) commission a rural lands study for upper JCC; and (2) either expand the charter for the rural lands study or commission a second group to develop primary principles similar to those used by Five Forks to guide growth in the Anderson's Corner and Toano Area.

Dr. James Stam, 104 Woodmont Place, stated that in 2004 1,465 Certificate of Occupancies were issued in James City County. Through April, there were 366 Certificate of Occupancies issued and 1,975 active building residential building permits remain which adds up to 3,806 new homes. There are 13,790 building sites currently available without any rezoning. He discussed concerns with schools over capacity, traffic on Richmond Road, wells running dry, and police and fire services being over taxed. The developer wants to build 522 additional homes which is ten

times the amount that would be allowable under the A-1 zoning. Mr. Stam urged that the Planning Commission recommend denial of the rezoning application.

Mr. Burt Getty, 8297 Richmond Road, stated he supported the development and would prefer to have residential housing rather than the many uses permitted under the B-1 zoning. He also discussed Anderson's Corner being prime real estate over the next five to ten years. He agreed with the other residents of Stonehouse that we want to keep the rural flavor and the open space but this particular corridor is going to be developed.

Mr. Williard Delara, 92 Sandhill Road, discussed concerns of the use about the commercial property and whether that property would be sold or leased and concerns of traffic and speeding along Old Stage Road. He stated that he is not necessarily opposed to the entire project but is concerned about the commercial site being developed into a place where people hang out.

Kevin Kelley, 48 Shirley Road in Newport News, spoke on behalf of the applicant. He stated that he has known the applicant for about 10 years and he is someone who will perform as he says. He is tenacious in his details, has a long professional civic association in our area and has charitable involvement. He believes the project is strong. Mr. Kelley also stated that affordable housing these days is anything under \$300,000 and urged the Planning Commission to support the application.

Mr. Walker Ware, 5004 River Drive discussed that his mother owns property at Anderson's Corner and has not been able cut a deal with Mr. Rauch for commercial development. He also commented on his right to have absolute ownership of his land and that we need to build fewer schools along entrance corridors to prevent traffic slow downs.

Mr. Charlie Crawford, 7849 Church Lane, stated he would just like to echo what Mr. Burt Getty stated earlier and it was a good development.

Mr. Hal Lindsay, 3472 Old Stage Road, stated that Anderson's Corner is probably one of the nicest places around to be developed and was not opposed to development but is opposed to this proposal. He discussed the following concerns: (1) watershed and environmental issues; (2) traffic; (3) development of the Croaker and Rochambeau corner; and (4) parks and recreation. He stated that Anderson's Corner has the potential for a lot of development, but this plan looks like it was put together by somebody who does not actually live in this area.

Seeing no further speakers, Mr. Fraley closed public hearing.

Mr. Fraley asked the Commission for discussion.

Mr. Kennedy stated that this is a quality development but would like to say that Anderson's Corner is one of the last if not the last jewel in James City County for many reasons. Anderson's corner has some beautiful vistas, but thinks that this plan could be tweaked. Mr. Kennedy discussed developing a true environmental impact statement, caps on development and traffic studies. The proposal is very strong but it needs to be embraced by the developer, citizens and County staff, so he would be inclined to say no tonight.

Ms. Blanton stated she agreed with a great deal of what Mr. Kennedy had said and thinks that the location next to Anderson's Corner does present a significant challenge. She continued by stating that we should hold it to a considerably higher threshold and, while the proposed use comes much closer to what is appropriate for Anderson's Corner, she agreed with Mr. Kennedy that it is not quite there and would unfortunately also have to deny approval, but hoped that we can come back and look at a different project for that area.

Ms. Jones stated she liked the density changing to three as well as the 300 foot buffer which is setting a good precedent. Ms. Jones continued by stating that this could be a good project.

Mr. Kale stated that he has seen some very commendable things about this development but the timing was wrong. He stated concerns about the need for a stronger internal artery system between the townhouses to the east. He suggested that the developer go back and take a look at what has been proposed and see what could be done to respond to some of the concerns brought here tonight and to give the community more benefits. He is not prepared to vote against it, but would vote for a deferment.

Mr. Geddy asked the Planning Commission to defer the case so that they may consider what they have heard until the August 1, 2005 meeting.

I. ZO-04-05 Zoning Ordinance Amendment

Ms. Ellen Cook presented the staff report. Staff is proposing to add a new ordinance section and amend an existing ordinance section both related to wireless communications facilities. The changes would be as follows: (1) amend the R-4 district to add tower mounted wireless communications facilities as an SUP and (2) amend the wireless communications facilities section of the ordinance to update the by-right and SUP required summary table, which is the housekeeping amendment that the initiating resolution referred to earlier tonight.

Staff believes that a tower greater than 120 feet in height is something that could potentially be accommodated in the R-4 district in accordance with the Board of Supervisors wireless policy. Residential areas zoned R-4 are large master plan communities that include extensive open space and recreation areas. In this respect R-4 is similar to the Mixed Use and Planned Unit Development districts both of which currently allow tower mounted wireless communications facilities as SUP's. All three of these districts also permit non-residential uses and allow buildings up to 60 feet in height while other residential districts only permit buildings 35 feet in height. Staff recommends that the Planning Commission recommend approval of the attached ordinance amendment.

Mr. Fraley opened the public hearing.

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

Mr. Kennedy motioned approval.

Ms. Jones seconded the motion.

The Planning Commission voted 5-0 to support the amendment: YES: (5) Jones, Fraley, Blanton, Kennedy, Kale NO: (0) Absent: (2) Hunt, Billups

6. PLANNING COMMISSION CONSIDERATION

A. Annual Report

Mr. Sowers presented the Annual Report and asked the Commission to elect one of the members, normally either the Chairman or Vice-Chairman to go to the Board of Supervisors to make the presentation. Staff recommends you adopt it tonight with any suggested changes. The Annual Report would be presented to the Board of Supervisors at the July 26, 2005 meeting.

Mr. Fraley called for any discussion or input.

Ms. Jones made a motion to accept the Annual Report.

Ms. Blanton seconded the motion.

The Planning Commission voted 5-0 to accept the Annual Report: YES: (5) Jones, Fraley, Blanton, Kennedy, Kale NO: (0) Absent: (2) Hunt, Billups

7. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the Planning Director's Report. He stated that the Board of Supervisors will be having a work session on cash proffers on July 26, 2005 and there will be a groundbreaking for the Greensprings Trail tomorrow at Mainland Farm which will be attended by the Governor. The Planning Division in particular played a very strong role as has the Attorney's Office in helping bring this project to fruition.

8. OTHER DISCUSSION

Mr. Kale made a motion that we ask the Board of Supervisors to initiate a study involving the village of Toano and Anderson's Corner.

Mr. Kennedy seconded the motion.

The Planning Commission voted 5-0 to accept the motion: YES: (5) Jones, Fraley, Blanton, Kennedy, Kale NO: (0) Absent: (2) Hunt, Billups

9. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 11:27 p.m.

Donald Hunt, Chairman

O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY
DEVELOPMENT REVIEW COMMITTEE REPORT**

FROM: 7/1/2005 THROUGH: 7/31/2005

I. SITE PLANS

A. PENDING PRELIMINARY APPROVAL

SP-067-04	Treyburn Drive Courtesy Review
SP-077-04	George Nice Adjacent Lot SP Amend.
SP-093-04	Powhatan Plantation Ph. 9
SP-107-04	Noah's Ark Vet Hospital Conference Room
SP-108-04	Williamsburg Office Complex
SP-150-04	Abe's Mini Storage
SP-004-05	Longhill Grove Fence Amendment
SP-007-05	Stonehouse - Clubhouse Point
SP-008-05	Williamsburg National Clubhouse Expansion
SP-009-05	Colonial Heritage Ph. 1, Sec. 4 SP Amend.
SP-016-05	New Town, Retail Ph. 2
SP-017-05	Williamsburg Community Chapel Expansion
SP-021-05	Villages at Powhatan Ph. 5 SP Amend.
SP-022-05	James River Commerce Center Shell Building
SP-024-05	Norge Water System Improvements
SP-031-05	7839 & 7845 Richmond Road Office/Retail
SP-035-05	Baylands Federal Credit Union
SP-043-05	4881 Centerville Second Tower (SP Amend.)
SP-047-05	D.J. Montague E.S. Trailer Amend.
SP-062-05	Greenmount-DCB LLC Storage
SP-064-05	TGI Friday's
SP-065-05	Williamsburg Indoor Sports Complex Expansion
SP-066-05	Warhill Sports Complex Basketball Facility
SP-067-05	WindsorMeade Marketplace, Outparcels 9-11
SP-069-05	Baseball Field Drainage for JHS- SP Amend.
SP-070-05	St. Bede Church Dam Improvement Plan
SP-071-05	Merrimac Center Parking Expansion
SP-072-05	New Town, Block 3, Parcel B
SP-073-05	Jeanne Reed's Office/Warehouse
SP-074-05	Hickory Neck Church New Worship Facility
SP-075-05	Kingsmill Marina Shed
SP-076-05	Warhill Multiuse Trail
SP-079-05	Warhill Water Facility Improvements
SP-080-05	Stonehouse Water Facility Improvements
SP-081-05	Cookes Gardens Shed Addition & Kitchen Display
SP-083-05	New Town - Block 8 Ph 1B Amend. #1
SP-084-05	New Town - Block 8, Parcel E

Tuesday, July 26, 2005

Page 1 of 6

SP-086-05	JCC-Toano Convenience Center
SP-087-05	Archaearium at Historic Jamestowne Amend
SP-088-05	New Town - Block 8 Ph. 1B Amend. #2
SP-089-05	Stonehouse- Rt. 600 Utilities
SP-091-05	Truswood Property Soil Remediation
SP-092-05	Spectrasite VA-1152 Tower
SP-093-05	The Pointe at Jamestown, Ph. 2 Amend.
SP-094-05	Homestead Garden Center
SP-095-05	New Town, Retail Ph. 3
SP-096-05	Norge Railway Station

B. PENDING FINAL APPROVAL

EXPIRE DATE

SP-056-03	Shell Building - James River Commerce Center	3 /14/2006
SP-092-04	Columbia Drive Waterline Extension	8 /18/2005
SP-110-04	Christian Life Center Expansion Ph. 1	12/6 /2005
SP-112-04	Wythe-Will Distribution Center, Landscaping Amend.	10/21/2005
SP-125-04	GreenMount Industrial Park Road Ph. 2	12/2 /2005
SP-135-04	Williamsburg Landing Parking Addition	4 /11/2006
SP-136-04	Stonehouse - Fieldstone Glen Townhomes	2 /7 /2006
SP-139-04	Colonial Heritage Ph. 3, Sec. 1	2 /7 /2006
SP-141-04	Carolina Furniture Warehouse	4 /6 /2006
SP-003-05	Williamsburg National- Golf Maintenance Facility	2 /28/2006
SP-006-05	Stonehouse - The Fairways	6 /6 /2006
SP-011-05	Citizens and Farmers Bank Parking Extension	3 /1 /2006
SP-026-05	Williamsburg Plantation, Sec. 10 Amendment	4 /14/2006
SP-028-05	Oaktree Office & Airtight Self Storage Expansion	5 /2 /2006
SP-030-05	Wedmore Place at Williamsburg Winery	5 /2 /2006
SP-032-05	New Town, Village Square	4 /29/2006
SP-040-05	The Retreat Well Lot SP Amend.	5 /18/2006
SP-041-05	Warhill - Third High School	5 /13/2006
SP-042-05	STAT Services, Inc.	6 /6 /2006
SP-053-05	New Town, Ph. 5, Sec. 4 Roadway	6 /14/2006
SP-057-05	Warhill - High School Access Road	5 /13/2006
SP-059-05	Warhill - Storm Trunk System Improvements	5 /19/2006
SP-060-05	Warhill - Community Sports Stadium Improvements	5 /27/2006
SP-061-05	Warhill - Centerville Road / Route 60 Improvements	5 /13/2006
SP-068-05	New Town, Block 3 SP Amend.	6 /15/2006
SP-077-05	New Town, Block 10	7 /21/2006
SP-082-05	Warhill- Western Pond Dam Renovations	7 /5 /2006

C. FINAL APPROVAL

DATE

SP-063-03	Warhill Sports Complex, Parking Lot Expansion	7 /12/2005
SP-091-03	Colonial Heritage Ph. 1, Sec. 5	7 /13/2005
SP-104-04	Williamsburg Community Chapel, Second Entrance	7 /14/2005
SP-052-05	Jamestown Christian Fellowship Shed Addition	7 /18/2005

SP-058-05	Warhill - Water and Sanitary Sewer Improvements	7 /12/2005
SP-063-05	New Town, Block 5 Amend.	7 /1 /2005
SP-078-05	Hooker Shed Addition	7 /11/2005
SP-085-05	Truck Scale Addition SP Amend.	7 /20/2005
SP-090-05	Godspeed Animal Care Ramp Improvement	7 /22/2005
D. EXPIRED		EXPIRE DATE

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-034-04	Warhill Tract BLE / Subdivision
S-048-04	Colonial Heritage Open Space Easement
S-066-04	Hickory Landing Ph. 1
S-067-04	Hickory Landing Ph. 2
S-091-04	Marywood Subdivision
S-112-04	Wellington Sec. 6 & 7
S-115-04	Brandon Woods ROW Subdivision
S-118-04	Jordan Family Subdivision
S-120-04	New Town, Block 8, Parcel C
S-121-04	Wellington Public Use Site
S-003-05	Waterworks & S. Clement BLA
S-012-05	Greensprings Trail ROW-Waltrip Property Conveyance
S-013-05	Greensprings Trail ROW-Ambler/Jamestown Prop. Conv
S-014-05	Greensprings Trail ROW-P L.L.L.C Prop. Conveyance
S-033-05	3918 Rochambeau Drive Family Subdivision
S-038-05	Bruce's Super Auto Body
S-039-05	Hofmeyer Limited Partnership
S-042-05	Toano Business Centre, Lots 5-9
S-044-05	Colonial Heritage Road & Sewer Infrastructure
S-046-05	Te-ata R. Hery, of the Te-ata R. Hery Living Trust
S-049-05	Campbell Family Subdivision
S-051-05	Ripley Property Subdivision
S-057-05	Croaker Road Subdivision
S-059-05	Peleg's Point, Sec. 6
S-060-05	Oaktree Office Park BLE
S-061-05	7839 & 7845 Richmond Road BLE
S-062-05	New Town, Main St. Block 1, 2, & 3
S-063-05	John Barry Davidson BLE
S-065-05	Argo Subdivision
S-066-05	8739 Richmond Rd Subdivision
S-067-05	136 Magruder- Sadie Lee Taylor
S-068-05	New Town - Block 10 Parcels B, C & D
S-070-05	Benjamin Hogge Family Subdivision
S-071-05	Gordon Creek BLA

S-072-05	JCC-Toano Convenience Center Subdivision
S-073-05	Forest Glen Lot 4 Sec. 1
S-074-05	James River Commerce Center Parcels 1A, 1B, 6, 9
S-075-05	Racefield Woods Lots 5A-5E
S-076-05	Racefield Woods Lots 5E-5I
S-077-05	Scott's Pond Sec. 3C

B. PENDING FINAL APPROVAL

EXPIRE DATE

S-055-03	Colonial Heritage Ph. 1, Sec. 5	8 /4 /2005
S-073-03	Colonial Heritage Ph. 2, Sec. 2	10/6 /2005
S-098-03	Stonehouse Glen, Sec. 1	4 /5 /2006
S-099-03	Wellington Sec. 5	2 /3 /2006
S-101-03	Ford's Colony - Sec. 35	2 /2 /2006
S-106-03	Colonial Heritage Ph. 2, Sec. 3	1 /12/2006
S-116-03	Stonehouse Glen, Sec. 2	4 /6 /2006
S-002-04	The Settlement at Monticello (Hidden)	3 /1 /2006
S-059-04	Greensprings West Ph. 6	9 /13/2005
S-063-04	123 Welstead Street BLE	4 /25/2006
S-074-04	4571 Ware Creek Road (Nice Family Subdivision)	12/21/2005
S-075-04	Pocahontas Square	9 /16/2005
S-077-04	James River Commerce Center	10/4 /2005
S-080-04	Williamsburg Winery Subdivision	12/6 /2005
S-081-04	Subdivision for Lot 3 Norge Neighborhood	10/11/2005
S-087-04	Dudley S. Waltrip Family Subdivision	10/12/2005
S-090-04	Minichiello Villa	10/21/2005
S-111-04	Colonial Heritage Ph. 3, Sec. 1	2 /7 /2006
S-119-04	The Retreat Ph. 2	1 /27/2006
S-002-05	The Pointe at Jamestown Sec. 2B	2 /18/2006
S-007-05	Armistead Point- Kingsmill BLA	3 /15/2006
S-015-05	Colonial Heritage Ph. 3, Sec. 2	4 /27/2006
S-017-05	Polk Estates	4 /27/2006
S-019-05	Monticello Woods Ph. 2 Lots 74-112 & 114-129	4 /1 /2006
S-045-05	Greensprings West Ph. 4B & 5	6 /14/2006
S-047-05	Colonial Heritage Ph. 2, Sec. 1 Lots 14-73	6 /14/2006
S-048-05	Waltrip BLA	6 /10/2006
S-052-05	2050 Bush Neck Subdivision	6 /14/2006
S-053-05	Kingsmill-Spencer's Grant	7 /11/2006
S-054-05	Williamsburg Landing/Waltrip BLA	7 /14/2006
S-055-05	Dandridge BLE	7 /5 /2006
S-058-05	Ironbound Square BLE & Plat Amend.	7 /6 /2006
S-064-05	Stonehouse Commerce Park, Sec. D, Parcels A & B	7 /21/2006

C. FINAL APPROVAL

DATE

S-108-04	Marion Taylor Subdivision (2nd Application)	7 /6 /2005
S-036-05	3851 & 3899 John Tyler BLA & Conserv. Easement	7 /11/2005

S-037-05 3851 & 3899 John Tyler BLA
S-056-05 Landfall Lot 88 & 89 BLE
D. EXPIRED

7 /11/2005
7 /7 /2005
EXPIRE DATE

**DEVELOPMENT REVIEW COMMITTEE ACTIONS REPORT
MEETING OF JULY 27, 2005**

Case No. SP-017-05 Williamsburg Community Chapel Expansion

Mr. Jason Grimes of AES has applied on behalf of Williamsburg Community Chapel for a 38,490 square foot addition to the existing chapel. The site is at 3899 John Tyler Highway and is further identified as parcel (1-2A) on James City County Tax Map (46-1). DRC review is required since more than 30,000 square feet of building area is proposed.

DRC Action: The DRC recommended preliminary approval subject to agency comments by a 4-0 voice vote.

REZONING 6-05/Master Plan 4-05. Warhill Tract

Staff Report for the August 1, 2005, Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

County Government Complex

June 6, 2005 - 7:00 p.m., Building F Board Room

July 11, 2005 - 7:00 p.m., Building F Board Room

August 1, 2005 - 7:00 p.m., Building F Board Room

September 12, 2005 - 7:00 p.m., Building F Board Room

Board of Supervisors:

October 11, 2005 - 7:00 p.m., Building F Board Room (tentative)

SUMMARY FACTS

Applicant / Landowner:

James City County

Proposed Use:

Williamsburg - James City County Third High School, Thomas Nelson Community College, and Future Commercial Development

Location:

6450 Centerville Road and 5700 Warhill Trail; Powhatan District

Tax Map and Parcel Nos.:

(32-1)(1-12) and (32-1)(1-13)

Primary Service Area:

Inside

Parcel Size:

± 155 acres

Existing Zoning:

PUD-C, Planned Unit Development - Commercial and M-1, Limited Business/Industrial, with Proffers

Proposed Zoning:

PUD-R, Planned Unit Development - Residential, and PUD-C, Planned Unit Development - Commercial, with amended Proffers

Comprehensive Plan:

Mixed Use

STAFF RECOMMENDATION:

Staff recommends deferral of the above referenced cases until the September 12, 2005, Planning Commission meeting to allow additional time to draft amended proffers for the property and resolve outstanding master plan issues.

Staff Contact:

Matthew Arcieri

Phone: 253-6685


Matthew Arcieri

REZONING-08-05. Williamsburg Wicker and Rattan Retail Center
Staff Report for the August 1, 2005 Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

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

June 6, 2005 (deferred)

July 11, 2005 (deferred)

August 1, 2005

Board of Supervisors:

August 9, 2005 (tentative)

SUMMARY FACTS

Applicant:

Mr. James Peters of AES Consulting Engineers

Land Owner:

Oscar B. And Elva W. Harrell

Proposed Use:

**5,000+/- SF Furniture Store; 3,300+/- SF Retail; 3,000+/- SF Storage;
2,400+/- SF Caretaker Unit**

Location:

7414 Richmond Road

Tax Map and Parcel No.:

(23-2)(2D-1A)

Parcel Size:

1.13 acres

Proposed Zoning:

B-1, General Business District, with Proffers

Existing Zoning:

A-1, General Agricultural District and B-1, General Business District

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION:

As specified in the Board of Supervisors Proffer Policy, the cut-off date for submission of signed original proffer statements to the Planning Division shall be twenty-one (21) days in advance of the Planning Commission meeting. While the applicant has expressed to staff an intention to submit proffers, staff did not receive draft proffers within the twenty-one day time frame and has not received any proffers to date. As a result staff recommends deferral of this case until the September 12, 2005 Planning Commission meeting in order to allow more time to resolve outstanding issues.

Staff Contact:

Ellen Cook

Phone: 253-6685

Ellen Cook

SPECIAL USE PERMIT SUP-21-05/MP-9-05, Olde Towne Timeshares Amendment
Staff Report for August 1, 2005, Planning Commission Meeting

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

July 11, 2005 (deferred)

August 1, 2005

Board of Supervisors:

September 13, 2005 (tentative)

SUMMARY FACTS

Applicant:

Mr. Robert Anderson of McKinney and Company

Land Owner:

Heritage Resorts, Inc.

Proposed Use:

Timeshare Units

Location:

5380 Olde Towne Road

Tax Map/Parcel:

**Parcel No. (1-26), (1-26A), and (1-36) on Tax Map No. (32-4) and
Parcel No. (1-30) on Tax Map No. (33-3)**

Parcel Size:

130.40 acres

Zoning:

R-2, General Residential District, Cluster

Comprehensive Plan:

Low Density Residential District

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested that the Planning Commission defer this case until the September 12, 2005 Planning Commission Meeting in order to allow more time to resolve outstanding issues. Staff concurs with the request.

Staff Contact:

Ellen Cook, Planner

Phone: 253-6685

Ellen Cook
Ellen Cook

ATTACHMENTS:

1. Deferral Letter



Urban Planning

Land Planning

Landscape Architecture

Geotechnical Engineering

Environmental Engineering

Civil Engineering

Architecture

Structural Engineering

Mechanical Engineering

Electrical Engineering

Process Engineering

Facilities Engineering

Project Management

Construction Management

Construction Materials Testing

McKINNEY AND COMPANY
planning • design • construction

July 21, 2005

Mr. O. Marvin Sowers
Director of Planning
101-A Mount Bay Road
Williamsburg, Virginia 23185

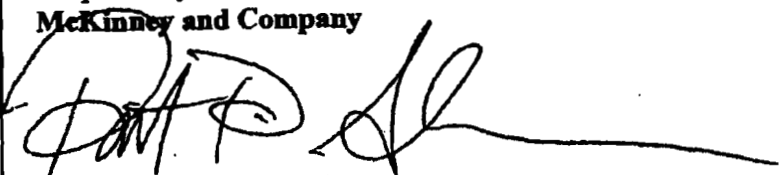
RE: Olde Towne Road Timeshares
SUP 21-05/MP 09-05

Dear Mr. Sowers:

On behalf of the owner, as the applicant for the above referenced SUP and MP we are writing to request that our submission be deferred to the next Planning commission meeting.

Your cooperation in this matter will be greatly appreciated.

Respectfully Submitted,
McKinney and Company


Robert D. Anderson, L.A.
CLARB Certified Landscape Architect

c J.P. Ottino
C. Caldwell
M. Spruill
V. Geddy

HEADQUARTERS
100 South Railroad Avenue
Ashland, Virginia 23005
(804) 798-1451
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PANAMA
McKinney Internacional
Calle Aquilino de la Guardia
Torre Banco General, Piso II
Panamá, República de Panamá
(507) 265-0185
(507) 265-1186 Fax

www.mckinney-usa.com

REZONING CASE NO. Z-07-05: Jamestown Retreat
MASTER PLAN CASE NO. MP-05-05: Jamestown Retreat
Staff Report for the August 1, 2005 Planning Commission Meeting

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Center

May 2, 2005 at 7:00 pm (Deferred)

June 6, 2005 at 7:00 pm (Deferred)

July 11, 2005 at 7:00 pm (Deferred)

August 1, 2005 at 7:00 pm

Board of Supervisors:

September 13, 2005 at 7:00 pm (Tentative)

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III

Land Owner:

Edward T. and Mamie Nixon, and Hazel Richardson

Proposed Use:

The applicant has proposed to rezone three parcels of land and to construct seven 3-story buildings containing a total of 84 condominium rental units at a density of 5.6 dwelling units per acre.

Location:

1676 & 1678 Jamestown Road and 180 Red Oak Landing

Tax Map/Parcel:

Parcels (1-36), (1-37), and (1-39) on tax map (47-3)

Parcel Size:

16.5 acres

Proposed Zoning:

R-5, Multi-Family Residential

Existing Zoning:

LB, LB, and R-2, Limited Business and General Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Yes

STAFF RECOMMENDATION:

The applicant has requested that the above referenced case be deferred until the September 12, 2005 Planning Commission meeting to allow additional time to address comments and to submit revised proffers.

Staff Contact:

Matthew J. Smolnik, Planner

Phone: 253-6685


Matthew J. Smolnik

Attachment:

1. Deferral letter from applicant

GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6800

FAX: (757) 229-5342

VERNON M. GEDDY, JR.
STEPHEN D. HARRIS
SHILDON M. FRANCK
VERNON M. GEDDY, III
SUSANNA B. HICKMAN

ANDREW M. FRANCK
RICHARD H. RIZK

MAILING ADDRESS:
POST OFFICE BOX 379
WILLIAMSBURG, VIRGINIA 23187-0379

email: vgeddy@widomaker.com

July 26, 2005

Mr. Matt Smolnik
James City County Planning Department
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Jamestown Retreat/Z-007-05

Dear Matt:

I am writing on behalf of the applicant to request this case be deferred until the September 2005 Planning Commission meeting. Thanks for your help.

Sincerely,


Vernon M. Geddy, III

REZONING-12-05. Toano Business Center
Staff Report for the August 1, 2005 Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

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

Board of Supervisors:

August 1, 2005

September 13, 2005 (tentative)

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy

Land Owner:

Toano Business Center, L.L.C.

Proposed Use:

3,575 S.F. Bank with three drive-through lanes; 4,725 S.F. Convenience store with fueling; Mini-storage facility; 34,630 S.F. Retail; 54,000 S.F. Office/Warehouse.

Location:

9686 and 9690 Old Stage Road, Toano

Tax Map and Parcel No.:

(4-4)(1-34); (4-4)(1-4)

Parcel Size:

21.229 acres

Proposed Zoning:

MU, Mixed Use with Proffers

Existing Zoning:

A-1, General Agricultural District

Comprehensive Plan:

Mixed Use and Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION:

As specified in the Board of Supervisors Proffer Policy, the cut-off date for submission of signed original proffer statements to the Planning Division shall be twenty-one (21) days in advance of the Planning Commission meeting. While the applicant has expressed to staff an intention to submit proffers, staff did not receive draft proffers within the twenty-one day time frame and has not received any proffers to date. As a result staff recommends deferral of this case until the September 12, 2005 Planning Commission meeting in order to allow more time to resolve outstanding issues.

Staff Contact:

Ellen Cook

Phone: 253-6685

Ellen Cook

Agricultural and Forestal District 7-86. Mill Creek – Findlay Addition
Staff Report for the August 1, 2005 Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

Board of Supervisors:

August 1, 2005, 7:00 p.m.

September 13, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:

John Findlay

Land Owner:

Same

Tax Map ID:

(9-4)(1-8H)

Area:

73.25 acres

Existing Zoning:

A-1, General Agricultural

Proposal:

Addition of 73.25 acres to the existing Mill Creek AFD

Location:

3406 North Riverside Drive

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD and is consistent with surrounding zoning and development and the 2003 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the Findlay addition to the Mill Creek AFD subject to the conditions of the existing district. On July 18, 2005 the AFD Advisory Committee recommended approval of this application by a vote of 9-0.

Staff Contact:

Matthew Arcieri

Phone: 253-6685

History

In August of 2002 the Board of Supervisors renewed the Mill Creek AFD for a period of four years. The Findlay property is proposed to be added to the Mill Creek AFD. It is comprised of one parcel totaling 73.25 acres and further identified as Tax Map No. (9-4)(1-8H). The parcel is located off of North Riverside Drive. The existing Mill Creek AFD contains 3,290.28 acres. If the 73.25-acre addition is approved, the district will have 3,363.53 acres.

Public Impacts**Surrounding Zoning and Development**

The property is entirely surrounded by land zoned A-1, General Agricultural. While the property is adjacent the Eagle Tree Farms subdivision, a majority of the adjacent properties are wooded and undeveloped. The proposal is consistent with surrounding zoning and development.

Environmental

The parcel is a mix of woods and cultivated fields and includes one structure.

Utilities

Public water and sewer is unavailable.

Comprehensive Plan

The 2003 Comprehensive Plan designates this parcel as Rural Lands.

Staff Comments: The majority of parcels within the Mill Creek AFD are also designated Rural Lands. The first Comprehensive Plan rural land use standard calls for preserving the County's natural, wooded and rural character of the County. The Agricultural and Forestal District program supports this objective.

RECOMMENDATION:

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD and is consistent with surrounding zoning and development and the 2003 Comprehensive Plan. On July 18, 2005 the AFD Advisory Committee recommended approval of this application by a vote of 9-0. Staff recommends the Planning Commission recommend approval of the Findlay addition to the Mill Creek AFD subject to the conditions of the existing district which are as follows:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to 5 acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a). The subdivision does not result in the total acreage of the District to drop below 200 acres; and b). The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.

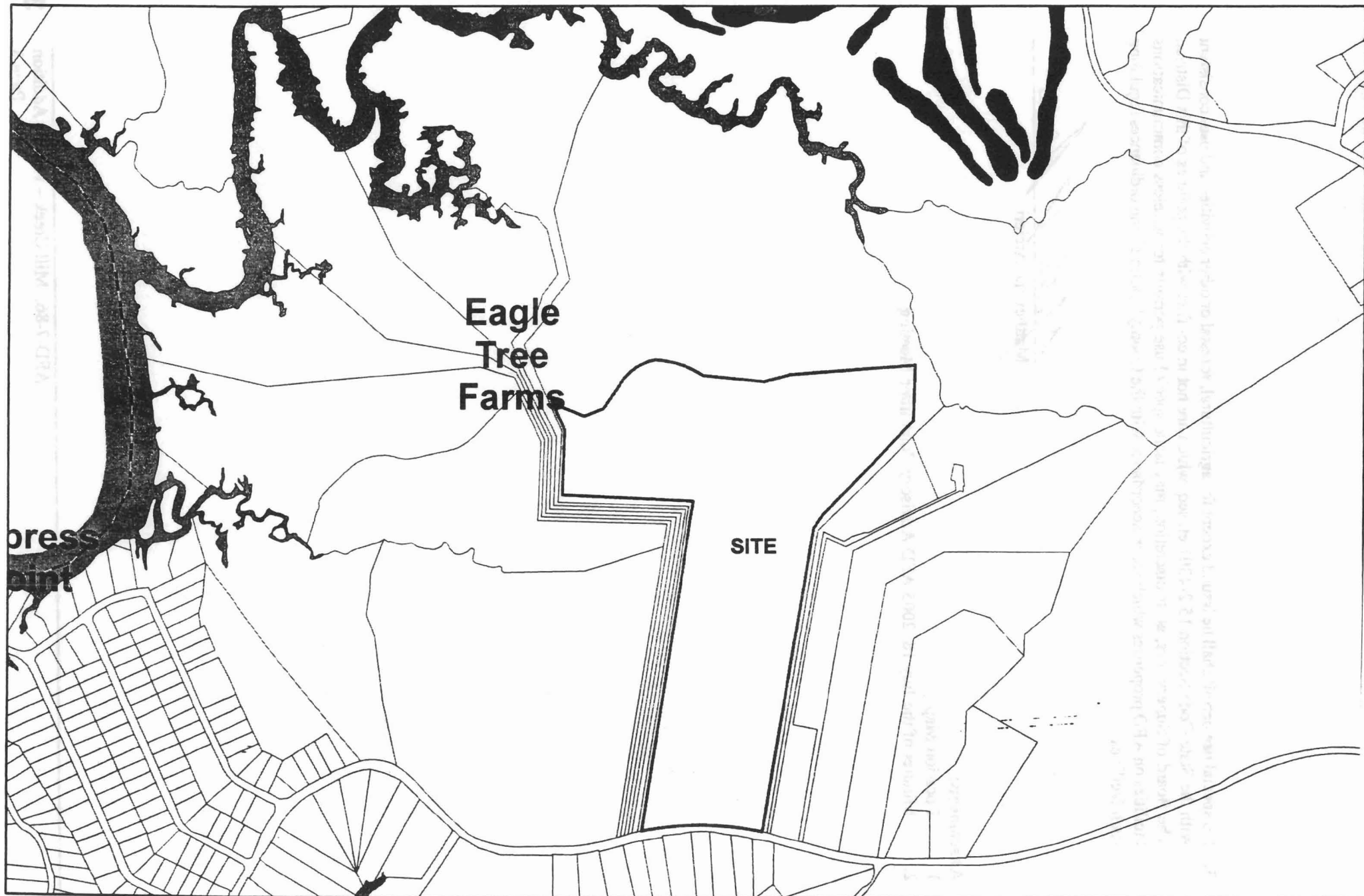
3. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Matthew D. Arcieri

Attachments:

1. Location Map
2. Minutes of the July 18, 2005 AFD Advisory Committee Meeting

AFD-7-86 - Mill Creek - Findlay Addition



**UNAPPROVED MINUTES OF THE JULY 18 MEETING OF THE
AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE**

AFD-5-86-3 Mill Creek Agricultural and Forestal District- Findlay Addition

Mr. Arcieri gave the staff report and staff's recommendation of approval. After clarification of the approximate location, Mr. Ford moved for approval. Mr. Gilley seconded the motion and with no further discussion, the motion passed unanimously. Ms. Garrett asked for clarification that minutes approved were from the last meeting. Mr. Arcieri confirmed.

**SPECIAL USE PERMIT 25-05/MASTER PLAN 10-05 Prime Outlets Master Plan Amendment
Staff Report for August 1, 2005, Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 1, 2005, 7:00 PM
September 13, 2005, 7:00 PM (tentative)

SUMMARY FACTS

Applicant: Mr. Alvin Anderson, Kaufman and Canoles

Land Owner: Williamsburg Outlets, LLC

Proposal: Amendment existing SUP 23-99, to allow a 5,600 sq. ft. retail expansion

Location: 5715 Richmond Road, 5731 Richmond Road, 5699 Richmond Road, 5711 Richmond Road, 5707 Richmond Road.

Tax Map/Parcel (s) (33-1) (1-28), (33-1) (1-29), (33-1) (1-33C), (33-1) (1-33D), (33-1) (1-33E),

Parcel Size 38.683 acres

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

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be compatible with surrounding land uses, and the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the Special Use Permit application with the attached conditions.

Staff Contact: Jose Ribeiro, Planner Phone: 253-6685

PROJECT DESCRIPTIONS

Mr. Alvin Anderson of Kaufman and Canoles, has applied on behalf of Prime Outlets at Williamsburg, LLC to amend the existing special use permit and master plan to allow for a 5,600± square foot expansion of Prime Outlets. Section 24-11(b) of the Zoning Ordinance requires a commercial special use permit for any new buildings, additions, or expansions which exceeds 5,000 square feet or more of floor area. The applicant also proposes adding 43 new parking spaces in place of a proposed bus parking area. With that addition the Prime Outlets will have 1,573 parking spaces.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Powhatan Creek

Environmental Comments: None.

2. Public Utilities

The site is located inside the Primary Service Area and is served by public water and sewer.

JSCA Staff Comments:

According to JSCA records, there is an 8-inch waterline and a 4-inch force main which pass between the existing buildings. JSCA will not permit these utilities to remain under the proposed expansion. Therefore, JSCA will require the applicant to submit a water and sanitary sewer master plan and hydraulic analyses for review and approval prior to submission of development plans for the commercial expansion. This requirement has been added as a SUP condition.

3. Traffic

According to the applicant the proposed expansion has the potential to generate approximately 23 weekday trips and 36 Saturday trips. Prime Outlets currently has three access points onto Richmond Road. Entrance improvements, including traffic signals at the north and south entrance have been completed. Per the existing proffers, the middle entrance is scheduled to be closed in December 2008. Additional parking will be added in place of this entrance as shown on the proposed master plan. As part of this Special Use Permit staff has included a condition requiring the applicant to install permanent entrance lighting in place of the temporary lights on generators that are used during the holiday season. Staff believes that permanent lighting is necessary as this expansion, due to increased traffic, contributes to existing night safety concerns.

2005 Traffic Counts:	Richmond Road -18,106 vehicles per day
2026 Volume Projection: for	Richmond Road shows 31,000 vehicles per day on a four-lane road and is listed in the “watch” category in the 2003 Comprehensive Plan.

VDOT Comments: VDOT finds that the master plan amendment will not adversely impact the existing roadway network. At staff’s request, VDOT examined measures to discourage customers from parking along the Richmond Road right-of-way during the holiday season, which poses a safety issue to traffic on Richmond Road. If this situation occurs this holiday season, VDOT will post no-parking signs along Richmond Road.

4. Fiscal Impact

According to the applicant the additional square footage based upon current average per square foot revenues for Prime Outlets as a whole will provide an additional \$30,000 per year in approximate sales tax revenue to the County, additional jobs, and increased property tax revenue to the County.

Comprehensive Plan

According to the 2003 Comprehensive Plan, the Prime Outlets property is designated as Community Commercial. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development. Additionally, the Community Commercial designation of this area is not intended in any way to promote or accommodate an extension of a strip commercial development beyond these boundaries.

Staff Comments: Staff finds this proposal consistent with the Comprehensive Plan.

CONCLUSIONS AND CONDITIONS

Staff finds the proposal, with the attached conditions, to be compatible with surrounding land uses, and the Comprehensive Plan. Three new SUP conditions, numbers (4), (5), and (6) have been added to the previous SUP-23-99 conditions. Staff recommends the Planning Commission recommend approval of the special use permit application with the following conditions:

1. This Special Use Permit shall be valid for the approximately 5,700 sq. ft. expansion of Prime Outlets and accessory uses thereto. Development of the site shall be generally in accordance with the above referenced master plan, as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This Special Use Permit and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-23-99 and prior SUP conditions affecting the Prime Outlets development.
2. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
3. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the above referenced expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase VI-expansion, submitted with this special use permit application dated, July 6, 2005 and drawn by Gary S. Bowling, Guernsey Tingle Architects.
4. Prior to the issuance of any final Certificate of Occupancy for any new commercial construction on the site, adequate lighting shall be installed for all three entrances from the property onto Richmond

Road. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.

5. A landscaping plan, including foundation landscaping in accordance with James City County Code Section 24-95 shall be approved by the Planning Director or his designee prior to final site plan approval.
6. Prior to submission of any commercial development plan for the 5,700 square foot expansion referenced herein, the applicant shall submit a water and sanitary sewer master plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority.
7. Prior to the issuance of any final Certificate of Occupancy for any building addition, or new building, located on Tax Map parcels numbers (33-1)(1-28) or (33-1) (1-29), there shall be a 35-foot wide transitional buffer planted along the northern most property line. This area shall be planted at 133 percent of standards found in Section 24-94 of the James City County landscape ordinance (in terms of the numbers of trees and shrubs, not size), in a manner acceptable to the Director of Planning and with an emphasis on evergreen shade and understory trees. Furthermore, a fence shall be installed in this area. The fence shall be a maximum eight feet high and shall be vinyl coated and either black or green in color. Furthermore, the fence shall be setback from the property line at least three feet.
8. Prior to issuance of any final Certificate of Occupancy parking spaces shall be designated as "Employee Parking Only" and "One Way" traffic only, as appropriate, as shown on the master plan.
9. No dumpsters shall be allowed on any portion of the service road located behind the buildings along the northern property line where the service road is 20 feet in width or less.
10. If construction has not commenced on this project within thirty-six (36) months from the issuance of this special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
11. This special use permit is not severable. Invalidity of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Jose Ribeiro

Attachments:

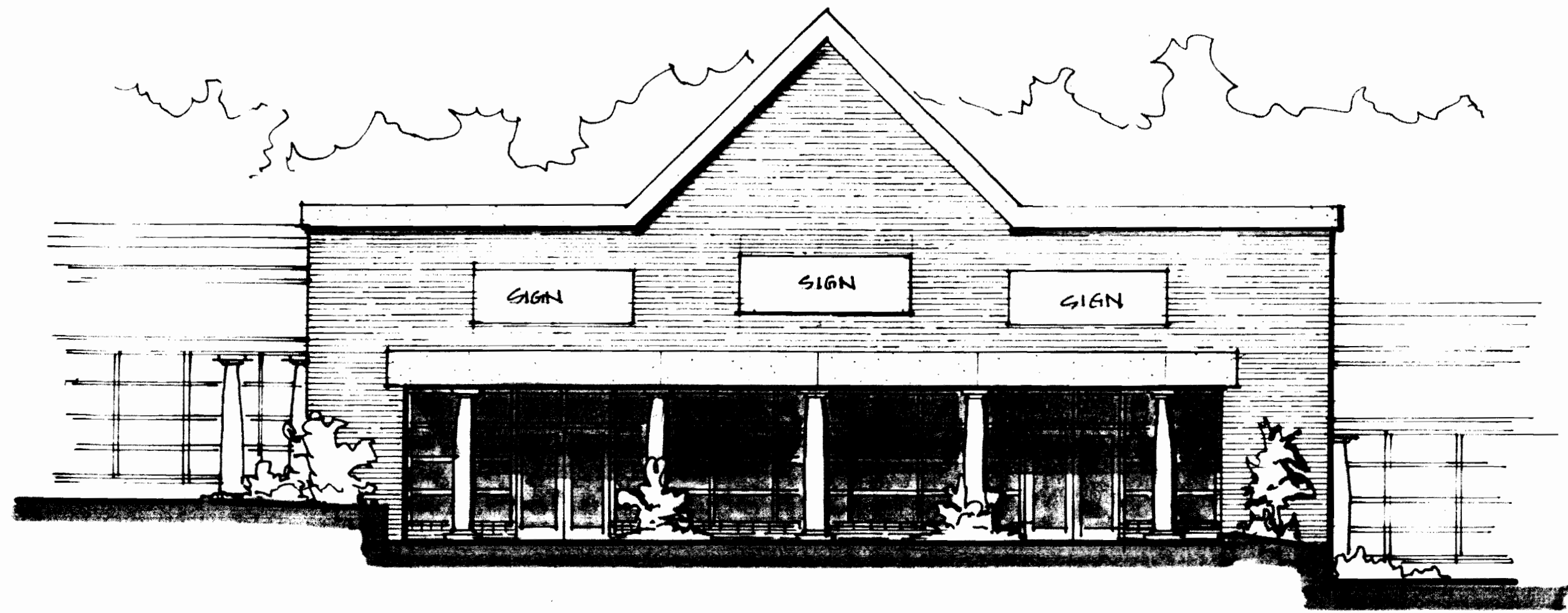
1. Location Map
2. Elevations
3. Master Plan

SUP-25-05 Prime Outlets



Photo Copyright 2002 State of Virginia





CONCEPT ELEVATION
1/8"=1'-0"

Guernsey
Tingle
Architects
WILLIAMSBURG, VIRGINIA
407-220-0229

Prime Outlets, Williamsburg
PHASE VI EXPANSION
James City County, Virginia

Date	7-6-05
Drawn	GSB
Checked	GSB
Project	205043
of	ONE Sheets

SUMMARY DATA

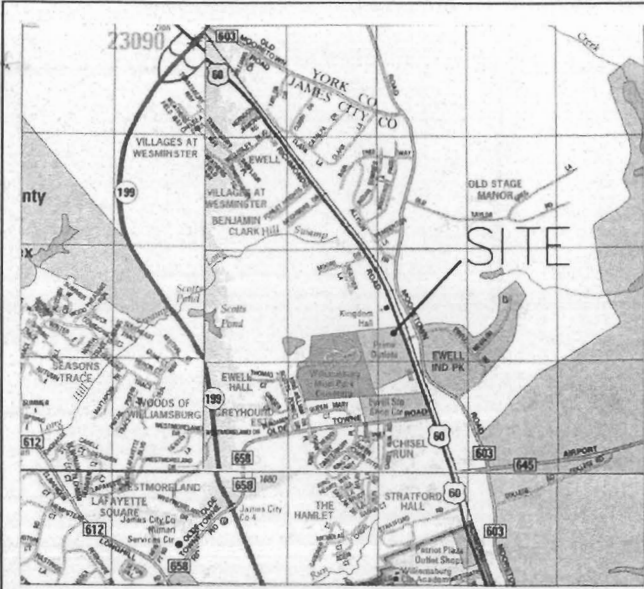
MASTER PLAN AREA DESIGNATION: E (COMMERCIAL USE)

PARKING CALCULATIONS

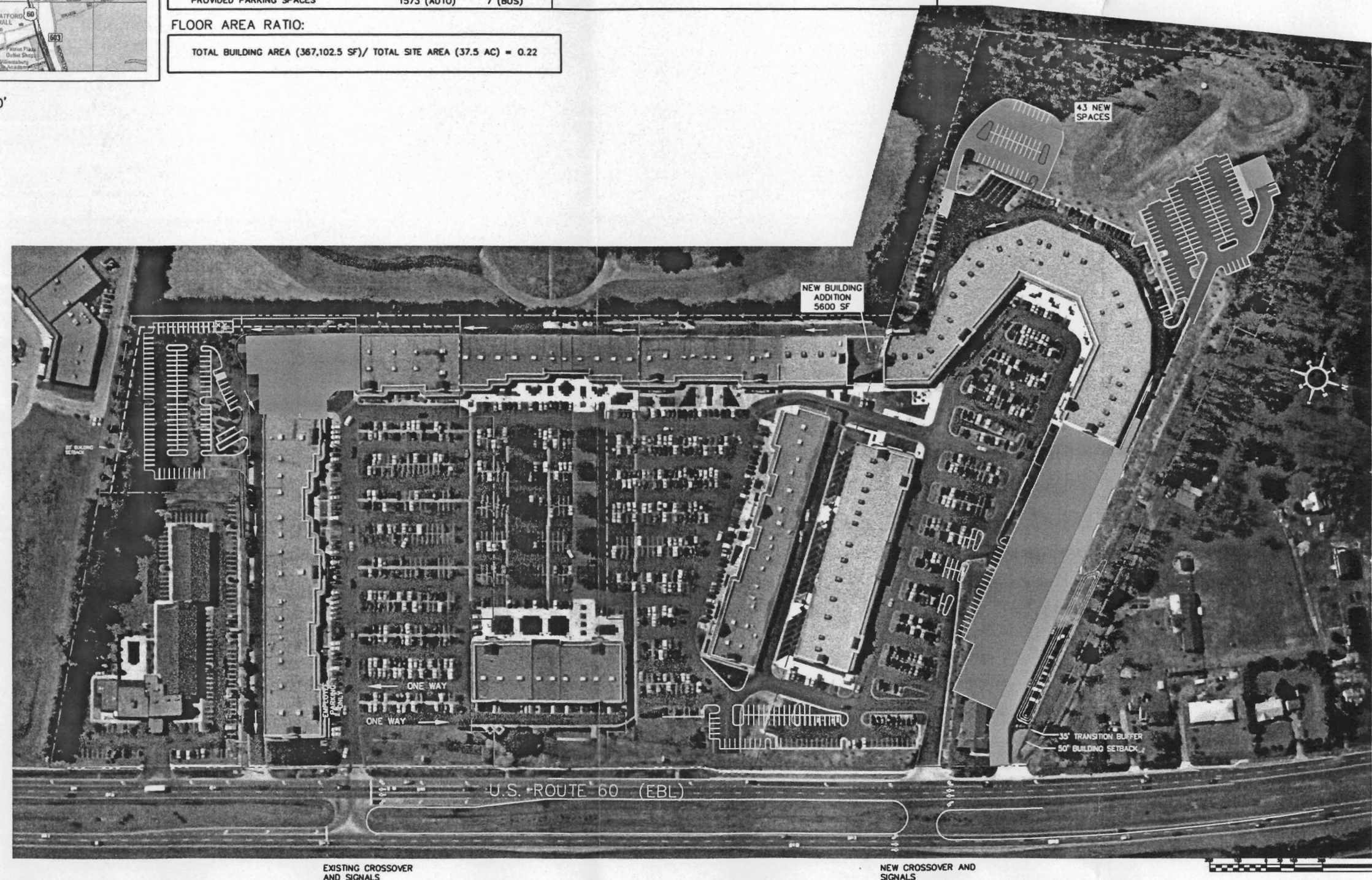
TOTAL SITE AREA =	37.5 AC (1,633,500 SF)	EXISTING PARKING RATIO	● 1 PER 223 SF GROSS
EXISTING GROSS BUILDING AREA =	361,502.5 SF (ENTIRE CENTER)		● 1 PER 178 SF NET
ADDITIONAL GROSS BUILDING AREA =	+ 5,600 SF	PROPOSED PARKING RATIO	● 1 PER 249 SF GROSS
TOTAL GROSS BUILDING AREA =	367,102.5 SF		● 1 PER 199 SF NET
GROSS/NET ADJUSTMENT FACTOR =	x 0.8		
TOTAL NET BUILDING AREA =	293,682 SF		
PARKING FACTOR	÷ 200		
REQUIRED PARKING SPACES	1468		
EXISTING PARKING SPACES	1530 (AUTO) 7 (BUS)		
ADDITIONAL PARKING SPACES (NET)	43 (AUTO)		
PROVIDED PARKING SPACES	1573 (AUTO) 7 (BUS)		

FLOOR AREA RATIO:

TOTAL BUILDING AREA (367,102.5 SF)/ TOTAL SITE AREA (37.5 AC) = 0.22



COPYRIGHT ADC THE MAP PEOPLE - PERMITTED USE NO. 20202125
VICINITY MAP SCALE 1" = 4000'



40209 Inverbound Road
Suite 100
Winchester, VA 23188
Tel. (757) 253-2975
Fax (757) 229-0049
Email: info@bondmarkweb.com

5544 Greenwich Road
Suite 200
Virginia Beach, VA 23462
Tel. (757) 473-2000
Fax (757) 497-7933
Email: info@bondmarkweb.com

LANDMARK
DESIGN GROUP
Engineers • Planners • Surveyors
Landscape Architects • Environmental Consultants

REVISIONS:			By
No.	Date	Comment	
1	8/11/99	REV. PER JCC COMMENTS OF 08/02/99	TTC
2	8/20/99	REV. ENTRANCE AND TURN LAMES	TTC
3	8/19/99	ADDED BUS PARKING	TTC
4	8/20/99	ADDED PARKING BLADES PER JCC COMMENTS	TTC
5	8/23/99	ADDED BEAM AND SECTION	TTC
6	8/26/99	REV. BEAM, RAILWAY DATA, DIRT BUS AREA	MOH
7	8/19/02	REV. BUILDING "X" AND LAYOUT	MOH
8	10/16/04	REV. SW CORNER OF LAYOUT	JY

DRAWING STATUS	COUNTY APPROVAL
Interoffice Review _____	1st Submitted _____
Client for Review _____	2nd Submitted _____
Pre Approval Meeting _____	3rd Submitted _____
MORE _____	Approved _____

AMENDED MASTER PLAN
PRIME RETAIL OUTLET EXPANSION

Designated: TRC	Date: 07/28/99
Checked: SAR	Scale: VARIOUS
Drawn: TRC	CADD File name: MPLAN.DWG
Project Number: 1870040-302	Dwg. File No.: 99 10502W
Drawing Number C-1	

**Special Use Permit-24-05. Williamsburg Winery – Gabriel Archer Tavern SUP Renewal
Staff Report for August 1, 2005, Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Building F Board Room; County Government Center

Planning Commission: August 1, 2005 7:00 p.m.
Board of Supervisors: September 13, 2005 7:00 p.m. (Tentative)

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III

Land Owner: Patrick Duffeler

Proposed Use: Renew SUP-19-04 to continue operation of the Gabriel Archer Tavern at the Williamsburg Winery

Location: 5800 Wessex Hundred Road, Roberts District

Tax Map/Parcel No.: (48-4)(1-10B)

Parcel Size: 35.08 acres

Existing Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

RECOMMENDATION

Staff finds that the applicant has addressed the previous SUP conditions. The proposal is also acceptable from a land use perspective. Staff recommends the Planning Commission recommend approval of this special use permit with the attached conditions.

Staff Contact: Matthew Arcieri Phone: 253-6685

PROJECT DESCRIPTION

Mr. Vernon Geddy, III has applied to renew the special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The restaurant operated from 1996 through January 13, 2004 without a special use permit. The special use permit approved by the Board of Supervisors on January 13, 2004 expired on April 30, 2004. A new special use permit was approved by the Board of Supervisors on August 10, 2004. That SUP required the tavern to connect to public water and pass all necessary building inspections by December 31, 2004. The applicant did not complete those requirements within the designated time and that SUP expired on December 31, 2004. Following the expiration of the most recent SUP the applicant has worked, as detailed below, to resolve all outstanding issues before filing for a new SUP.

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

Condition one of the previously approved special use permit (SUP-19-04, approved by the Board of Supervisors on August 10, 2004) set three requirements to be completed by December 31, 2004. As of the writing of this report, the status of these conditions is as follows:

- a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code with all final inspections completed and approved.

Staff Comment: The tavern has passed all necessary inspections and been issued a temporary certificate of occupancy. A final certificate of occupancy will be issued upon approval of the new SUP by the Board of Supervisors.

- b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA

Staff Comment: All JCSA issues have been resolved. The tavern is connected to public water.

- c. The Tavern shall have all sewer service bills paid up to date.

Staff Comment: All sewer billing is up to date.

COMPREHENSIVE PLAN

The parcel on which the Winery and Tavern are located is inside the Primary Service Area (PSA) and is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map. Non-residential uses should not alter, but rather complement the residential character of the Low Density Residential area in which they are located. Such uses should be located on collector or arterial roads at intersections.

Traffic, noise, lighting and other impacts should be similar to surrounding or planned residential uses.

Very limited commercial establishments should be located where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

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

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

CONCLUSIONS AND CONDITIONS

Staff finds that the applicant has addressed the previous SUP conditions. The proposal is also acceptable from a land use perspective. There is one proposed change from the previously approved special use permit: an update of condition one to reflect the remaining issue to be resolved. Staff recommends the Planning Commission recommend approval of this special use permit with the following conditions:

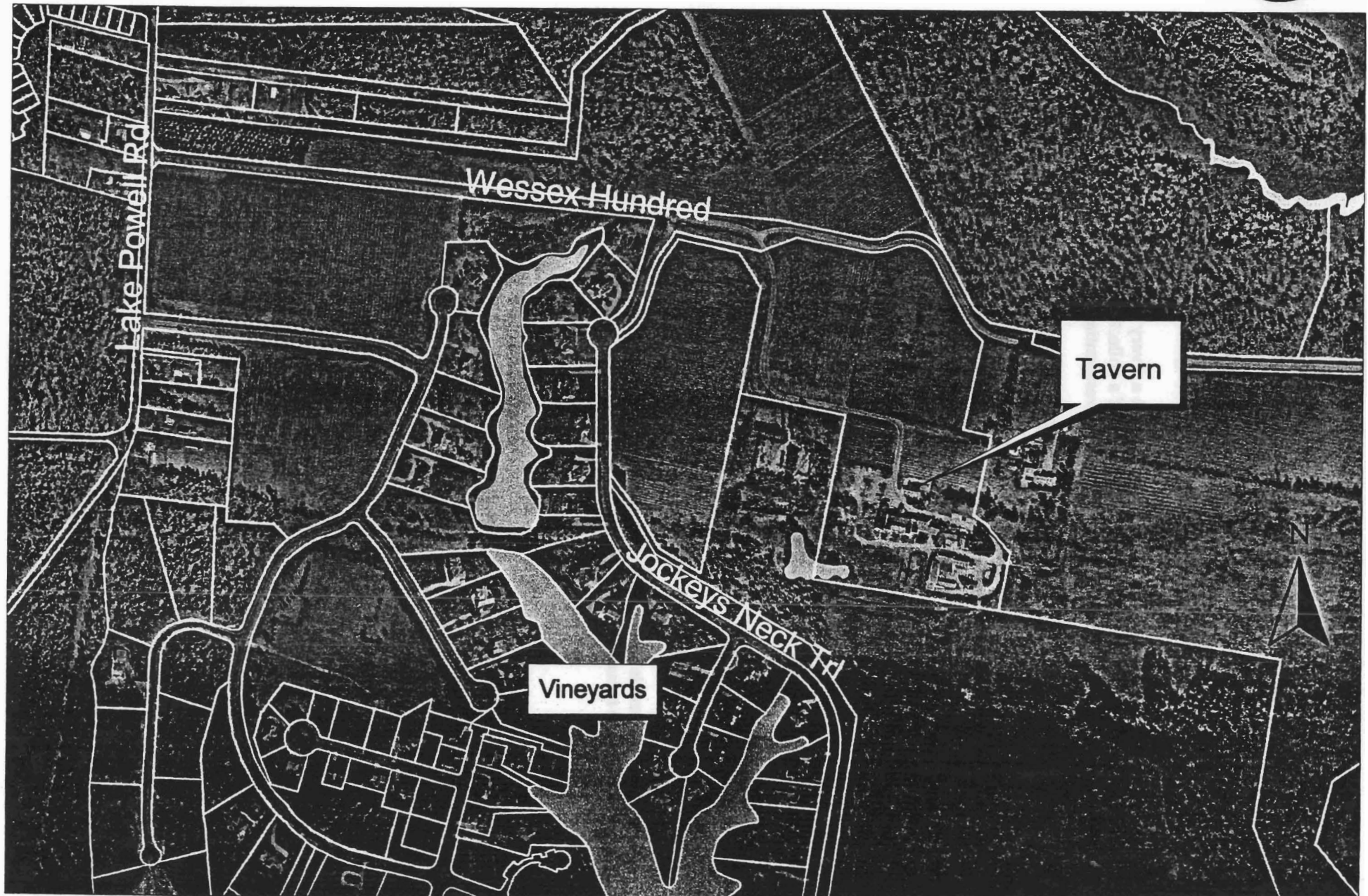
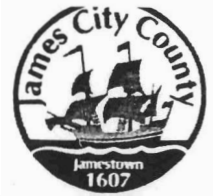
1. Prior to October 13, 2005, the Gabriel Archer's Tavern, ("the Tavern") shall have acquired a permanent Certificate of Occupancy.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Matthew D. Arcieri

Attachments:

1. Location Map
2. Copy of SUP-19-04

42 SUP-24-05, Williamsburg Winery, Gabriel Archer Tavern



RESOLUTION

CASE NO. SUP-19-04. WILLIAMSBURG WINERY -

GABRIEL ARCHER TAVERN SUP RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, restaurants are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 12, 2004, recommended approval of Case No. SUP-19-04 by a 5-1 vote to permit the continued operation of the Gabriel Archer Tavern, consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery; and

WHEREAS, the property is located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10B) on James City County Real Estate Tax Map No. (48-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 19-04 as described herein with the following conditions:

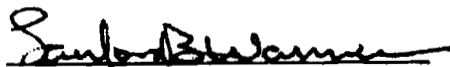
1. Prior to December 31, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, ("the Tavern"):
 - a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code, with all final inspections completed and approved;
 - b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service, and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA;
 - c. The Tavern shall have all sewer service bills paid up to date.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.

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



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
BRADSHAW	AYE
HARRISON	AYE
BROWN	AYE
MCGLENNON	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

sup19-04wnc.res

SPECIAL USE PERMIT CASE NO. SUP-22-05 Shops at Norge Crossing
Staff Report for the August 1, 2005, Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

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

August 1, 2005, 7:00 PM
September 13, 2005, 7:00 PM (tentative)

SUMMARY FACTS

Applicant: Mr. Gregory Davis, Kaufman and Canoles

Land Owner: Shops at Norge Crossing, LLC

Proposal: To construct an 8-unit, 13,000 square foot retail center.

Location: 7500 Richmond Road

Tax Map/Parcel (23-2)(1-71E)

Parcel Size 1.84 acres

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

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Planning Commission recommend approval of the Special Use Permit application with the attached conditions.

Staff Contact: Jason Purse, Planner

Phone: 253-6685

Project Description

Mr. Gregory Davis of Kaufman and Canoles, has applied for a commercial special use permit to allow for an 8-unit, 13,000 square foot retail center. Any commercial development in excess of 10,000 square feet requires a special use permit. Potential tenants for the spaces could include retail shops, service stores, or restaurants. The 8 units will range in size from 1,100 to 2,500 square feet each.

This property is located at 7500 Richmond Road and is zoned B-1, General Business, with proffers. It is designated as Community Commercial on the 2003 Comprehensive Plan Land Use Map and can be further identified as parcel number (1-71E) on James City County Tax Map page (23-2).

Surrounding Zoning and Development

This site is an out parcel of the Norge Crossing Shopping Center. It is bordered by Richmond Road to the south and Norge Lane to the east. The properties across Norge Lane are zoned A-1, General Agriculture, and R-8, Rural Residential. It is adjacent to the existing Old Point National Bank to the west and the parking lot for the Farm Fresh to the north. These properties are zoned B-1, General Business, with proffers.

As required in the proposed conditions, the proposed retail center would be constructed in a manner consistent with the architecture and character of the Norge community. The Zoning Ordinance requires sidewalks to be built adjacent to public rights of way. In addition to the required sidewalks along Richmond Road – which will tie in to an existing sidewalk – and Norge Lane, a condition is included which requires a 4-foot sidewalk to be built adjacent to the parking lot access drive. This sidewalk would connect the internal sidewalk in front of the proposed stores to the required sidewalk along Norge Lane, thus preventing the need for pedestrians to walk in the drive aisle. Other conditions of the special use permit call for increased landscaping along Norge Lane, an approved lighting plan, and contributions to the James City Service Authority for sewer system improvements.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Yarmouth Creek

Environmental Staff Conclusions: The Board of Supervisors has adopted six (6) goals and fourteen (14) priorities associated with the contents of the Yarmouth Creek watershed plan. During the site plan process, the owner, applicant, developer and plan preparer are advised to completely review the goals, priorities (tools) and entire contents of this study, including the sub-watershed map.

As required in the proposed conditions, the applicant must demonstrate, prior to final site plan approval, that the existing infiltration basin (YC023) is in sound working order and that it is performing at or above the design level of service. The applicant shall perform all necessary improvements and upgrades to bring the basin into compliance.

2. Public Utilities

The site is located inside the Primary Service Area and is served by public water and sewer.

JSCA Staff Conclusions: As required in the proposed conditions, the applicant will be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing those standards.

3. Traffic

A traffic impact statement is not required for this project as the ITE trip generation rates are below 100 peak hour trips. In 2005, for the Croaker Road to Lightfoot Road section of Richmond Road, the Traffic Count survey indicated there were 18,770 trips daily. The 2026 projected Traffic Counts indicate an increase to 33,500 trips, along with listing this section of Richmond Road as a “watch” area. However, it is noted that the number of lanes will not need to increase.

VDOT Conclusions: VDOT Traffic Engineering has reviewed the proposal and has found that the existing facilities are sufficient to accommodate the proposed development. ITE trip generation for the retail center would be 529 weekday trips and 547 Saturday trips. The intersection at Richmond Road and Norge Lane is signalized and entrances to the site are internal to the shopping center. There will be no adverse impacts on the existing roadway network with regards to level of service.

Staff Conclusions: Staff agrees with VDOT’s finding that no traffic improvements are required for this project.

Comprehensive Plan

The property is designated Community Commercial on the Comprehensive Plan Land Use Map. The property is adjacent to the Richmond Road Community Character Corridor (CCC), and is a part of the Norge Community Character Area (CCA). The Community Character section of the 2003 Comprehensive Plan reads in part:

The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of an area and feels these roads warrant a higher level of protection. Additional sections of Richmond Road (Route 60 West) have been added to the list of CCCs to include the segment from Anderson’s Corner to the City of Williamsburg line to assist in regional beautification efforts.

Staff Conclusions: The proposed retail center is consistent with the Community Commercial designation for this area. With the attached conditions, staff finds the proposal to be appropriate for this Community Character Corridor. Special use permit conditions are included which provide for architectural controls and increased landscaping. Additionally, a condition is included which requires a 4-foot sidewalk to be built adjacent to the parking lot access drive connecting the sidewalk in front of the proposed stores to the required sidewalk along Norge Lane.

RECOMMENDATION:

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Planning Commission recommend approval of the special use permit application with the following conditions:

- 1.) The site plan shall be substantially consistent with the development plan prepared by LandTech Resources and labeled, "Norge Center, Inc. Parcel 5" and dated July 25, 2005, herein after referred to as the "master plan". This special use permit shall allow up to a 13,000 square foot structure for commercial uses as permitted in the B-1, General Business district, including, but not limited to, retail shops, service shops, and restaurants.
- 2.) The retail center shall contain architectural features, colors, and materials that reflect the surrounding character of the Norge Community as described in the Comprehensive Plan. The architecture of the retail center shall be generally consistent with the elevations prepared by Hopke and Associates, labeled "Johnston Shopping Center" and dated July 14, 2005 (the "Elevations") as determined by the Planning Director. The architectural design, color, and materials shall be approved by the Planning Director prior to final site plan approval for consistency with the Elevations, and the character of the Norge Community.
- 3.) An enhanced landscaping plan shall be provided for the area along Norge Lane and the area in front of the parking lot adjacent to Richmond Road. Unless reduced or waived by the Planning Director, the enhanced landscaping to be included with the site plan shall include a quantity of planting materials that is a minimum of 125 percent of the minimum ordinance requirements. A minimum of 50 percent of all trees and 50 percent of all shrubs shall be evergreen.
- 4.) Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed thirty (30) feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
- 5.) The dumpster pad and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
- 6.) The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The applicant shall be responsible for enforcing these standards.
- 7.) Prior to final site plan approval, the applicant shall demonstrate to the satisfaction of the Environmental Director that the existing infiltration basin (YC023) shown on the master plan is in sound working order and that it is performing at or above the design level of service. Should the basin not be performing at or above the design level of service, the applicant shall perform all necessary and required improvements and upgrades to bring the basin into compliance prior to the issuance of any certificate of occupancy.

- 8.) Prior to the issuance of any certificate of occupancy, the applicant shall install a 4-foot sidewalk adjacent to the internal access road as shown on the master plan. This sidewalk shall connect the internal sidewalk in front of the shops to the required sidewalk along Norge Lane.
- 9.) If construction has not begun on the project within thirty-six (36) months of issuance of this special use permit, this special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
- 10.) This special use permit is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

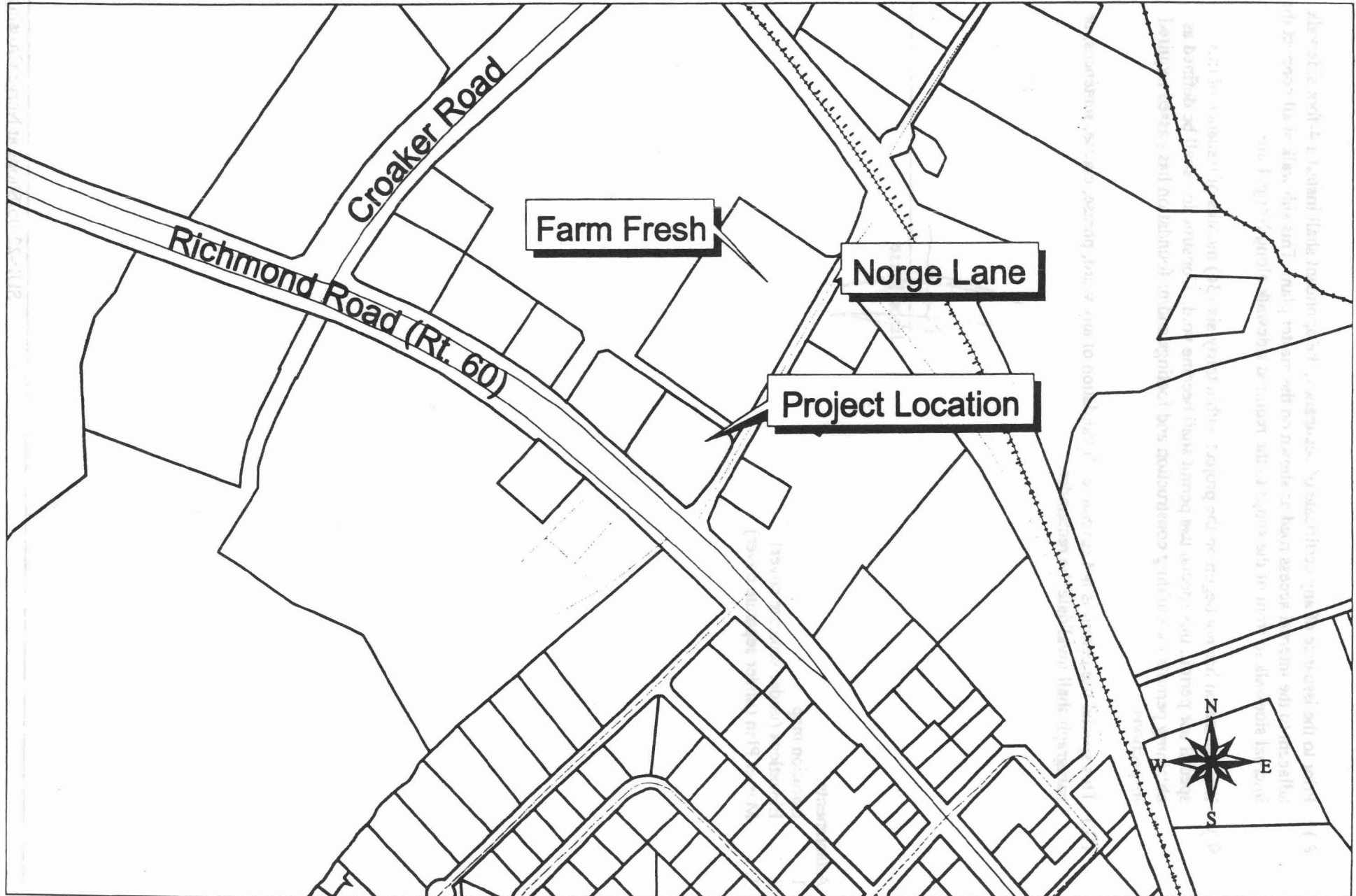
Jason Purse

Attachments:

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

SUP-22-05

Shops at Norge Crossing



SPECIAL USE PERMIT-23-05: TGI Friday's
Staff Report for the August 1, 2005 Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

7:00 p.m.; Building C Board Room; County Government Complex
August 1, 2005 at 7:00 p.m.
September 13, 2005 at 7:00 p.m. (Tentative)

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III on behalf of PBH, L.L.C.

Land Owner: PBH, L.L.C.

Proposal: The applicant has proposed to construct and operate a TGI Friday's restaurant

Location: 5521 Richmond Road

Tax Map/Parcel A portion of parcel (1-5A) on tax map (33-3).

Parcel Size 1.83 acres out of 5.274 total acres

Existing Zoning: B-1, General Business

Comprehensive Plan: Neighborhood Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff believes the proposed restaurant is a complimentary use to the surrounding businesses, and believes that this use meets the intent of the Neighborhood Commercial Land Use of the Comprehensive Plan. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors with the attached SUP conditions.

Staff Contact: Joel Almquist, Planner Phone: 253-6685

Project Description and Proposed Operation

Mr. Vernon Geddy has applied on behalf of PBH, L.L.C. to construct and operate a TGI Friday's restaurant located at 5521 Richmond Road, between the intersections with Airport Road and Olde Towne Road. The property is adjacent to Bruce's Auto Body Shop and will share a right-in right-out driveway with them. The proposed restaurant will also have a right-in right-out driveway of its own at the southern end of its frontage. The proposed restaurant will be approximately 6,500 square feet, will seat 252 guests, and will be open 7 days a week for lunch and dinner. Construction will commence upon approval of the special use permit and site plans and is expected to be complete in six months.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Powhatan Creek

Environmental Staff Comments: Impacts can be properly mitigated prior to final site plan approval.

2. Public Utilities

The site is served by public water and sewer

Water conservation measures are proposed and are reflected with the attached conditions.

JSCA Staff Comments: Impacts can be properly mitigated prior to final site plan approval.

3. Traffic

Proposed Traffic: A traffic impact study was prepared for Atlantic Coast Dining by The Landmark Design Group to examine the impacts of the proposed restaurant on the intersections of Olde Towne Road and Airport Road with Richmond Road. Only the peak PM hours of the roadway and restaurant were examined because TGI Friday's does not serve breakfast.

2003 Traffic Counts: Approximately 22,175 vehicles per day in this area of Richmond Road.

2026 Volume Projected: 31,000 vehicles per day on a four lane divided road.

Road Improvements: No road improvements are warranted.

VDOT Comments: VDOT concurs with the trip generation and distribution as presented in the submitted traffic study and believes that this proposal will not adversely impact the existing roadway network.

Comprehensive Plan

- ◆ The Comprehensive Plan designates Richmond Road as a Community Character Corridor.
- ◆ The James City County Comprehensive Plan Land Use Map designates this property as Neighborhood Commercial. *Acceptable uses will have a limited impact on adjacent residential areas especially in terms of visible parking areas, lighting, signage, traffic, odor, noise, and hours of operation. Acceptable uses should be compatible with surrounding or planned residential development in terms of scale, bulk, size, building design, materials and color, and should provide strong, safe and convenient pedestrian access to nearby residential neighborhoods and adjacent sites. Suggested uses are neighborhood scale commercial, professional, and office uses such as individual medical offices, branch banks, small service establishments, day care centers, churches, convenience stores with limited hours of operation, small restaurants, and smaller public facilities.*

Staff Comments:

The parcel is zoned B-1, General Business and the proposal is consistent with the Land Use designation of the Comprehensive Plan. This section of Richmond Road is a major commercial corridor and the proposed restaurant is adjacent to a variety of land uses. The Williamsburg Bowl bowling alley is west of the site, Bruce's Auto Body Shop is directly north of the proposed restaurant and to the south is an undeveloped and wooded parcel. Chisel Run housing development is the closest residential area to the proposed restaurant and is located to the west of the bowling alley and staff believes that the proposed restaurant will not have a negative effect on this residential area.

RECOMMENDATION:

Staff believes the proposed restaurant is a complimentary use to the surrounding businesses, and believes that this use meets the intent of the Neighborhood Commercial Land Use of the Comprehensive Plan. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors with the following SUP conditions:

1. This Special Use Permit shall be valid for a restaurant no larger than 6,600 square feet and accessory uses thereto. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the Planning Director, with architectural elevations titled "Carlson Restaurants Worldwide, P6.2 Prototype" submitted with this special use permit and drawn by Carrell, Poole, and Yost Architecture and date stamped "Received - Planning Department June 20, 2005.
2. 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 footings and/or foundation has passed required inspections.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
4. Free standing signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a free standing sign with a completely enclosed base not to exceed thirty-two square feet in size and not to exceed eight feet in height from grade.
5. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the fifty-foot Community Character Corridor buffer along Richmond Road (Route 60 West) so that the required number of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4 of the James City County Code. A minimum of fifty percent of the plantings within the Community Character Corridor buffer shall be evergreen.
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.

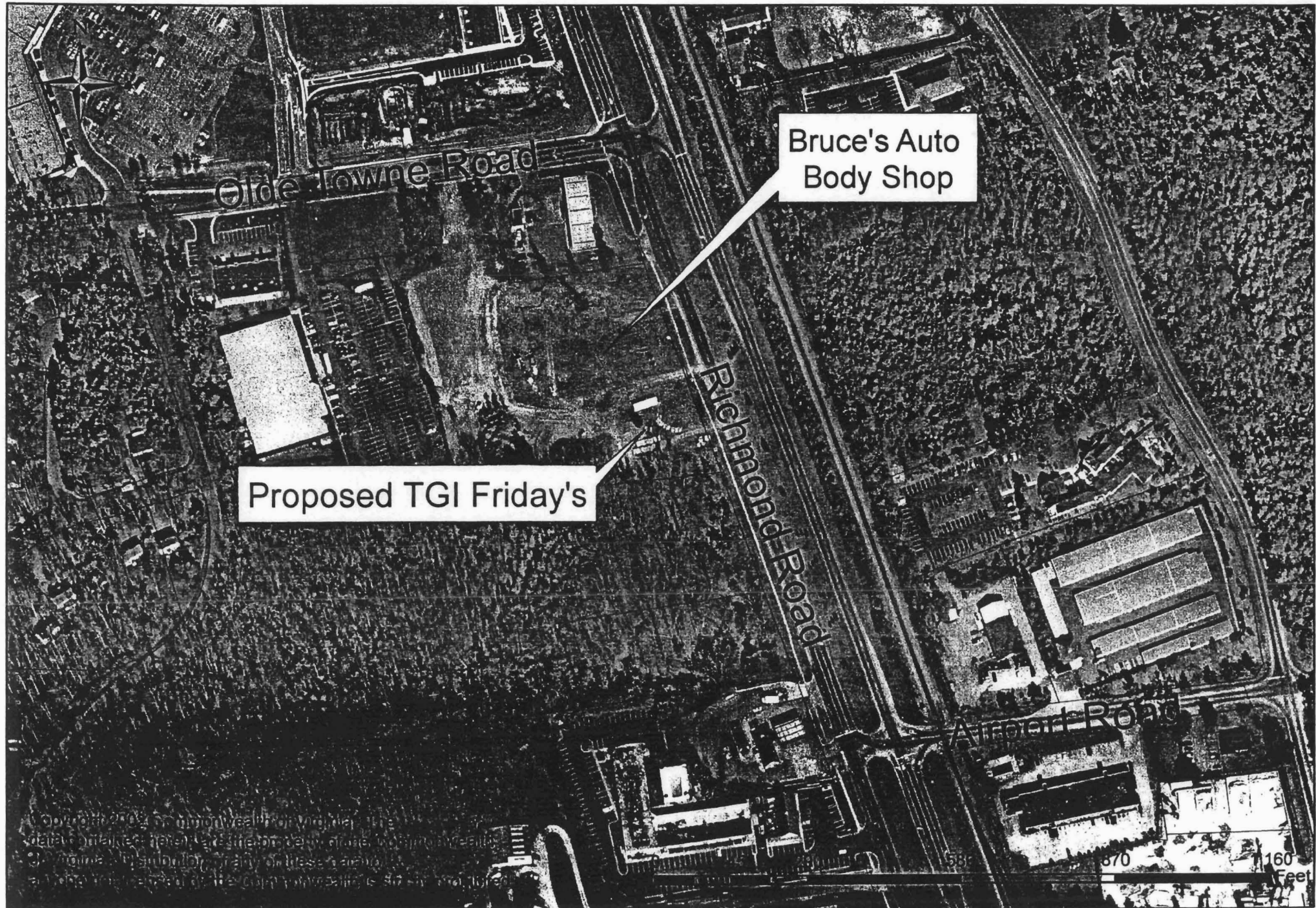
7. All dumpsters and heating and cooling units, whether on the ground or affixed on the rooftop, shall be screened by landscaping , fencing or other alternative that provide similarly adequate screening, as determined and approved by the Planning Director prior to final site plan approval.
8. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.


Joel Almquist

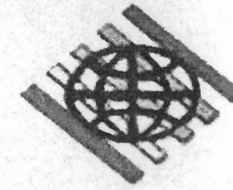
Attachments:

1. Location Map
2. Architectural Elevations
3. Letter from applicant dated June 20, 2005

JCC SUP-023-05: TGI Friday's



Carlson Restaurants WorldwideSM



P6.2-PROTOTYPE

SUP. 23-05

● CARRELL
■ POOLE
/ & YOST
ARCHITECTS, P.C.

BLDG. 7,096 SQ. FT.
DATE:



Carlson Restaurants WorldwideSM



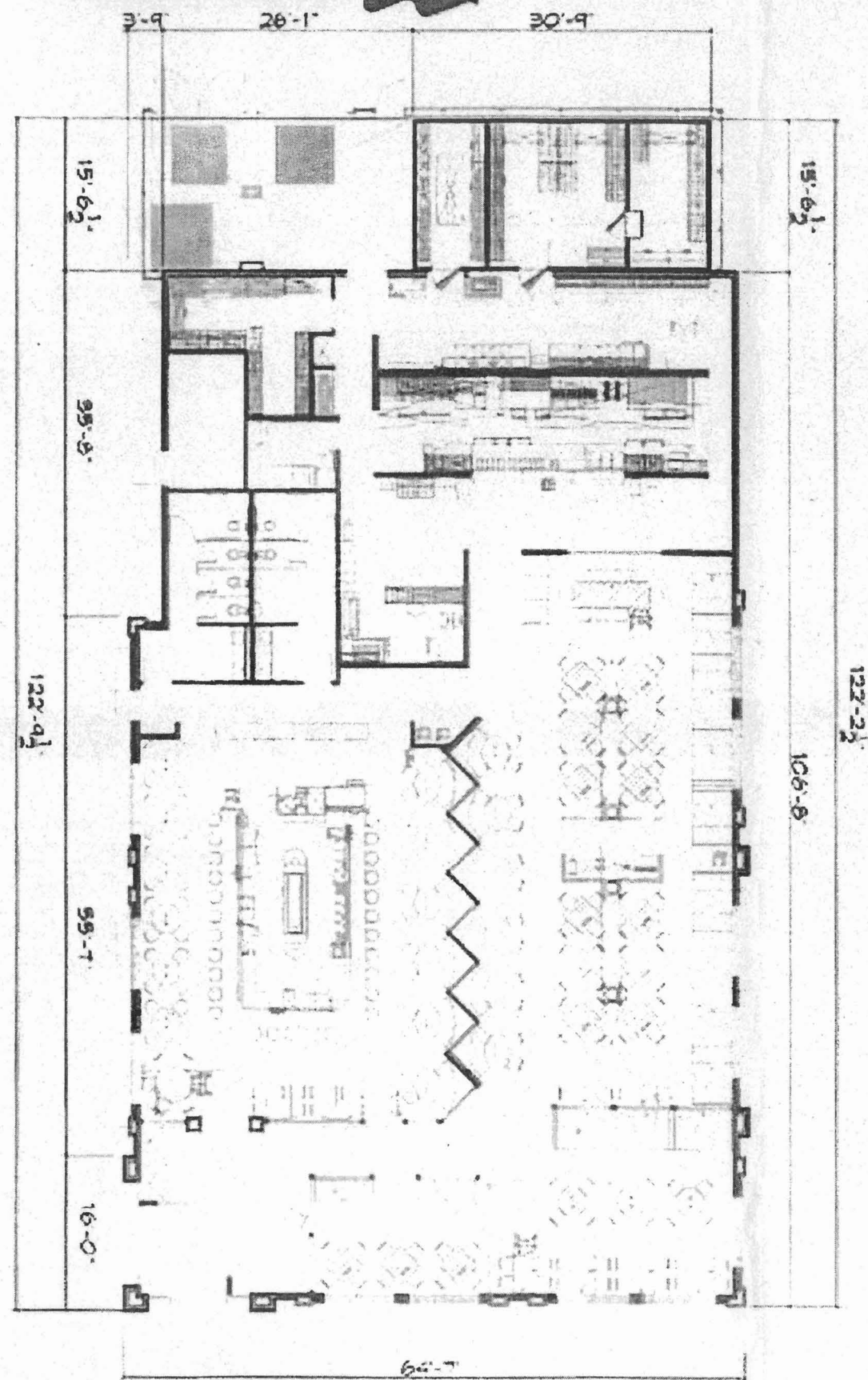
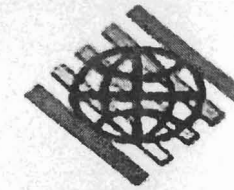
P6.2-PROTOTYPE

BLDG. 7,096 SQ. FT.
DATE:

● CARRELL
■ POOLE
/ & YOST
ARCHITECTS



Carlson Restaurants WorldwideSM



SEATING COUNT

SQ FOOTAGE 7,096 sq. ft.

DINING

2-tops	...	2	•	4 seats
4-tops	...	31	•	124 seats
5-tops	...	6	•	30 seats
10-tops	...	1	•	10 seats

TOTAL ... 40 • 168 seats

BAR DINING

2-tops	...	2	•	4 seats
4-tops	...	11	•	44 seats
5-tops	...	6	•	30 seats
6-tops	...	1	•	6 seats

TOTAL ... 21 • 84 seats

TOTAL SEATS 252 seats

BAR SEATING -	28
BAR STANDING -	30
EMPLOYEES -	31
OCCUPANCY LOAD -	350

P6.2-PROTOTYPE FLOOR PLAN

BLDG. 7,096 SQ. FT.

DATE:

PLAN SCALE: 1"=20'-0"

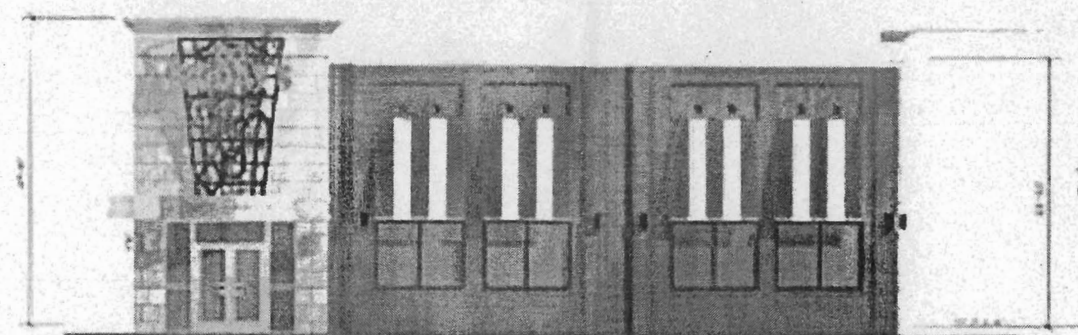
● CARRELL
■ POOLE
/ & YOST
architecture



Carlson Restaurants WorldwideSM



MATERIAL	
BRICK	
STONE	
CEMENT BLOCK	
WOOD	
CLEAR GLASS	
ALUMINUM	



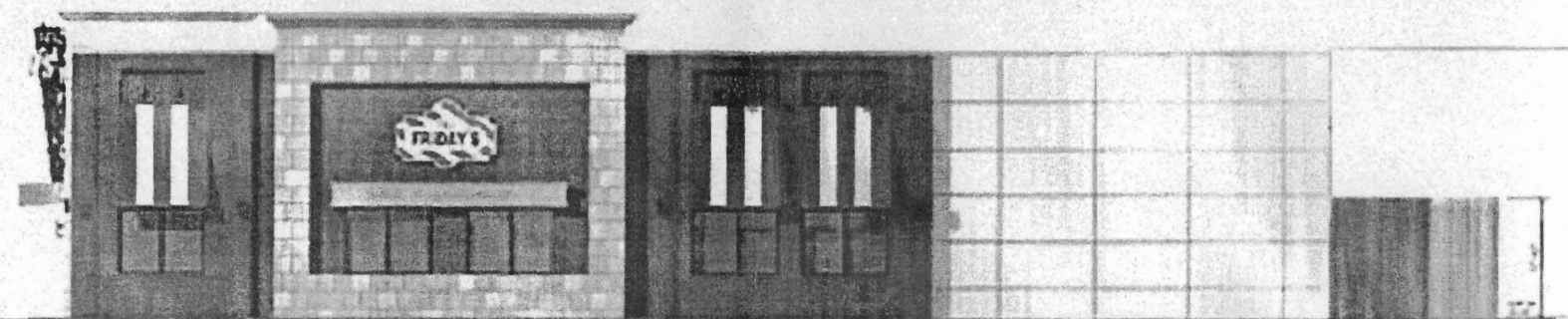
FRONT ELEVATION

SIGNAGE AREA	(VARIED PER LOCAL REQ.)
STOP SIGN	+ 44.0 SQ. FT.
TUMBLER SIGN	+ 26.2 SQ. FT.
THREE STOP SIGNS	+ 133.5 SQ. FT.
ONE TUMBLER SIGN	+ 26.2 SQ. FT.
TOTAL SIGNAGE AREA	+ 581.7 SQ. FT.

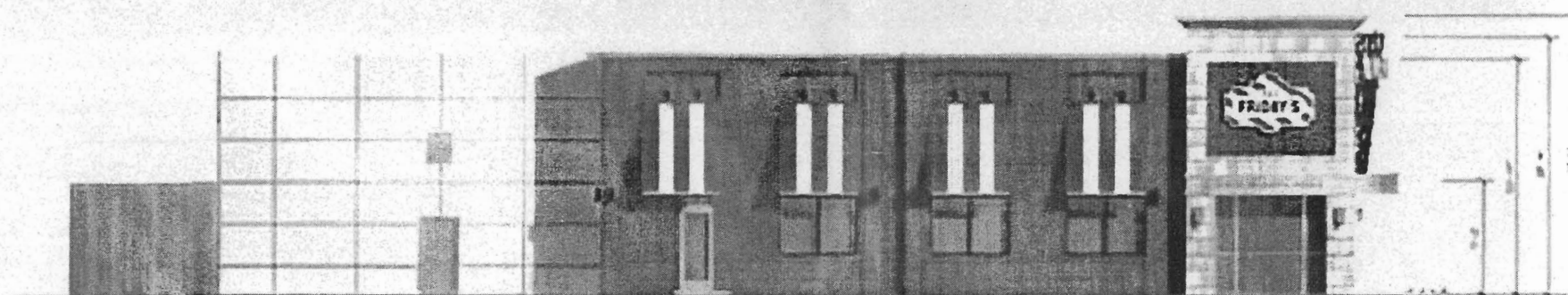
P6.2-PROTOTYPE ELEVATIONS

BLDG. 7,096 SQ. FT.

DATE:



RIGHT ELEVATION



LEFT ELEVATION



REAR ELEVATION

● CARRELL
■ POOLE
& YOST
architecture



GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

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VERNON M. GEDDY, JR.
STEPHEN D. HARRIS
SHELDON M. FRANCK
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SUSANNA B. HICKMAN

ANDREW M. FRANCK
RICHARD H. RIZK

MAILING ADDRESS:
POST OFFICE BOX 379
WILLIAMSBURG, VIRGINIA 23187-0379

email: vgeddy@widomaker.com

June 20, 2005

Mr. O. Marvin Sowers
Director of Planning
James City County
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: TGI Friday's/Special Use Permit



Dear Marvin:

On behalf of the applicant, I enclose an application for a special use permit for the construction and operation of a TGI Friday's restaurant on 1.83 acres of land adjacent to Bruce's Body Shop on Richmond Road, together with 11 copies of a traffic impact study and architectural elevations for the proposed restaurant, and a check for \$1,260 for the filing fee. A full site plan for this restaurant (SP-064-05) has previously been submitted to the Planning department.

Please let me know if you need anything further.

Sincerely,

Vernon M. Geddy, III

cc: Mr. William H. Vaughn
Mr. Ian Fay

**SPECIAL USE PERMIT-19-05, Branscome, Inc. Borrow Pit Renewal (Amendment to SUP-009-00)
SPECIAL USE PERMIT-20-05, USA Waste of Virginia Landfills, Inc. Renewal (Amendment to SUP-008-00)
Staff Report for the August 1, 2005 Planning Commission Meeting**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Center

July 11, 2005 at 7:00 pm (Deferred)

August 1, 2005 at 7:00 pm

Board of Supervisors:

September 13, 2005 at 7:00 pm (Tentative)

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III

Land Owner:

Branscome, Inc. (SUP-019-05) and USA Waste of Virginia Landfills, Inc. (SUP-020-05)

Proposed Use:

Continued operation of a borrow pit (i.e. a surface mine for sand and clay)

Location:

Approximately 1.2 miles southeast of the terminus Blow Flats Road

Tax Map/Parcel:

(60-3) (1-2) is the Branscome owned property
(60-3) (1-3) in the USA Waste of Virginia, Inc. property

Parcel Size:

The two parcels together are approximately 420 acres in size

Zoning:

M-2, General Industrial

Comprehensive Plan:

General Industrial

Primary Service Area:

Yes

STAFF RECOMMENDATION

Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends approval of the request, subject to the attached proposed conditions.

Staff Contact:

Matthew J. Smolnik, Planner

Phone: 253-6685

Project History

For over 30 years, Henry S. Branscome Inc., has operated a borrow pit in the southern-most portion of the County. Branscome utilizes the borrow pit as an area where sand and clay are mined for use as fill material in off-site building and roadway construction. USA Waste of Virginia Landfills, Inc., uses the borrow pit to mine clay material for use at a local landfill. Two special use permits (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. At that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the permits as a condition of approval. In 1997, the special use permits were reevaluated and renewed for a subsequent three years. In 2000, the special use permits were once again renewed with a five-year time limit as a condition of the approval. The two existing special use permits

will expire on October 10, 2005. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two special use permits without any time limit.

Project Description

The facility currently operates up to six days a week, typically during daylight hours. Within these time frames, activity at the pits ranges from no activity to full activity approximately 160 days a year. The total size of the parcels is approximately 420 acres; however, previous special use permit conditions limit the amount of area that can be disturbed at any given time to 40 acres per parcel. The most current information staff has indicates the following:

- 420 total acres on site
- 203.4 acres are covered by the State Mining Permit
- 102.2 acres have been mined, reclaimed, and released from further activity by the State
- 73.5 acres have been, or will be, utilized in recent or future mining activities:
 - approximately 13.5 acres have been mined and reclaimed in the recent permit cycle;
 - approximately 18 acres are actively being mined;
 - approximately 47.1 acres will be mined in the near future
- 138.1 acres are set aside for future mining to accommodate long term demand
- In total, there are approximately 200 acres that have the potential for future mining.

The applicant has proposed to create tidal wetlands on the three western peninsulas on the USA Waste of Virginia Landfills, Inc. property. The process of creating tidal wetlands would involve mining to an elevation of -15 feet to mean sea level on portions of the peninsulas that would become inundated by water during high tide. The Environmental Division has met with the applicant to discuss this proposal and is receptive to the idea and will oversee and provide guidance set forth by conditions of the special use permit. The largest peninsula to the south has not been previously mined and is set aside for future mining operations. The two other peninsulas have been previously mined and were both reclaimed and were released of their bonds by the state in 2001. In order to re-mine the two smallest peninsulas, the mine operators would have to apply for and be approved for an amendment to their current state mining permit. The Office of Economic Development will aid the Environmental Division in delineating the limits of the tidal wetlands to ensure that there will be viable land for future economic development. The limits of the tidal wetlands will be delineated over time to meet the demands of the market and possible changing environmental regulations.

Access

The old access road has been abandoned and access to the site is provided by a new private road to the south-west of the Wal Mart distribution center addition. The road is currently in use and is passable; however the final grading of the road will be completed when Wal Mart completes their additional distribution center. This road, which is approximately 5,300 feet in length, will have a 30 foot easement and a travel surface of 21B stone built to VDOT specifications. Once the road is 100% complete a metes and bounds survey will be undertaken and recorded at the courthouse, which is anticipated to occur in late 2005. Trucks access this gravel road from an existing commercial entrance located at the end of Blow Flats Road. The applicant estimates that the site generates 70 truck trips on an average day and approximately 120 truck trips on a peak day. Historical data from the company has shown the busiest month generated approximately 4,000 total trips and an average 160 daily trips. The north side of Blow

Flats Road contains approximately 20 residences and is characterized by front yards with shallow setbacks. The south side of the road is primarily vacant and is part of the Greenmount tract.

During the 1992 public hearing process, homeowners along Blow Flats Road were very concerned over the amount of truck traffic that uses the road. As a result of those concerns, the Board requested the applicant to look at different access alternatives. These included using the adjacent BASF property and Greenmount property as additional means of ingress and egress to the site. Those property owners, however, did not agree to such a proposal. At the request of the neighborhood, alternatives such as constructing a separate pedestrian trail and bike path, and making roadway and intersection improvements were also analyzed. However, according to the Virginia Department of Transportation (VDOT), Blow Flats Road is substandard in that there is insufficient right-of-way and pavement width to accommodate such improvements (the right-of-way is currently 30 feet while VDOT standards now require 50 feet and the pavement width is 20 feet while VDOT requires a minimum of 22 feet). Consequently, access was not substantially improved. The one improvement that did result from the 1992 public hearing process was that VDOT established a 25 m.p.h speed limit on Blow Flats Road. The speed limit for the road was previously unposted and therefore had a default limit of 55 m.p.h. No further public interest has been expressed to staff since the original public notification of the current request for renewal. As part of the notification process, letters were sent to all property owners along Blow Flats Road.

Surrounding Development and Zoning

The site is bordered on the east and south by Skiffe's Creek while Wood Creek is located to the west of the site. Property to the north of the site is zoned M-2, General Industrial, and is being developed for the Wal-Mart Distribution Center. There are several residences along Blow Flats Road as previously described; however, these homes are on property zoned M-2 as well. During the 1992 public hearings, the homeowners were very concerned over the potential negative effects the truck traffic would have on the area. As stated above, these concerns involved pedestrian safety, noise and dust. Examples of currently permitted uses in the M-2 district include breweries, drop-forge industries, industries that manufacture metals, glass, automobiles, machinery, electronic devices, etc. Any of these proposed uses, including a borrow pit, have the potential to generate various levels of noise, truck traffic, dust, and noxious emissions. Since the last special use permits were issued, Wal-Mart has started and nearly completed construction on an additional one million square feet bulk distribution facility. Given the industrial nature of this use, the heavy truck traffic generation and the distance from the borrow pits, staff believes the two uses are compatible. Staff feels that, with a feasible land reclamation plan, a borrow pit has no more of a negative impact on adjacent land than other permitted M-2 uses. Therefore, staff feels the proposal, with the proposed conditions, is compatible with the surrounding zoning.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Skiffe's Creek

Environmental Staff Comments:

The Environmental Division prefers to include the 5-year time limit on the Special Use Permit. The regulations regarding environmental protection change constantly and having an opportunity every 5 years to review the conditions of the operation allows the County to address these changes. The Environmental Division supports the idea of creating tidal wetlands on the USA Waste of Virginia Landfills, Inc. property in accordance with SUP conditions 7 and 9.

Public Utilities

The site is served by public water and sewer.

Water Conservations measures are proposed.

JCSA Staff Comments: JCSA has reviewed the proposals and has no comments.

Traffic

Staff Comments:

VDOT will require that a CE-7 Land Use Permit be obtained by the pit operators for continued use of the access onto state right-of-way for hauling operations. Current hauling operations on Blow Flats Road have caused significant damage to the shoulders and pavement. The horizontal geometry of the roadway does not allow hauling vehicles to pass without driving on the shoulder. Staff believes that the damage to Blow Flats Road has been caused by several businesses that utilize this road for hauling purposes including Wal Mart during their expansion, aggregate suppliers to Commercial Ready Mix, and other construction companies. A meeting was held on July 11, 2005 with County Staff, VDOT officials, and representatives from Branscome, Inc. and USA Waste of Virginia Landfills, Inc. to discuss the condition of Blow Flats Road with respect to the special use permit renewals. Branscome, Inc. and VDOT officials then met in the field to inspect the condition of Blow Flats Road and determined what repairs would be completed to satisfy VDOT with regards to their comments. It was agreed upon by both Branscome, Inc. and VDOT that VDOT will mark three sections of the roadway that are breaking up, which were of greatest concern. Branscome, Inc. will then undercut these areas approximately one foot and backfill them with full depth asphalt. Blow Flats Road will then be overlaid with two (2) inches of asphalt as part of the James City County paving schedule. In addition, as part of VDOT's maintenance schedule, VDOT will use a grader to clip the shoulders along Blow Flats Road. Staff is aware of the verbal agreement between Branscome, Inc. and VDOT, and staff's recommendation of approval is contingent on receiving a letter from VDOT officially rescinding their recommendation of denial and their acceptance of the repairs that will be made to Blow Flats Road by Branscome, Inc.

Comprehensive Plan:

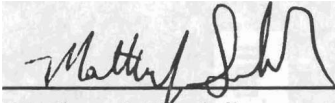
- ◆ The 2003 Comprehensive Plan Land Use Map designates this area General Industry and the property is located within the Primary Service Area. This designation is intended to accommodate industrial uses that create, or have the potential to create, adverse impacts such as noise, dust, odor and other environmental impacts.

Staff Comments:

A borrow pit can create noise and dust and, if not properly regulated, can prove to be an environmental hazard. A borrow pit also generates substantial heavy truck traffic. Staff believes that this property is well suited to accommodate this type of use because it is located in a relatively undeveloped portion of the County which is planned for industrial uses that would generate similar types of traffic. The residential properties on Blow Flats Road are also designated for Mixed Use and General Industrial. Additionally, proximity to an arterial road which is also a primary highway should minimize adverse traffic impacts. Staff has drafted proposed special use permit conditions that are designed to keep the property above the floodplain level except in specific areas where tidal wetlands are to be created, prevent erosion and sedimentation damage, keep the property screened and wooded, protect sensitive environmental areas, and prohibit unusable fill. Staff believes that for these reasons, use of this site as a borrow pit, with the proposed conditions, would not prohibit the future use for conventional industrial development. That portion of the site which borders Wood Creek and Skiffe's Creek is designated as a Conservation Area by the Comprehensive Plan. These are critical areas where ordinary development practices would cause significant environmental damage. Staff has proposed additional conditions designed to protect sensitive areas. It is important to note that a good portion of the Skiffe's Creek area is designated for industrial use. The Comprehensive Plan designations along Blow Flats road and Pocahontas Trail include General Industrial and Mixed Use. The nearest residentially designated area is the Skiffe's Creek Terrace Subdivision which is located on Route 60. Pocahontas Trail currently serves other industrial developments which generate heavy truck traffic, and is planned to serve future industrial uses as well. As noted above, this transition to actual industrial use began with the Wal-Mart Distribution Center. Under the Comprehensive Plan, this section of the County and its major roads are intended for industrial uses. Staff feels that the proposal, with the proposed conditions, is consistent with the Comprehensive Plan designation.

RECOMMENDATION:

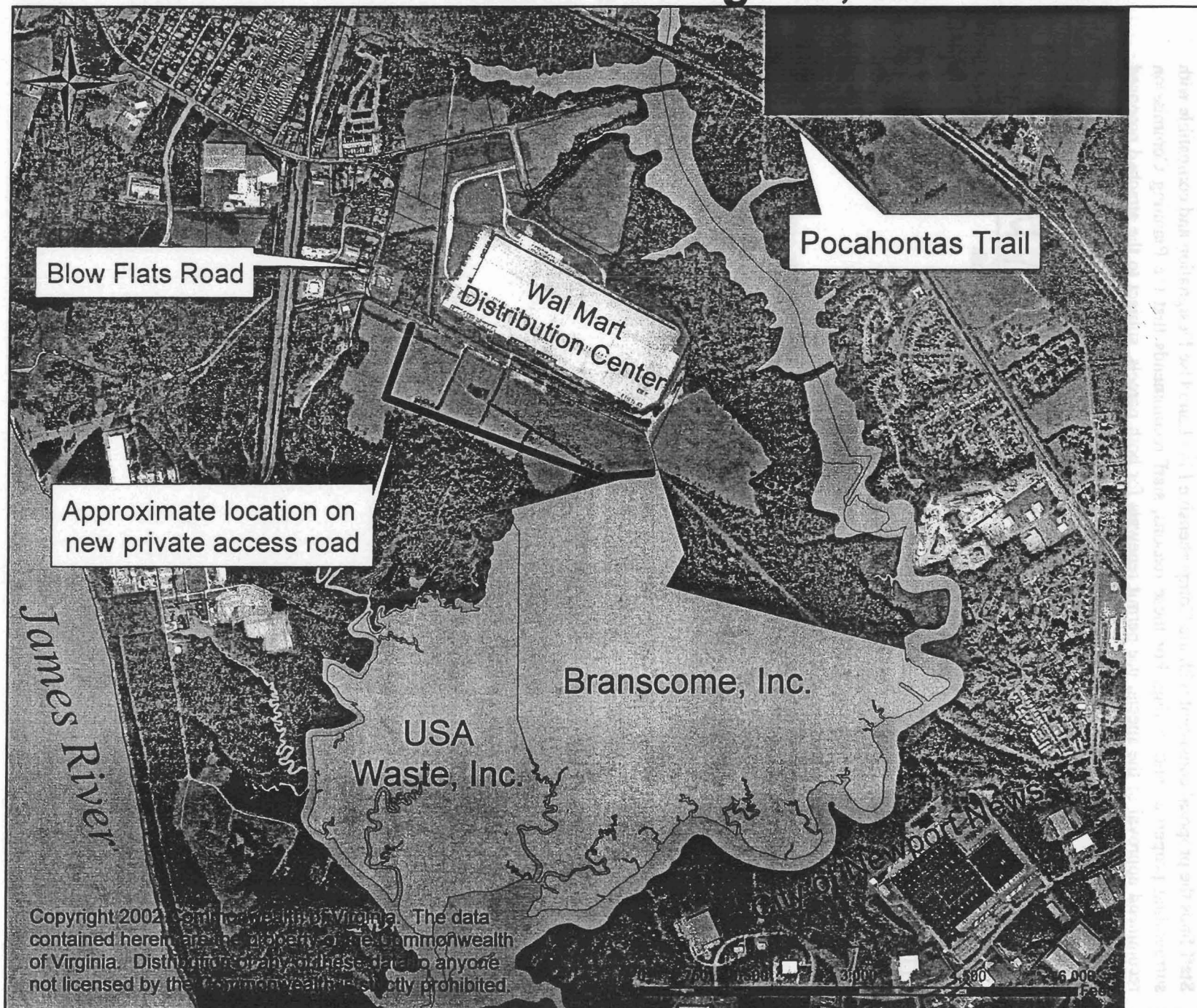
Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends that the Planning Commission recommend approval of the special use permit renewals for both parcels, subject to the attached proposed conditions.


Matthew J. Smolnik**ATTACHMENTS:**

1. Location Map
2. SUP Conditions for SUP-019-05
3. SUP Conditions for SUP-020-05
4. Letter from Branscome, Inc. to VDOT
5. Map of both parcels delineating mining areas dated April 2005. (Under separate cover provided by the applicant)

SUP-019-05: Branscome, Inc. Renewal

SUP-020-05: USA Waste of Virginia, Inc. Renewal



SUP-019-05 Conditions: Branscome, Inc. Borrow Pit Renewal

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and titled "Progress Renewal Map- Lee/Bickford Borrow Pit permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.
7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the special use permit, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within ninety (90) days after the date of issuance of this permit a perennial stream study (the Study) shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) ("RPA") located on the subject property. The limits of the RPA(s) located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled "Progress Renewal Map- Lee/Bickford Borrow Pit permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.

10. For as long as the special use permit is valid, the property owner shall submit a report, prepared by, or verified by, a licensed engineer or surveyor, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.

- A. The extent, and depth, of the area mined over the previous calendar year.
- B. The extent, and depth, of the area expected to be mined over the upcoming calendar year.
- C. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
- D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
- E. A certification as to the amount of disturbed acreage on site.
- F. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
- G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
- H. A delineation of the extent of the areas covered by the State Mining Permit.

11. A CE-7 Land Use permit shall be obtained from The Virginia Department of Transportation within sixty (60) days after the date of issuance of this permit for continued use of the access onto state right of way for hauling operations.

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

13. This special use permit shall be valid for a period of five (5) years from the date of approval by the James City County Board of Supervisors.

SUP-20-05 Conditions: USA Waste of Virginia Landfills, Inc. Renewal

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and titled "Progress Renewal Map- Lee/Bickford Borrow Pit permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.
7. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the special use permit, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within ninety (90) days after the date of issuance of this permit a perennial stream study (the Study) shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) ("RPA") located on the subject property. The limits of the RPA(s) located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled "Progress Renewal Map- Lee/Bickford Borrow Pit permit No. 10445AB U.S.G.S.

Quadrangle: Hog Island James City County, Virginia" dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.

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- A. The extent, and depth, of the area mined over the previous calendar year.
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- D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
- E. A certification as to the amount of disturbed acreage on site.
- F. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
- G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
- H. A delineation of the extent of the areas covered by the State Mining Permit.

11. A CE-7 Land Use permit shall be obtained from The Virginia Department of Transportation within sixty (60) days after the date of issuance of this permit for continued use of the access onto state right of way for hauling operations.

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

13. This special use permit shall be valid for a period of five (5) years from the date of approval by the James City County Board of Supervisors.

BRANSCOME INC.

Post Office Drawer 260
Williamsburg, Virginia 23187

WILLIAMSBURG: (757) 229-2504
NORFOLK: (757) 822-4800
FAX: (757) 220-0380

July 20, 2005

Virginia Department of Transportation
Mike Cade, Transportation Operations Manager
4451 Ironbound Road
Williamsburg, Virginia 23188

RE: Special Use Permit Applications
SUP 019-05 & SUP 020-05

Dear Mike:

This letter is a follow up to our joint meeting with James City County planning staff on July 11, 2005. During our meeting, VDOT's objection to our Special Use Permit applications was discussed. The primary concerns being the condition of the pavement and shoulders and the affects of truck traffic on Blow Flats Road.

Everyone agreed at that meeting that Branscome Inc. is not the sole commercial user of Blow Flats Road and that the condition of the roadway can not be put solely on Branscome. The construction of the Wal*Mart Distribution Center and their on site ready-mixed concrete plant and the other commercial enterprises located off Blow Flats Road have all contributed to the present condition of the roadway.

At the conclusion of this meeting, we met at Blow Flats Road to observe the condition and determine a solution to address VDOT's concerns. You and I agreed that you will mark three sections of the roadway that are breaking up and are your primary concerns. Branscome Inc. will then undercut these areas approximately one foot and backfill them with full depth asphalt. Blow Flats Road will then be overlaid with two (2) inches of asphalt as part of the James City County paving schedule. As part of VDOT's maintenance schedule, you will have the shoulders clipped with a grader.

I believe that this is an equitable solution to repairing Blow Flats Road. As a result of our cooperation, VDOT will rescind their objections to our Special Use Permit applications and will forward a letter to Mr. Matthew J. Smolnik of the county's planning staff stating such. This will then result in us obtaining staff's recommendation for approval of our applications.



Registered Virginia Contractor No. 2705061347A Class A HM

Page 2
Mike Cade
July 20, 2005

There are no concerns pertaining to Blow Flats Road that we can not cooperatively resolve. Should you have any questions, or I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Kevin R. Jones, Vice President
for
W. Stuart Patterson, President

cc: Vernon M. Geddy, III
James L. Loveland, P.E.
Matthew J. Smolnik

Page 2
Mike Cade
July 20, 2005

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Sincerely,



Kevin R. Jones, Vice President
for
W. Stuart Patterson, President

cc: Vernon M. Geddy, III
James L. Loveland, P.E.
Matthew J. Smolnik

**REZONING 4-05/SPECIAL USE PERMIT 7-05. Langley Federal Credit Union at New Town
Staff Report for the August 1, 2005, Planning Commission Meeting**

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

PUBLIC HEARINGS

Building F Board Room; County Government Center

Planning Commission:

April 4, 2005, 7:00 p.m. (deferred)
May 2, 2005, 7:00 p.m. (deferred)
June 6, 2005, 7:00 p.m. (deferred)
July 11, 2005, 7:00 p.m. (deferred)
August 1, 2005, 7:00 p.m.

Board of Supervisors:

August 9, 2005, 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:

Mr. Tom Horner, Langley Federal Credit Union

Land Owner:

Philip Richardson Company, Inc.

Proposed Use:

A 16,000 square-foot, two-story bank and office building with 7 drive-through lanes (4 teller and 1 ATM lane for immediate use plus 2 reserved for future use in a landscape median)

Location:

5220 Monticello Avenue
Berkeley District

Tax Map/Parcel:

(38-4) (1-55)

Parcel Size:

2 acres

Existing Zoning:

M-1, Limited Business/Industrial

Proposed Zoning:

MU, Mixed Use

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

Staff Contact:

Tammy Mayer Rosario, Senior Planner II

Phone: 253-6685

STAFF RECOMMENDATION

The Planning Commission deferred action on this case on July 11, 2005. The following report provides additional information and updates on the proposal since that time.

With the recently revised proffers, master plan, and special use permit condition, staff finds the proposed use

consistent with the surrounding development, the New Town Design Guidelines, and the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the setback modification, special use permit, and rezoning for the proposed use and the acceptance of the voluntary proffers and special use permit conditions, with the understanding that the staff proposed special use permit condition may be incorporated into the proffers prior to the Board of Supervisors' meeting.

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

Cash Proffer Summary (See staff report narrative and attached proffers for further details)	
Use	Amount
Transportation Items	\$25,000 total
Total Amount (2005 dollars)	\$25,000

PROJECT DESCRIPTION AND PROPOSED OPERATION

Mr. Tom Horner of Langley Federal Credit Union has applied for a setback modification, special use permit, and rezoning of approximately 2 acres from M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers. The applicant seeks to construct a two-story, 16,000 square-foot bank and office building on the northeast corner of Monticello Avenue and New Town Avenue in the New Town area. As shown on the attached master plan, the proposal also includes seven drive-through lanes (four teller lanes and one ATM lane for immediate use plus two teller lanes reserved for future use) at the rear of the building. Access to the site is from a side street off New Town Avenue. The property is located at 5220 Monticello Avenue and is further identified as Parcel (1-55) on James City County Tax Map (38-4).

ISSUES RAISED AT THE JULY 11, 2005 PLANNING COMMISSION MEETING

Number of Lanes

Confusion arose at the July 11 Planning Commission meeting as to the exact number of lanes proposed by the applicant. After the meeting, staff confirmed with the applicant that the number was indeed seven lanes (six teller and one ATM) as originally presented by staff. Responding to the Planning Commission's concerns, however, the applicant has reduced the number of lanes to be constructed initially to five (four teller and one ATM). Because Langley Federal Credit Union believes that demand for the drive-through lanes could cause vehicles to stack in the entrance road, however, the landscape median is designed in such a way that it could be converted into two additional teller lanes if warranted.

	<i>Constructed Immediately</i>	<i>Constructed When Warranted and If Approved</i>
Previous Proposal	7 lanes (6 teller + 1 ATM)	--
Current Proposal	5 lanes (4 teller + 1 ATM)	2 teller lanes

To implement this plan, the applicant has proposed a special use permit condition describing the process by which the additional lanes would be approved.

The Property will have four drive through lanes [and one ATM lane] with a landscaped island in the middle of the lanes reserved for two future drive through lanes. Upon request of the Bank, with documentation that the lack of the additional drive through lanes is causing congestion off-site or safety issues on site, the Planning Director shall review the documentation and forward a recommendation to the Development Review Committee (DRC) who shall consider the Planning Directors report and the Bank's documentation. The DRC and the commission shall review the materials and grant approval of additional lane(s) or

disapprove the request. If the request is approved the bank can receive final approval through the filling of an administratively reviewed site plan amendment.

Staff believes the reduction in lanes is more in keeping with the pedestrian-oriented spirit of New Town while preserving the option to expand the number of lanes should congestion occur. To increase clarification, staff proposes the following language, which is preferred as a proffer as opposed to a condition.

The use shall have no more than five drive-through lanes (including both teller and ATM lanes) as shown on the Property Master Plan, except that upon application by the credit union and review by the Planning Director, the Development Review Committee (DRC) may allow up to two additional drive-through lanes for a total of seven drive-through lanes (including both teller and ATM lanes). The additional lanes are to be located in what is labeled as the “proposed landscape island” on the Property Master Plan. In making application, the credit union shall justify that the additional lanes are needed to address off-site congestion and/or on- or off-site safety issues. In making a recommendation, the DRC shall consider the following criteria: peak and non-peak drive-through lane volumes, on- and off-site queuing, on-site circulation, traffic accident data, and other traffic study information as needed.

If the Planning Commission concurs with the proposed number of lanes and the process for expansion of the use to seven lanes, staff will continue to work with the applicant on the exact language and the inclusion of it as a proffer prior to the Board of Supervisors’ meeting.

Proffers

The applicant has submitted proffers which satisfactorily address the deficiencies noted in the previous staff report. Most notably, the applicant has proffered participation in the New Town Commercial Property Owners’ Association which will help ensure the orderly development of the mixed use area and resolve questions related to stormwater management. Other changes include corrections to proffers related to the master plan development, road improvements, exit lane, cash contribution, and streetscapes to more effectively bind the development and properly mitigate its impacts.

Shared Parking

Since the last meeting, the applicant has stated in writing his willingness to enter into a shared parking arrangement with the adjoining land owners for the joint use of the property’s parking area. Since the development of the adjacent property is still under conceptual review, no formal arrangement can be made at this time; however, staff has relayed this expectation to the adjoining property owner and will continue to work with the property owners on a more formal arrangement prior to the adjoining property’s rezoning.

CONCLUSIONS & CONDITIONS

With the recently revised proffers, master plan, and special use permit condition, staff finds the proposed use consistent with the surrounding development, the New Town Design Guidelines, and the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the setback modification, special use permit, and rezoning for the proposed use and the acceptance of the voluntary proffers and following special use permit conditions, with the understanding that the staff proposed special use permit condition may be incorporated into the proffers prior to the Board of Supervisors’ meeting. On July 11, 2005, the Planning Commission deferred this case by a vote of 5 to 0.

1. The use shall have no more than five drive-through lanes (including both teller and ATM lanes) as shown on the Property Master Plan, except that upon application by the credit union and review by the Planning Director, the Development Review Committee (DRC) may allow up to two additional drive-through lanes for a total of seven drive-through lanes (including both teller and ATM lanes). The additional lanes are to be located in what is labeled as the “proposed landscape island” on the Property Master Plan. In making application, the credit union shall justify that the additional lanes are needed to address off-site congestion and/or on- or off-site safety issues. In making a recommendation, the DRC shall consider the following

criteria: peak and non-peak drive-through lane volumes, on- and off-site queuing, on-site circulation, traffic accident data, and other traffic study information as needed.

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

ATTACHMENTS:

1. Revised Master Plan (under separate cover)
2. Revised Proffers

NEW TOWN –
PORTION OF SECTION 9-
PROFFERS

THESE PROFFERS are made as of this ___ day of _____ 2005, by PHILIP RICHARDSON COMPANY, INC., a Virginia corporation (together with its successors and assigns, the "Owner").

RECITALS

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

R-2. Owner has contracted to sell the Property to Langley Federal Credit Union who intends to construct an office building on the Property.

R-3. In connection with said sale to Langley Federal Credit Union, Owner has applied for a rezoning of the Property from M1 to MU, Mixed Use (the "Rezoning"). The Rezoning of the Property to MU, with proffers, is in fact consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the MU Zoning District set forth in Section 24-514 of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance").

R-4. The Property is located within the vicinity of a development commonly known as "New Town." The New Town development is subject to and governed by (i) certain proffers entitled the "New Town Proffers" dated December 9, 1997 of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as Instrument No. 980001284, (ii) a conceptual master land use plan entitled "New Town Plan" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997 and revised December 8, 1997 (the "New Town Master Plan"), (iii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA," prepared by Cooper, Robertson & Partners dated September 3, 1997 and (iii) the New Town Sections 2 and 4, Proffers dated November 1, 2001 of record in the Clerk's Office as Instrument No. 010023715 (the "New Town Design Guidelines"), (iv) New Town Sections 3 and 6, Proffers dated October 25, 2005, Instrument No. 040027471, (v) Supplemental Proffers New Town Sections 2 and 4, October 3, 2003, Instrument No. 030032005, and (vi) New Town Section Proffers, April 23, 2004, Instrument No. 040020235.

R-5. In connection with the rezoning of the Property, Owner intends to subject the Property to these Proffers which are consistent with the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines.

R-6. Owner has submitted to the County a master plan for the Property entitled "Master Plan for Rezoning and Special Use Permit" prepared by AES Consulting Engineers dated February 22, 2005 and revised June 23, 2005 (the "Property Master Plan").

R-7. Owner in conjunction with Langley Federal Credit Union has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a master plan entitled "Master Plan For Rezoning and Special Use Permit" dated February 22, 2005, and revised May 17, 2005 for the Property, copies of which are on file with the County's Director of Planning.

R-8. In accordance with the requirements of the New Town Proffers, Owner has submitted to the County an updated traffic study (the "Traffic Study"), which is on file with the County's Director of Planning.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the Property Master Plan and related documents, submitted herewith, and the rezoning set forth above, and pursuant to Section 15.2-2296 et seq. 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. In the event the requested rezoning is not granted by the County, these Proffers shall thereupon be null and void.

PROFFERS

1. Development Process and Land Use.

(a) Development. All the Property and the entrance road into the property shall be developed, in one phase, in accordance with the Property Master Plan. The improvements shall be developed and constructed prior to the issuance of a final Certificate of Occupancy.

(b) New Town Owner's Association. A supplemental declaration (the "Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as documents no. 980013868, the articles of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof (collectively the "Governing Documents"), if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer prior to final site plan approval.

(c) DRB Authority, Duties and Powers. All subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled "NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY", dated June 15, 2000, as the same may be amended by the DRB from time to time, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Property Master Plan and architectural plans. Evidence of DRB approval of plans required to be submitted to the

County for approval shall be provided with any submission to the County Department of Development Management of such plans. The County shall not be required to review any subsequent development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Property Master Plan and architectural plans. The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable Property Master Plan and the reasons for such finding and suggestions for curing the inconsistencies. The DRB may approve development plans that do not strictly comply with the Property Master Plan and architectural plans, if circumstances, including, but not limited to, topography, natural obstructions, hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures and improvements and open space, wetlands and other natural features on the Property shall be constructed, unproved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

(d) Limitation of Liability. Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, or ordinances or regulations. Neither the Owner, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

3. Traffic Study and Road and Signal Improvements/Traffic Signal Preemption Equipment.

(a) Prior to final site plan approval, Owner shall make a contribution of \$25,000 towards pedestrian improvements required at the Monticello Avenue corridor which shall include the following: (i) demolishing existing handicap ramps and construction and installation of new ramps which meet current design standards; (ii) installation and construction of curbs and gutters which meet current design standards; (iii) installation and construction of pedestrian signal and stripping of crosswalks all to current design standards; and (iv) other improvements, the need for which is generated in whole or in part by the development.

(b) The Property may be served by no more than one (1) right-out only exit providing direct access from the Property to Monticello Avenue, as shown on the Property Master Plan. The exit shall be governed by signage and design criteria approved by VDOT and the County's Director of Planning, which shall provide for right turn only use of such exit to Monticello Avenue. No entrance from Monticello Avenue shall be permitted via the exit described herein.

(c) The side street leading from New Town Avenue to the Property has the potential to be private; however, the street shall be designed, constructed and maintained in conformance with VDOT and New Town Design Guideline Standards.

4. Streetscapes. All site development and subdivision plans for development of the Property shall include streetscape plans for adjacent streets to the Property consistent with the New Town Design Guidelines applicable to that property. The approved streetscape plan shall be implemented when the Property is developed.

5. Water Conservation. The owner(s) of the Property shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority (the "JCSA"). The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total irrigated area of the Property in order to accomplish the limitation on use of public water and groundwater. The standards shall be approved by the JCSA prior to approval of the first site plan for development of the Property or any portion thereof.

6. Archaeological Study. If deemed necessary by the County and pursuant to the County's Archaeological Policy adopted September 22, 1998, a Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

7. Natural Resource. If deemed necessary by the County and pursuant to the County's Natural Resource Policy adopted on July 27, 1999, the owner shall submit a natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area to the Director of Planning for his/her review and approval prior to land disturbance. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans

shall meet the DCR/DNH's standards for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by the DCR/DNH or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.

MISCELLANEOUS PROVISIONS

8. Disposition of Proffered Property and Payments. In the event payment of cash and dedication of real property are proffered pursuant to these Proffers and any of such property and cash payments are not used by the County or, with respect to real property, the Commonwealth of Virginia, for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts and property not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County's capital improvement plan, the need for which is generated in whole or in part by development of the Property.

9. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligations of owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

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

11. Conflicts. In the event there is a conflict between: (1) these Proffers, (2) the Property Master Plan, (3) the New Town Proffers, (4) the New Town Master Plan and/or (5) the New Town Guidelines, then these Proffers, and the Property Master Plan shall govern. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts or as otherwise provided by law.

12. Signature By The County. The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings and submissions described herein and confirming approval by the Board of Supervisors of the rezoning of the Property with these Proffers by resolution dated _____, 2005.

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

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

WITNESS the following signatures, thereunto duly authorized:

PHILIP RICHARDSON COMPANY, INC.,
a Virginia corporation

By: _____

Title: _____

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____

Title: _____

APPROVED AS TO FORM:

County Attorney

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 22 day of July,
2005, by Philip Richardson, on behalf of PHILIP RICHARDSON
COMPANY, INC., a Virginia corporation.

Barbara J. Claus
Notary Public

My commission expires:

1/31/07

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____,
2005, by _____ as _____
for the County of James City, Virginia.

Notary Public

My commission expires: _____
347901

EXHIBIT A

All that certain lot or parcel of land containing 2.00 Acres \pm located in James City County, Virginia shown and set out as "New Parcel, Area = 2.00 Acres \pm " as shown on the plat entitled "Plat of Subdivision Being a Portion of the Property Owned by WHS Land Holdings, LLC For Conveyance to Philip O. Richardson" made by AES Consulting Engineers dated 1/8/02 and recorded herewith in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City in James City Plat Book 85 at page 16 (the "Plat").

REZONING Z-10-05 / MASTER PLAN MP-07-05 / SPECIAL USE PERMIT SUP-17-05 VILLAGES AT WHITE HALL (La Grange)

REZONING Z-11-05 / MASTER PLAN MP-08-05 / SPECIAL USE PERMIT SUP-18-05 VILLAGES AT WHITE HALL ("Three Villages": Taskinas, Hickory Neck and Rochambeau)

Staff Report for the August 1, 2005, Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission: Building F Board Room; County Government Complex
Planning Commission: July 11, 2005 at 7:00 p.m. (deferred)
August 1, 2005 at 7:00 pm
Board of Supervisors: September 13, 2005 at 7:00 p.m. (tentative)

SUMMARY FACTS - Z-10-05 / MP-07-05 / SUP-17-05 (La Grange)

Applicant: Mr. Vernon Geddy on behalf of Rauch Development Co., LLC
Land Owner: Robert W. Cowan and Judy G. Cowan
Proposed Use: 20 three and four family housing units with a total of 79 residential units
Location: 8716, 8724 and 8720 Barhamsville Road and 3225 Old Stage Road
Tax Map and Parcel No.: (12-1)(03-02), (12-1)(03-01), (12-1)(01-21), (12-2)(01-21)
Parcel Size: 22.81 acres
Proposed Zoning: R-2, General Residential District, Cluster Overlay, with Proffers
Existing Zoning: A-1
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

SUMMARY FACTS - Z-11-05 / MP-08-05 / SUP-18-05 (Taskinas, Hickory Neck, Rochambeau)

Applicant: Mr. Vernon Geddy on behalf of Rauch Development Co., LLC
Land Owner: Hazelwood-Waverly, LLC; R.M. Hazelwood, Jr.; David and Cindy Johnson
Proposed Use: 271 single family dwelling units, 56 two-family dwelling units and 88 multi-family housing units (townhouses), 8,000 square foot non-residential building
Location: 3400, 3610, 3611 and 3505 Rochambeau Drive and 8350 Richmond Road
Tax Map and Parcel No.: (12-2)(01-14), (12-2)(01-24), (12-2)(01-22), (12-2)(01-19), (12-2)(01-18)
Parcel Size: 138.54 acres
Proposed Zoning: R-2, General Residential District, Cluster Overlay, with Proffers; R-5 Multifamily Residential District, Cluster Overlay, with Proffers; and B-1, General Business District, with Proffers
Existing Zoning: A-1 General Agricultural District and B-1 General Business District
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION:

Staff recommends the Planning Commission approve the rezoning, special use permit and master plan application for LaGrange Village, accepting the attached voluntary proffers and applying the special use permit conditions listed in the staff report. Public benefits including the preservation of scenic views and resource protection areas are incorporated into the LaGrange Village master plan in such a manner that earns the residential cluster density bonus to support the proposed 3.46 dwelling units per acre and sufficiently meet the requirements found in the Comprehensive Plan.

Staff recommends the Planning Commission approve the rezoning, special user permit and master plan application for the Taskinas, Rochambeau and Hickory Neck Village. The unique historic features located within and adjacent to these three villages can be adequately protected through the revised proffers over time. Staff further believes that this rezoning application provides an adequate design that over time can allow the vision for Anderson's Corner to be achieved by providing a screened, transitional development. Based on this information, staff recommends that the Planning Commission recommend approval of this rezoning, special use permit, and master plan application for the Taskinas, Rochambeau and Hickory Neck Village, with the acceptance of the voluntary proffers and approval of the special use permit conditions listed in the staff report to the James City County Board of Supervisors.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy. However, there is a technical correction with specific JCSA fees that concerns staff and will need to be corrected prior to the Board of Supervisors' public hearing.

Cash Proffer Summary – La Grange (See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$796 per single family attached DU
Sewer	\$67.50 per residential DU
CIP projects – Schools	\$1,750 per single family attached DU
CIP projects – All other uses	\$750 per single family attached DU
Total Amount (2005 dollars)	\$265,716.50
Total Per Lot	\$3365.44 per unit, 79 units

Cash Proffer Summary – Three Villages (Taskinas, Hickory Neck and Rochambeau) (See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$1,061 per single family detached DU and \$796 per single family attached DU
Sewer	\$36 per single family detached DU and \$30 per single family attached DU served by JCSA Lift Station 9-5. \$81.00 per single family detached DU and \$67.50 per single family detached DU served by JCSA Lift Station 9-7.
CIP projects – Schools	\$3,750 per single family detached DU and \$1,875 per single family attached DU
CIP projects – All other uses	\$1,275 per single family detached DU and \$775 per single family attached DU
Total Amount (2005 dollars)	\$2,258,307.30 *
Total Per Lot	\$6144.50 per single family detached 268 DU * \$3494.75 per single family attached 175 DU *

* Based on using the average sewer proffer amount for JCSA lift stations 9-5 and 9-7 for attached and detached dwelling units respectively. The total numbers of dwelling units served by each lift station have not yet been identified.

Changes from Last Submission

This proposal was heard by the Planning Commission at the July 11, 2005 meeting. After hearing the Commission's comments on the project, the applicant requested a deferral to the August 1, 2005 meeting to allow time to address the Commission's concerns. A revised master plan and revised proffers for the Three Villages proposal were submitted to the Planning Division on July 28, 2005 and on July 22, 2005 respectively. Below is a summary of the changes contained in the revised submissions.

1. Unit Count/Density – The unit count for the Three Villages has been reduced from 443 total dwelling units to 415 total dwelling units (Eleven units have been removed from Hickory Neck and the remaining 17 units were removed from Taskinas). This results in an overall density for the project of 3.0, down from the 3.2 originally proposed.
2. Turf Management Plan – The proffers now contain provisions for a Turf Management Plan to be implemented in the proposed development. Proffer #2 has been revised and contains language authorizing the HOA to develop, implement and enforce the program. New Proffer #20 details the rules for the development of the program. Under Proffer #20, the program will apply to both private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
3. JCSA Contributions – Contributions to the JCSA to mitigate impacts on sewer infrastructure have been changed from a flat rate of \$62.50 for each dwelling unit to a sliding scale (see table above).
4. CIP Projects (All other uses) - The CIP cash contributions have been increased by \$25.00 for each detached and attached dwelling unit on the property to help fund off site sidewalks (see table above).
5. Road Improvements – Section (f) of Proffer #5 has been added for improvements to the intersection of Rochambeau Drive and Old Stage Road.
6. Route 60 Buffer – The minimum buffer depth has been increased from 200 to 300 feet and an average depth is no longer proffered. The combination of berm and mature landscaping will over time screen the adjacent houses from the direct view of vehicles traveling on Route 60 (Proffer #6).
7. Taskinas – The proffers no longer call for any townhouses in Taskinas Village to front along Rochambeau Drive. The unit types in Taskinas Village have also been changed from only townhouses to a mixture of townhouses and single family detached units. In any areas where the backs of the dwelling units face Rochambeau Road or School Lane, a combination of berms and mature landscaping will over time screen the adjacent units from the direct view of vehicles traveling on Rochambeau Road or School Lane (Proffer #8(c)). In addition, architectural guidelines under Proffer #13 will address the rear elevation of any dwelling units facing Rochambeau Road or School Lane.
8. Parkland Acreage – The overall acreage proffered for parkland in Proffer #11(b) has increased from 7.41 to 8.03.
9. Development Phasing – A provision limiting the number of units built annually in the proposed development has been included. Proffer #21 limits the number of building permits that the County is obligated to issue annually to 63 in the first year with the cumulative number of permits increasing by 63 units a year until year six. From year six to year seven, the cumulative number of permits increases from 378 to 415, the maximum number of units proposed for the entire development. Thus, under this proffer, build out can be achieved in no less than seven years. Based on the current information, staff is unable to determine if this proffer will have any meaningful impact on the rate of development. Staff has asked the developer to provide

supporting information to demonstrate that the proffer meaningfully restricts the pace of development in this project.

10. Collector Road Study – Section (g) of Proffer #5 has been added which will require the owner to submit with each preliminary development plan a traffic study confirming that all collector roads which provide potential connections to adjoining parcels will meet VDOT design and construction standards and guidelines for the projected off site traffic using the road.
11. Hedgerows – The applicant will be responsible for preserving and enhancing the hedgerow along the common southern property line of this proposal and the Hickory Neck Church property as shown on the Master Plan (Proffer #14), thereby protecting vistas from the church.

Project Description

Mr. Vernon Geddy has submitted an application on behalf of Gayle Rauch of Rauch Development Co. LLC to rezone 161.35 acres from A-1, General Agricultural District and B-1, General Business District, to: R-2, General Residential District, Cluster Overlay, with proffers; R-5 Multifamily Residential District, Cluster Overlay, with proffers; and B-1, General Business District, with proffers. These projects have been presented in two separate rezoning applications – one for La Grange Village and one for Taskinas, Rochambeau and Hickory Neck Villages (The Three Villages) – but the applicant views them as parts of one development. As a result, staff will review the two applications separately on their individual merits in a combined staff report.

If approved, the applicant would develop within the next ten years four related neighborhoods collectively called “The Villages at White Hall” proposing a total of 494 new homes. The four neighborhoods would be La Grange Village, Taskinas Village, Rochambeau Village and Hickory Neck Village which are comprised of the following dwelling unit types.

1. La Grange Village: 20 three- and four-family building units with a total of 79 dwelling units.
2. Taskinas Village: 39 townhome style multi-family units and 14 single family detached units.
3. Rochambeau Village: 31 single family detached homes, 49 townhome style multi-family units and 14 duplex two-family units for a total of 94 units
4. Hickory Neck Village: the largest of the neighborhoods with 268 dwelling units, comprised of 226 single family detached homes and 42 duplex-style two-family units, tennis courts, clubhouse and swimming pool.

An 8,000 square foot commercial building is proposed on an approximately 5.91 acre parcel located at the intersection of Rochambeau Road and Old Stage Road. This parcel is currently zoned B-1, General Business and is proposed to be rezoned to B-1, General Business with proffers prohibiting the following permitted by-right uses:

1. Automobile Service Stations
2. Hotels, Motels, Tourist Homes and Convention Centers
3. Indoor Sports Facilities
4. Indoor Theaters
5. Radio and Television stations and accessory antennas
6. Fast Food Restaurants
7. Wholesale and Warehousing.

Residential Cluster Density Bonuses:

The Residential Cluster Overlay District is intended “to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development.” Further, to achieve densities greater than three units per acre, it is expected that the development will provide

community benefits such as “mixed-cost housing, affordable housing, unusual environmental protection or development that adheres to the principles of open space development design.”

For La Grange, the developer proposes a gross density of 3.46 dwelling units per acre. For the remaining three villages, the developer now proposes a gross density of 3.0 units per acre. In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a special use permit (SUP) for residential cluster developments of more than two units per acre, but no more than three units per acre if the developer provides the following ***with staff comments in bold italics***:

1. Implementation of the County’s Streetscape Guidelines; ***which have been proffered for all villages.***
2. Implementation of the County’s Archaeological Policy; ***which has been proffered for all villages.***
3. Provision of sidewalks along one side of all internal streets; ***which have been proffered for all villages.***
4. Provision of recreation facilities in accordance with the County’s Parks and Recreation Guidelines; ***which have been proffered for all villages.***
5. Implementation of the County’s Natural Resources Policy. ***Information has been submitted with the rezoning applications that has been reviewed and approved by the Department of Conservation and Recreation in accordance with the County’s policy.***
6. Provision of pedestrian and/or bicycle trails; ***which have been proffered for all villages.***
7. Construction of curb and gutter design on all streets within the development; ***which have been proffered for all villages.***

Further, the Board of Supervisors may award density bonuses for more than three units per acre but not more than four units per acre for developments that meet one or more of the following criteria. ***with staff comments following in bold italics***:

The applicant no longer requires density bonuses for the Three Villages rezoning. The overall density of the Three Villages according to the revised master plan is 3.0 units per acre. The density within the individual villages varies, depending on the final mixture of housing types. Proposed densities within the individual villages potentially ranges from 2.2 to 3.45 units per acre for Rochambeau Village, 3.5 to 4.9 units per acre for Taskinas Village and 2.75 to 3.25 units per acre for Hickory Neck. For LaGrange Village, the following density bonus analysis is offered.

1. An additional 0.5 units per acre may be awarded for every ten percent of the total number of dwelling units dedicated to affordable housing.
Only twenty-six townhouse units in LaGrange are proffered to be sold at or below \$185,000. This figure does not meet the County’s definition of affordable housing; therefore no credit should be given for this density bonus for La Grange Village.
2. An additional 0.5 units per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas, protection of wildlife habitat corridors, the creation of buffer areas around RMA wetlands and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin’s Green Building Program or the *Sustainable Building Technical Manual* by the United States Department of Energy.
For LaGrange Village, credit is given for a density bonus for superior design that provides buffers around resource protection areas and preservation of scenic vistas through the use of proffered landscaping to screen the view shed of the historic Whitehall Tavern located on adjacent property. Sustainable building practices have been proffered as referenced in the Sustainable Building Sourcebook from the City of Austin.

No density bonus is allowed for improvements, designs or actions that are otherwise required by county, state, or federal law.

Public Impacts

Archaeology

La Grange & Taskinas, Rochambeau, Hickory Neck:

The County archaeological policy is proffered in both applications, however architectural resources are not required to be researched and protected by the County policy.

Staff Comments: An initial Phase IA Cultural Resource Assessment of the total 165 acres has been completed and forwarded to the Virginia Department of Historic Resources (DHR). DHR recommends a Phase I archeological investigation for some parcels is necessary to determine the effects of the project upon cultural resources.

Regarding architectural resources, DHR recommends a qualified historian evaluate the Waverly Farm at the Phase II level to determine its eligibility and the potential for the project to affect its integrity. DHR also recommends the Hickory Neck Church and Geddy Farm House/White Hall Tavern be investigated at the Phase I level by a qualified architectural historian, as there may be indirect effects to these properties as a result of planned construction.

Architectural protection and viewshed protection of the Waverly House is now proffered by the applicant. The increased buffer along Route 60 and hedgerow proffers now add protection for the Hickory Neck Church.

Environmental Impacts

La Grange & Taskinas, Rochambeau, Hickory Neck:

Watershed: Ware Creek

Environmental

Proffers/

Conditions:

Master Stormwater Management Plan: Development of a master stormwater management plan is proffered for both applications with the use of low impact design techniques utilized where applicable.

Shared Stormwater Management Facilities: The applicant proffers to design the stormwater BMPs in Taskinas Village and Hickory Neck Village to serve the proposed expansion of Hickory Neck Church and to serve Stonehouse Elementary School and the Christian Fellowship Church.

Turf Management Plan: The applicant has now proffered a Turf Management Program to be implemented in the proposed development. The HOA will be authorized to develop, implement and enforce the program, which will apply to both private lawns and common areas under HOA control and may be enforced by either the County or the HOA.

Environmental

Staff Comments: To construct both projects, the resource protection area buffer on site will be impacted and mitigation for these impacts will be required. Staff strongly

suggests the eradication of all kudzu, *Pueraria thunbergiana*, be undertaken; however the exact details will be formalized during development plan review by Environmental staff. Additionally the resource protection area line will need to be revised on the master plan for Taskinas, Hickory Neck and Rochambeau Villages prior to the Board of Supervisors public hearing.

Per the letter dated April 22, 2005 from the Corps of Engineers, the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21), must be resolved by either complete removal of the dam structure or complete reconstruction. Environmental staff notes that a corrective land disturbing permit, with surety is required from the Division prior to approval of any development plans along with an approved plan that addresses the existing erosion problems. A permit has not been issued to date, thus the proposed special use permit condition listed at the end of the staff report.

Public Utilities
Primary Service
Area (PSA):

The site is inside the PSA and is served by public water and sewer.

Public Utility
Proffers
(La Grange):

Cash Contribution: A cash contribution of \$796 is proffered for each single family attached dwelling unit for improvements to the water system. A cash contribution of \$67.50 is proffered for each residential dwelling unit for improvements to the sewer system.

Water Conservation: Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

(Taskinas,
Rochambeau,
Hickory Neck):

Cash Contribution: A cash contribution of \$1,061 for each single family detached dwelling unit and \$796 for each single family attached dwelling unit is proffered for improvements to the water system. A cash contribution of \$36 per single family detached DU and \$30 per single family attached DU served by JCSA Lift Station 9-5 and \$81.00 per single family detached DU and \$67.50 per single family detached DU served by JCSA Lift Station 9-7 is proffered for improvements to the sewer system.

Stonehouse Elementary/Williamsburg Christian Academy/Christian Fellowship Church: The applicant proffers to extend gravity sewers to the development that are sized to accommodate Stonehouse Elementary School, Williamsburg Christian Academy and the Christian Fellowship Church.

JCSA Comments: Cash contributions for water impacts are acceptable. The cash contribution for sewer impacts for Taskinas, Rochambeau and Hickory Neck Villages have been revised to reflect earlier JCSA comments.

JCSA has requested that a master water and sewer plan shall be submitted to JCSA for review prior to the initial site plan submittal for this development. JCSA is concerned about how the entire Villages of Whitehall project will be engineered into the current public water and sewer system. No proffer has been

offered regarding the timeline of submitting a master water and sewer plan, therefore a special use permit condition has been proposed.

Parks and Recreation/Greenway

La Grange:

The project proposes 3.97 acres of recreation and conservation land. The Master Plan indicates development of a recreation area and trail system within the village and access to recreation facilities located within Hickory Neck Village.

Taskinas, Rochambeau, Hickory Neck:

The project proposes 37.12 acres of recreation and conservation land. The developer proffers to preserve the Waverly Farm farmhouse for use as a clubhouse/community facility, while reserving the right to relocate it to a different location on the property. Further, the developer proffers 8.03 acres of parkland, two play areas with playground equipment, two to four tennis and/or multi-use courts, approximately 2.03 miles of soft surface walking trails and a swimming pool with pool house.

All proffered facilities will be available to residents of all four sections of this project. The developer also proffers to provide other recreational facilities or cash contributions if necessary to meet the County's Recreation Master Plan. All proffered facilities are subject to approval by the Development Review Committee.

Staff Comments: Staff finds the proffered recreation amenities acceptable, and the cash proffer of #4(c) may be utilized by the County for off-site sidewalk improvements. This has addressed staff's earlier concern of the lack of pedestrian travel between the villages.

Fiscal Impact

La Grange:

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have a negative annual fiscal impact of approximately \$33,000.

Proffers: Cash Contribution: A cash contribution for CIP projects (library and Fire/EMS facilities) of \$750 per single-family attached dwelling unit is proffered.

Taskinas, Rochambeau, Hickory Neck:

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have a negative annual fiscal impact of approximately \$411,000.

Proffers: Cash Contribution: A cash contribution for CIP projects (library and Fire/EMS facilities) of \$1,275 per single-family detached dwelling unit and \$775 per single-family attached dwelling unit is proffered.

Staff Comments: The Department of Financial and Management Services questions some of the assumptions in the submitted fiscal impact statements as to whether the projected negative annual fiscal impact on the county will be greater than the estimated \$411,000. The proposed 8,000 square feet of commercial space should not materially reduce the annual fiscal deficits at build out. FMS adds that this type of development will accelerate the need for new elementary schools, thus accelerating the County's \$18 million capital investment.

Schools

La Grange:

The applicant has proffered \$1,750 per single-family attached dwelling unit.

Taskinas, Rochambeau, Hickory Neck:

The applicant has proffered \$3,750 per single-family detached dwelling unit and \$1,875 per single-family attached dwelling unit.

Adequate Public School Facilities Test:

Per the Adequate Public School Facilities Test policy adopted by the Board of Supervisors, all special use permits or rezoning applications should pass the test for adequate public school facilities. With respect to this test, the following information is offered by the applicant:

<i>School</i>	<i>Design Capacity</i>	<i>Program Capacity</i>	<i>Current 2005 Enrollment</i>	<i>Projected Students Generated by Proposal</i>	<i>Current 2005 Enrollment and Projected Student Total</i>
Stonehouse Elementary	588	516	505	84	589
Toano Middle	775	782	888	43	931
Lafayette High	1,250	1,296	1,535	52	1587
<i>Total</i>	<i>2,613</i>	<i>2,594</i>	<i>2,928</i>	<i>179</i>	<i>3,107</i>

Staff Comments: The adequate public schools facility test is based on design capacity. The proposal fails at the middle school level.

Although the capacity of Lafayette High School is clearly exceeded and the elementary school capacity exceeded by one student, 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. A new elementary school is included in the County's current CIP budget and the staff believes that this proposal passes at the elementary school level. On November 2, 2004 voters approved the third high school referendum and the new high school is scheduled to open in September 2007; therefore staff believes that this proposal passes for the high school.

Traffic

2005 Traffic

Counts:

Route 60 (from Barhamsville Road to Forge Road): 9,966 vehicles per day.

2026 Volume

Projected:

The section of Route 60 from Barhamsville Road to Croaker Road is projected to carry 24,000 vehicles per day in the 2003 Comprehensive Plan.

La Grange:

This proposal would be accessed from Barhamsville Road and Old Stage Road. Note that future road connections are proposed from La Grange Village to adjacent property for future developments with or without rezonings.

Road

Improvements

(La Grange): The Barhamsville Road entrance (right turn in/out only) will require construction of a right turn taper and should contain a channelized island.

Traffic Proffers: Road Improvements: The proffers provide for construction of a 150 foot right turn taper at the Barhamsville Road entrance and a channelized island.

An updated traffic impact study shall be submitted to the Planning Director and VDOT for their review and approval prior to the time of issuances of building permits for 75% of the total number of dwelling units permitted on the property. If the updated traffic study results in a warranted turn lane, the applicant is so obligated to construct.

Taskinas, Rochambeau, Hickory Neck:

These Villages have several access points from multiple roads in the area. Taskinas Village will be accessed from a single entry/exit located on School House Road. Rochambeau Village will have a single access point on the westbound side of Rochambeau Drive. This access point will share a proposed crossover with Hickory Neck Village. Hickory Neck Village will have three entry/exit points: two along the eastbound side of Rochambeau Drive and one on the westbound side of Route 60. Each of the entry/exit points for Hickory Neck Village will be at a crossover on either Rochambeau Drive or Route 60. Note that future road connections are proposed from Hickory Neck Village to adjacent property for future development as it occurs.

Road Improvements

(Taskinas,

Rochambeau,

Hickory Neck): Left turn lanes with 200 foot lanes and 200 foot tapers are required at each entrance point that uses a crossover at a four-lane divided highway. At the Hickory Neck entrance on Route 60, a minimum of a 150 foot right turn taper is required. This right foot taper is also required for the entrances to Hickory Neck from Rochambeau Village. The entrance to Rochambeau Village requires a minimum 150 foot right turn taper. The proposal also now includes proposed changes to the intersection of Rochambeau Drive and Old Stage Road. These changes include blocking the left-turn motion currently available to vehicles exiting Sand Hill Road onto Rochambeau Drive resulting in all traffic being channeled to the existing Rochambeau / School Lane intersection. This change will compel drivers turning off of Rochambeau onto Old Stage to decrease speed.

Traffic Proffers: Road Improvements: The applicant has proffered the construction of the above improvements. Additionally, the applicant has proffered to install landscaping in the Route 60 median along the Hickory Neck Village Route 60 frontage. Further, the applicant has proffered the installation of buffers to provide visual screening that enhances the look of a forested edge along the Rochambeau Drive frontage of Taskinas Village, Rochambeau Village and Hickory Neck Village.

Traffic Impact Study: An updated traffic impact study shall be submitted to the Planning Director and VDOT for their review and approval prior to the time of issuances of building permits for 75% of the total number of dwelling units permitted on the property. If the updated traffic study results in a warranted turn lane or other entrance improvements, the applicant is so obligated to construct. Additionally, private streets located within these three villages will be constructed to VDOT standards and a private street maintenance fund established for the property owners association.

Rochambeau Road and Old Stage Road Intersection: As noted above, the applicant has proffered to reconfigure the intersection of Rochambeau Road and Old Stage Road prior to the issuance of building permits for buildings in Taskinas or Rochambeau Villages as shown on the Master Plan.

VDOT

Comments: VDOT concurs with the trip generation rates, distribution patterns and background growth rates stated in the study for both applications. For La Grange, VDOT staff recommends construction of a channelized island in the Barhamsville Road entrance. For Taskinas, Rochambeau and Hickory Neck, VDOT staff emphasizes that there must be 800 feet of separation between existing crossovers and that this must be noted on future submissions. The entrance medians for these areas are excessively wide and will create unnecessary turning movement conflict. The streets in Rochambeau Village and Hickory Neck Village will be subject to additional special design considerations since they are designated to be public streets on the Master Plan. For both applications, approval of the access locations will not be granted until design plans have been reviewed and found to be satisfactory based on sight distances, minimum entrance standards, etc. Additional analysis will be required at such time as the future connections as shown on the Master Plan are developed. Future connections may warrant additional roadway improvements. The traffic study for this project should be updated as the development approaches build out. VDOT staff is aware of the proposed changes to the Rochambeau/Old Stage Intersection but has not, to date, made a determination as to whether they are acceptable.

Comprehensive Plan

The James City County Comprehensive Plan Land Use Map designates this property for Low Density Residential Development and the property is in close proximity to the Anderson's Corner Mixed Use area. 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 a 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 including mixed use cost housing, affordable housing, unusual environmental protection or adherence to open space design properties. The Comprehensive Plan states that the Zoning Ordinance will specify the benefits which may be the basis for a permit to go beyond one unit per acre. 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.

Adjacent Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are generally encouraged. However, the Plan identifies the Anderson's Corner Mixed Use area as one of the few remaining areas within the PSA with significant rural agricultural vistas and rural historic sites. Development within the Anderson's Corner Mixed Use area should be principally office and commercial with supporting residential to create a traditional rural village and should maintain the appropriate historic setting for the Whitehall Tavern and preserve the rural, historic character of the area. Views from Route 60 and Route 30 should receive especially high protection. The Plan states that "significant amounts

of open land and farm fields should be preserved along with agricultural and rural structures in a manner that creates a traditional rural village surrounded by permanently protected farm fields.”

Staff Comments: The La Grange portion of this proposal is directly adjacent to the Anderson’s Corner Mixed Use area while the other three sections are within close proximity, which significantly impact the viewshed and the ability to achieve the Comprehensive Plan’s vision for the Anderson’s Corner Mixed Use Area. While Section 24-549(a) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a density of greater than three dwelling units per acre, the vision and objective of the Comprehensive Plan should also be considered. Staff believes that the vision for Anderson’s Corner Mixed Use Area and the Low Density Residential objectives should also be strongly considered. The Low Density residential designation states that the character and density of surrounding development and buffers among other items should be considered when awarding gross densities up to one dwelling unit per acre. As noted above certain public benefits should be provided to go beyond one dwelling unit per acre and up to four dwelling units per acre.

Under the revised proffers staff believes that LaGrange Village is in keeping with the Low Density residential land use designation and offers public benefits as discussed earlier in the staff report including preservation of scenic vistas in a manner consistent with nearby historical structures and the Anderson’s Corner Mixed Use Area.

At the July Planning Commission meeting, staff did not find that the Three Villages (Taskinas, Hickory Neck and Rochambeau Villages) were consistent with the low density residential land use designation nor adequately protected historical structures or scenic vistas, nor sufficiently helped achieve the Anderson’s Corner Mixed Use Area vision. Under the revised proffers and Master Plan staff believes that the three villages will over time sufficiently protect these structures and vistas due to the enhanced and expanded buffers. Staff’s concern with the preservation of the Waverly Farmhouse has been mitigated with a preservation plan and view shed protection. The view shed of Hickory Neck Church can also be protected over time through the proffered hedgerow. Staff prefers additional open space along Route 60 to better achieve the Anderson’s Corner vision. However, the proposed amount of open space coupled with the expanded buffers will in staff’s opinion not preclude the vision of Anderson’s Corner from being achieved. Therefore, staff finds the proposal generally consistent with the comprehensive Plan. Further discussion regarding the buffer follows in the next section of the staff report.

Community Character Corridors

The Comprehensive Plan designates certain sections of the County as Community Character Corridors. These Corridors “promote the rural, natural, or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of an area and feels these roads warrant a high level of protection.” Some of the Community Character components that the Plan seeks to preserve are: “the natural topography; large wooded areas of tall deciduous forests; open vistas across ravines, wetlands, and water bodies; . . . and small scale, low intensity development.”

Toward this end, the Plan’s stated goals relating to Community Character Corridors are to “1. Improve the overall appearance of the County’s urban and rural environment. 2. Enhance and preserve the County’s scenic, cultural, rural, farm, forestal, natural, and historic resources as being

essential to the County's rural and historic character, economic vitality, and overall quality of life." To achieve these goals, the Plan seeks to "ensure that development is compatible in scale, size, and location to surrounding existing and planned development" and "ensure that development along Community Character Corridors and Area protects the natural views of the area, promotes the historic, rural or unique character of the area." The Plan also seeks to "ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views." Finally, the Plan instructs the County to "identify vistas and other scenic resources that should be protected and encourage building, site, and road designs that enhance the natural landscape and preserve valued vistas.

These projects affect two sections of road designated as Community Character Corridors. La Grange Village has an entrance on Barhamsville Road in the Route 30 Corridor. Hickory Neck Village fronts on the Richmond Road Corridor.

Staff Comments: Staff finds that the proposal for La Grange Village is substantially in keeping with the community character corridor.

Staff finds that portions of the Hickory Neck Village are generally compatible with requirements set forth by the Comprehensive Plan for protection of scenic views and compatibility with surrounding existing development and the Route 60 Community Character Corridor. Staff believes that the proposed landscape buffer along Richmond Road, 150 feet more than is required by the Zoning Ordinance, is sufficient in depth to eventually screen residences. While in staff's opinion it is not sufficient to maintain the current viewshed characterized by open fields and to maintain a sense of open space, it does create a transition for a future rural village at Anderson's Corner. However, the proposed Rochambeau buffers for the three villages are not sufficient to support the goals of the Anderson's Corner mixed use area at least in the short term and should not be viewed as a precedent for adjoining parcels.

Per Section 24-543 of the Zoning Ordinance, Buffer Requirements for Residential Cluster Developments, wetponds, dry detention basins and other structural BMP's shall not generally be permitted in the buffers except that the Planning Commission may approve them under the following circumstances **with staff comments in bold italics:**

1. The need is necessitated by site conditions rather than economic factors. ***Staff recommends that the Planning Commission approve the location of the storm water management ponds located in Rochambeau Village and Hickory Neck Village that slightly impact the buffer along Rochambeau Drive due to the natural drainage patterns on site.***

However, staff still has concerns regarding the revised design of the stormwater management pond located on Richmond Road within Hickory Neck Village is not necessitated by site conditions and is discussed further below.

2. The screening /buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

The applicant has proffered a variable width buffer along Route 60 that shall be a minimum of 300 feet deep. The buffers shall have a gentle slope from Route 60 to a low landscaped berm adjacent to the first row of lots. The BMP is proffered to be designed and landscaped to retain a sense of open farmland or pasture while screening the Village from Richmond Road. The Development Review Committee will review the landscape plan. While staff believes that a minimum 300 foot width buffer is an adequate width to screen the development, staff is concerned that there might not be sufficient area to provide effective screening.

Comprehensive Plan-Zoning Map Inconsistencies

The Comprehensive Plan recognizes that there are inconsistencies between the Plan's land use designations and existing zoning. Of relevance for these proposals, the Plan acknowledges that there are inconsistencies in the land use designations in the Anderson's Corner area and the existing zoning in that area. These inconsistencies stem from the Low-Density Residential designation for the area surrounding Anderson's Corner and the approximately 120 acres in this area that are currently zoned B-1, General Business. Approximately 111 acres of the 138 acres that comprises the three villages is zoned B-1 and proposed to be rezoned to residential, supporting the goals of the Comprehensive Plan. The Plan sets out criteria for evaluating proposed development involving land that is zoned B-1. Proposed development in the area are as follows ***with staff comments in italic bold:***

1. Protect adjacent residential areas,
Adjacent low density residential areas are protected from commercial development but not from high density residential areas.
2. Limit curb cuts and minimize negative traffic impacts,
Curb cuts are limited and traffic impacts of this project are mitigated. However, when this project is reviewed cumulatively with other developments in the area, staff is not completely convinced that traffic impacts are mitigated.
3. Discourage "strip" development and
Strip commercial development has been mitigated.
4. Promote a coordinated and comprehensive development plan for the entire area, and encourage pedestrian travel.
Coordinated and comprehensive plans are viable within each village and pedestrian travel between villages may be mitigated by the sidewalk proffer.
5. Further, preference is to be given to office and limited industrial uses.
While preference has not been given to office and limited industrial use, the Economic Development Authority has made no comment on this particular proposal due to the existing large tracts of undeveloped property commercially zoned in the upper part of the county.

CONCLUSIONS & CONDITIONS

Staff believes that the two cases sufficiently address the technical issues covered in this report. In essence staff's recommendation primarily hinges on some qualitative, but key findings called for in the Comprehensive Plan. These include whether the proposal:

- Adequately helps achieve the Anderson's Corner vision of creating a traditional rural village with significant amounts of open land and farm fields.
- Adequately protects historic structures and scenic vistas.
- Provides adequate public benefit such as mixed cost housing or adherence to open space design principles to merit the proposed density.

- Seeks an appropriate density given surrounding development and adequacy of proposed buffers.

Staff recommends the Planning Commission approve the rezoning, special use permit and master plan application for LaGrange Village, accepting the attached voluntary proffers and applying the special use permit conditions listed below. Public benefits including the preservation of scenic views and resource protection areas are incorporated into the LaGrange Village master plan in such a manner that earns the residential cluster density bonus to support the proposed 3.46 dwelling units per acre and sufficiently meet the requirements found in the Comprehensive Plan. The plan also adequately protects the Whitehall Tavern.

Staff recommends the Planning Commission approve the rezoning, special user permit and master application for the Taskinas, Rochambeau and Hickory Neck Village. The unique historic features located within and adjacent to these three villages can be adequately protected through the revised proffers over time. Staff further believes that this rezoning application provides an adequate design that over time can allow the vision for Anderson's Corner to be achieved by providing a screened, transitional development. Based on this information, staff recommends that the Planning Commission recommend approval of this rezoning, special use permit, and master plan application for the Taskinas, Rochambeau and Hickory Neck Village, with the acceptance of the voluntary proffers and approval of the special use permit conditions listed below to the James City County Board of Supervisors.

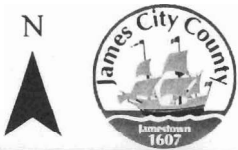
1. A master water and sewer plan for all Villages shall be submitted for review by JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of Whitehall project, a land disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan, to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21), Parcel.
3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

Matthew J. Smolnik

Attachments:

1. Location map
2. Revised Master Plan
3. Revised Proffers from July 11, 2005 Planning Commission meeting
4. Revised Illustrative Plan
5. Revised Open Space Diagram
6. Revised Viewshed diagram for the Waverly Farm
7. Conceptual sketch of Anderson's Corner

Z-10-05, Z-11-05, SUP-17-05, SUP-18-05, MP-7-05 & MP-05.
The Villages at Whitehall: LaGrange, Taskinas, Hickory Neck and Rochambeau



THE VILLAGES AT WHITEHALL
HICKORY NECK, ROCHAMBEAU AND TASKINAS VILLAGES

PROFFERS

THESE PROFFERS are made this __ day of July, 2005 by
HAZELWOOD-WAVERLY, L.L.C., a Virginia limited liability company
("HW"); R. M. HAZELWOOD, JR., TRUSTEE OF THE NETTIE A. HAZELWOOD
REVOCABLE TRUST DATED MAY 4, 2003 ("Hazelwood"); DAVID JOHNSON
and CINDY JOHNSON, husband and wife ("Johnsons") (together with
their successors in title and assigns, the "Owners"); and RAUCH
DEVELOPMENT COMPANY, LLC, a Virginia limited liability company
("Buyer").

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RECITALS

A. HW is the owner of a tract or parcel of land located in
James City County, Virginia, with an address of 3400 Rochambeau
Drive, Toano, Virginia, and being Tax Parcel 1220100014,
containing approximately 83.07 acres, being more particularly
described on Schedule A hereto (the "HW Property").

B. Hazelwood is the owner of two tracts or parcels of land
located in James City County, Virginia, with addresses of 3610
Rochambeau Drive and 3611 Rochambeau Drive, Toano, Virginia,
respectively, and being Tax Parcels 1220100022 and 1220100024,
respectively, containing a total of approximately 19.99 acres,

being more particularly described on Schedule A hereto (the "Hazelwood Property").

C. Johnsons are the owners of two tracts or parcels of land located in James City County, Virginia, with an address of 3850 Richmond Road, Toano, Virginia, and being Tax Parcel 1220100018, containing approximately 4.69 acres, and with an address of 3505 Rochambeau Drive, Toano, Virginia, and being Tax Parcel 1220100019, containing approximately 23.20 acres, both being more particularly described on Schedule A hereto (the "Johnson Property").

D. The HW Property, the Hazelwood Property, and the Johnson Property are sometimes herein collectively referred to as the "Property."

E. Buyer has contracted to purchase the Property.

F. The Johnson Property is now zoned A-1. The HW Property and the Hazelwood Property is now zoned B-1. All of the Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map.

G. Buyer, with the consent of the Owners, has applied to rezone a portion of the Property from A-1 and B-1 to R-2, with proffers, and a portion of the Property from A-1 and B-1 to R-5, with proffers, a portion of the Property from B-1 and to B-1,

with proffers, and for a special use permit for a residential cluster with a density in excess of three units an acre.

H. Buyer has submitted to the County a master plan entitled "Master Plan, The Villages at Whitehall for Rauch Development, LLC" prepared by AES Consulting Engineers dated February 22, 2005, last revised June 24, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

I. Buyer and Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2 and R-5.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Master Plan. The Property shall be developed generally in accordance with the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

There shall be a maximum of 415 single family attached and detached dwelling units on the Property. The Property shall be developed in conjunction with The Villages at Whitehall, LaGrange Village, development with a single master property owners association for all villages as provided in Condition 2.

2. Owners Association. There shall be organized a master owner's association for the Villages at Whitehall development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual Villages or neighborhoods within Villages in which all owners in the Village or neighborhood, by virtue of their property ownership, also 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. The Governing Documents shall authorize the Association to develop, implement and enforce a turf management plan as provided herein.

3. 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 of common areas on the Property 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.

4. Cash Contributions for Community Impacts. (a) A contribution of \$1,061.00 for each detached dwelling unit on the Property and of \$796.00 for each attached 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 \$36.00 for each single family detached dwelling unit and a contribution of \$30.00 for each single family attached dwelling unit on the Property served by JCSA Lift Station 9-5 shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. A contribution of \$81.00 for each single family detached dwelling unit and a contribution of \$67.50 for each single family attached dwelling unit on the Property served by JCSA Lift Station 9-7 shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds to defray the costs of JCSA Lift Stations 9-7 and 9-5 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.

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(c) A contribution of \$1,275.00 for each detached dwelling unit on the Property and of \$775.00 for each attached 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

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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 sidewalk and road improvements, library uses, and public use sites.

(d) A contribution of \$3,750.00 for each detached dwelling unit on the Property and of \$1,875.00 for each attached 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.

(e) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or site plan approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process.

(f) 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.

5. Entrances; Traffic Improvements. (a) At the entrance from Route 60 into Area 3 of the Property as shown on the Master Plan, a north bound 150 foot right turn taper and a south bound

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200 foot left turn lane and 200 foot left turn taper shall be constructed.

(b) At the western entrance from Rochambeau Road into Area 3 and Area 1 of the Property as shown on the Master Plan, an east bound 150 foot right turn taper a west bound 200 foot left turn lane and 200 foot left turn taper, a west bound 150 foot right turn taper and an east bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

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(c) At the eastern entrance from Rochambeau Road into Area 3 of the Property as shown on the Master Plan, a east bound 150 foot right turn taper and a west bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

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(d) At the entrance from Rochambeau Road into the B-1 parcel of the Property as shown on the Master Plan, a west bound 150 foot right turn taper shall be constructed.

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(e) The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of the building permit for the Master Plan Area served thereby.

(f) Prior to the issuance of building permits for buildings in Taskinas or Rochambeau Villages and subject to the approval

thereof by VDOT, Owner shall reconfigure the intersection of
Rochambeau Road and Old Stage Road to the configuration shown on
the Master Plan or bond, in form satisfactory to the County
Attorney, such reconfiguration.

(f) 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 75% of the total number of dwelling units permitted on the Property under the Master Plan, unless the Director of Planning and VDOT waive such requirement. 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 full right turn lane at the entrances to the Property are warranted. If the approved updated study determines such a turn lane is warranted, the County shall not be obligated to issue any further building permits for further development on the Property until such turn lane has been installed or surety for its completion in form acceptable to the County Attorney has been posted with the County.

(g) Owner shall submit with each development plan which
includes collector roads planned to potentially serve off-site

properties to the Director of Planning and VDOT for their review and approval, a traffic study confirming that the road as designed meets VDOT design and construction standards and guidelines for the projected traffic using the road.

6. Route 60 Community Character Buffer. (a) There shall be a variable width buffer along the Route 60 frontage of the Property to provide screening between the Village of Hickory Neck and Route 60 and an appropriate foreground to historic Hickory Neck Church. Owner shall submit a landscape plan for this buffer for review and approval by the Development Review Committee. This landscape plan may include a landscaped farm pond also serving as a stormwater BMP as shown on the Master Plan and shall contain trees, shrubs, groundcovers and/or grasses, fencing and berming to retain and/or create a sense of open farmland or pasture while screening the Village from the direct view of vehicles traveling on Route 60. The buffer shall be graded to create a gentle slope from Route 60 to a low landscaped berm located behind the lots adjacent to the buffer. The combination of the berm and landscaping shall, when the landscaping has reached maturity, screen the adjacent houses from the direct view of vehicles traveling on Route 60. The buffer provided shall measure a minimum of 300 feet deep. The buffer shall be exclusive of any lots or units. Agricultural

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activities such as planting and harvesting crops and grazing livestock shall be permitted in the buffer. The entrances, turn lanes/tapers and stormwater management facilities as shown generally on the Master Plan, the trails, sidewalks and bike lanes as shown generally on the Master Plan, utilities, lighting, entrance features and signs may be located in the buffer with the approval of the Development Review Committee. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from the buffer area. If a stormwater BMP pond is located within the buffer area, it shall be designed and constructed in accordance with a plan submitted to and approved by the Director of Planning to resemble a farm pond, using techniques such as less steep slopes, landscaping typical to a farm pond and berms. The buffer ~~shall be planted~~ in accordance with the approved buffer landscape plan or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

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(b) All billboards now located within the buffer shall be removed before the County is obligated to issue certificates of occupancy for dwelling units on the Property.

7. Route 60 Median Landscaping. Owner, subject to the approval of VDOT, shall install landscaping in the Route 60

median along the Route 60 frontage to Hickory Neck Village.

This landscaping shall be designed to compliment the Hickory Neck Village Community Character Corridor buffer landscaping and shall include trees, shrubs and groundcovers in accordance with a plan submitted to and approved by the Director of Planning.

The median shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

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8. **Rochambeau Road Buffers**. (a) Along the Rochambeau Road frontage of Rochambeau Village, the 75 foot buffer shall be planted as set forth herein to provide a visual screen between the road and the Village through a reforestation plan. This plan may include some earth moving and berming and shall include a seeding and planting plan as recommended by the State of Virginia's Department of Forestry and approved by the Director of Planning. The planting mix shall include at least two types of evergreen trees and a variety of deciduous trees including Oak, Maple and Gum as well as native understory trees including Redbud and Dogwood. The buffer shall achieve an effective visual screen (6'-8' height of plantings and berming) within six years from time of installation. The buffer shall be left undisturbed to reforest with the exception of a more groomed landscape at the Village entrances. The buffer shall be planted

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or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Rochambeau Village.

(b) Along the Rochambeau Drive frontage to Hickory Neck Village, landscaping shall be provided within the 75' buffer to enhance the look of a forested edge to that Village in accordance with a landscaping plan approved by the Director of Planning. The buffer ~~shall~~ be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located within 500 feet of Rochambeau Drive in Hickory Neck Village.

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(c) Along the Rochambeau Drive frontage to Taskinas Village, landscaping shall be provided within the 75' buffer to enhance the look of a forested edge to that Village, in accordance with a landscaping plan approved by the Director of Planning. In any areas where the backs of dwelling units face Rochambeau Road or School Lane a combination of berms and/or landscaping shall, when the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Rochambeau Road or School Lane. The buffer ~~shall~~ be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located in Taskinas Village.

Deleted: . Because townhome units will be visible through this buffer, for units adjacent to the buffer front facades shall be presented to Rochambeau Drive

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9. Pedestrian Connections to Adjacent Properties. Owner shall provide pedestrian connections between the Property and the adjacent properties generally as 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 Property. 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 the Village containing such connections.

10. Streetscape Guidelines. The Owner shall provide and install streetscape improvements 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. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential units in adjacent structures.

11. Recreation. (a) Owner shall preserve the Waverly Farm farmhouse pursuant to a preservation plan approved by the Director of Planning and may utilize it as a clubhouse/community facility. Owner reserves the right to relocate the farmhouse to a different location on the Property with the prior approval of the Development Review Committee.

(b) The following recreational facilities shall be provided: (i) approximately 12.48 acres of parkland, including 8.03 acres shown as recreation area on the Master Plan; (ii) two play areas (tot lots) with playground equipment for four to six activities; (iii) two to four tennis and/or multi-use courts; (iv) approximately 2.03 miles of trails/paths; (v) a 25 meter swimming pool with pool house. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee. All recreational facilities shall be open to owners in LaGrange Village.

(c) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan as determined by the Director of Planning or in lieu of such additional facilities Owner shall make cash contributions to the County in

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an 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 4(e)) 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.

12. 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.

13. **Design Guidelines and Review.** Owner shall prepare and submit design review guidelines to the County setting forth design and architectural standards for the development of the Property attempting to capture the architectural character of the Toano area and generally consistent with the architectural

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styles embodied in "Villages at Whitehall, Supplemental Community Information" prepared by AES Consulting Engineers submitted as a part of the rezoning application and incorporating appropriate and suitable sustainable building practices as recommended in the Sustainable Building Sourcebook of the City of Austin for the approval of the Development Review Committee prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). The Guidelines shall specifically address appropriate architectural treatments for the rear elevation of any dwelling units facing Rochambeau Road or School Lane in Taskinas Village. Once approved, the Guidelines may not be amended without the approval of the Development Review Committee. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

14. **Hickory Neck Church.** Owner shall design the stormwater BMPs and system on the Property to serve the proposed expansion of Hickory Neck Church and shall grant the Church the necessary easements to drain into such system. Owner shall preserve and enhance the existing hedgerow located along the common property line between the Property and Hickory Neck Church in the vicinity of the road connection to the Hickory

Neck Church site as shown on the Master Plan and/or plant a hedgerow extending along the property line at least 150 feet in either direction from the road connection, all in accordance with a plan approved by the Development Review Committee. The hedgerow shall be planted in accordance with the approved landscape plan or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

15. Stonehouse Elementary School/Williamsburg Christian Academy/Christian Fellowship Church. Owner shall design the stormwater BMPs and system on the Property to serve the Stonehouse Elementary School and any potential expansion thereof and Christian Fellowship Church and shall grant the School and the Church the necessary easements to drain into such system. Owner shall extend gravity sewer to the Property from Lift Station 9-5 with a size approved by JCSA to serve Stonehouse Elementary School, Williamsburg Christian Academy and Christian Fellowship Church and shall grant the School and the Church the necessary easements to utilize such sewer line. Owner shall extend the pedestrian access from the pedestrian system on the Property to the Christian Fellowship Church.

16. Sidewalks. There shall be sidewalks installed on both sides of each of the public streets on the Property, which

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sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units. Owner shall either (i) install sidewalks along the Route 60 and Rochambeau Road frontage of the Property or (ii) in lieu thereof, construct a hard surface multi-use trail with a design approved by the Director of Planning along such road frontages with connections to the internal trail system on the Property or (iii) in lieu thereof, make a payment to the County for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalks.

17. Commercial Uses. In the portion of the Property rezoned to B-1, with proffers, the following uses, otherwise permitted by right, shall not be permitted:

- automobile service stations;
- hotels, motels, tourist homes and convention centers;
- indoor sports facilities
- indoor theaters
- radio and television stations and accessory antenna or towers or tower mounted wireless communication facilities, which are 60 feet or less in height;
- fast food restaurants; and
- wholesale and warehousing.

18. Curb and Gutter. Streets (but not the private alleys) within the Property shall be constructed with curb and gutter

provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

19. Master Stormwater Management Plan. Owner shall submit to the County a master stormwater management plan as a part of the initial site or development plan submittal for the Property, including the stormwater management BMP ponds, and where appropriate and feasible, low impact design techniques 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.

20. Turf Management Plan. The Association shall be responsible for developing and implementing a turf management plan ("Turf Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into from the Property. The Turf Management Plan shall include measures necessary to manage yearly nutrient application

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rates to turf such that the application of nitrogen does not exceed 75 pounds per year per acre. The Turf Management Plan shall be prepared by a landscape architect licensed to practice in Virginia and submitted for review to the County Environmental Division for conformity with this proffer. The Nutrient Management Plan shall include terms permitting enforcement by either the Owners Association or the County. The Turf Management Plan shall be approved by the Environmental Division prior to final subdivision or site plan approval.

21. Development Phasing. The County shall not be obligated to issue more than the number of building permits on a cumulative basis for the number of residential dwelling units set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Building Permits</u>
1	63
2	126
3	189
4	252
5	315
6	378
7 and thereafter	415

22. Private Streets. All private streets on the Property shall conform to VDOT construction standards. Private streets

shall be maintained by the Association or a neighborhood association. 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.

23. Reserved Right of Way. Owner shall reserve the area 50 feet in width shown on the Master Plan as "Future Connections to Adjacent Property" for a possible future road connection to the adjacent parcels to the south and west of the Property. Owner shall have no responsibility to construct a connecting road in this area and shall not be obligated to permit the owners of the adjacent parcels to construct a road in such area unless and until Owner and the owner of the adjacent parcels 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

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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 parcels.

Hazelwood-Waverly, L.L.C.

By: R. M. Hazelwood Jr. ^{Manager}
R. M. Hazelwood Jr. ^{Trustee}
R. M. Hazelwood, Jr., Trustee

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

The foregoing instrument was acknowledged this 1st
day of July, 2005, by R. M. Hazelwood, as Manager
Manager of Hazelwood-Waverly, L.L.C. on behalf of the company.

Vern M. Sedberry Jr.
NOTARY PUBLIC

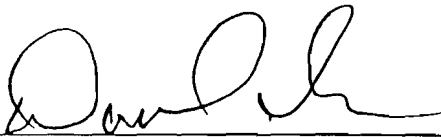
My commission expires: 12/31/09.

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

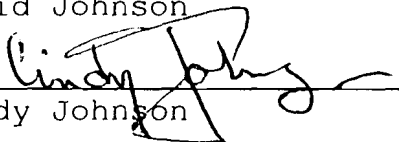
The foregoing instrument was acknowledged this 1st
day of July, 2005, by R. M. Hazelwood, Jr., as Trustee
of the Nettie A. Hazelwood Revocable Trust dated May 4, 2003.

Vern M. Sedberry Jr.
NOTARY PUBLIC

My commission expires: 12/31/09.



David Johnson

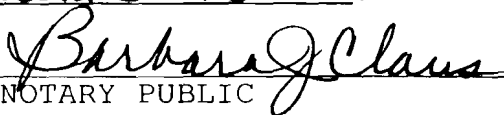


Cindy Johnson

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1
day of July, 2005, by David Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1
day of July, 2005, by Cindy Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

Rauch Development Company, LLC

By: _____

Title: _____

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____
day of _____, 2005, by _____, as _____
_____ of Rauch Development Company, LLC on behalf of
the company.

NOTARY PUBLIC

My commission expires: _____.

Exhibit A
Property Description



Z-11-06/SUP-18-05/
MP-8-05



OPEN SPACE DIAGRAM FOR THE VILLAGES OF TASKINAS, ROCHAMBEAU, AND HICKORY NECK

revised 7-22-05

B-1 PARCEL

RECREATION AND CONSERVATION - 1.10 ACRES

PERIMETER BUFFER - 1.41 ACRES

ADDITIONAL RESOURCE PROTECTION
WITHIN NET DEVELOPABLE - .66 ACRES

2-11-05/SUP-18-05/MP-8-05



CLUSTER OVERLAY

PERIMETER BUFFER - 17.47 ACRES

RECREATION AND CONSERVATION - 37.12 ACRES

5' LANDSCAPE EASEMENTS - 2.75 ACRES

TOTAL DEVELOPABLE OPEN SPACE - 57.34 ACRES

ADDITIONAL RESOURCE PROTECTION WITHIN NET
DEVELOPABLE OPEN SPACE - 10.04 ACRES

PER CLUSTER OVERLAY

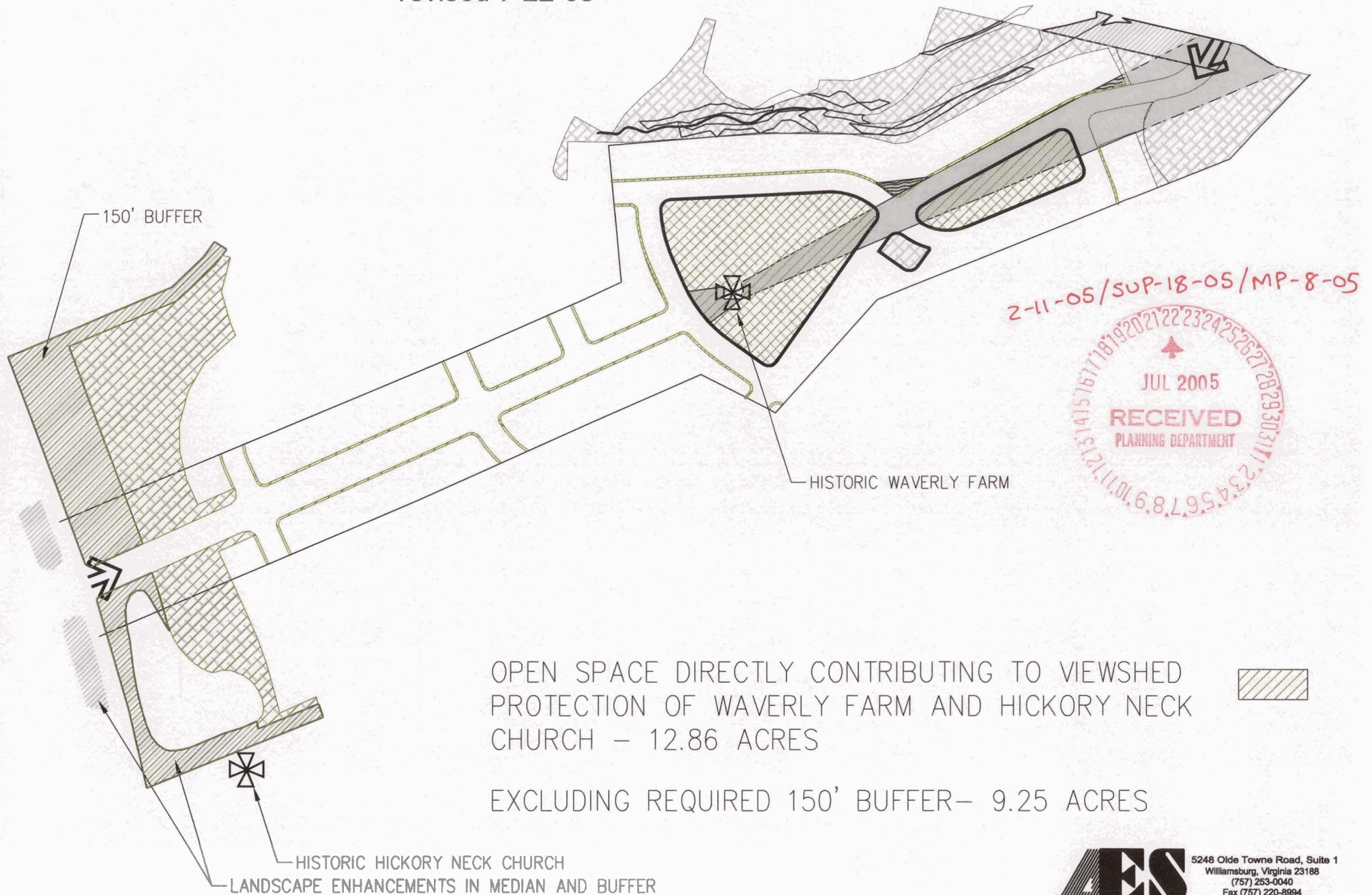
NET DEVELOPABLE LAND	OPEN SPACE REQUIRED	%	PROVIDED	%	EXCESS	%
129.69 AC	51.88 AC	40	57.34 AC	44.2	5.46 AC	4.2



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

VIEWSHED DIAGRAM FOR THE WAVERLY FARM

revised 7-22-05





No.	DATE	REVISION / COMMENT / NOTE	BY
3	07/18/05	REVISED PER JCC STAFF & P.C. COMMENTS	KSU
2	06/24/05	REVISED PER JCC MEETING AND COMMENTS	KSU
1	06/15/05	REVISED PER JCC COMMENTS	KSU



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

THE VILLAGES AT WHITE HALL
ANDERSON'S CORNER CONCEPT PLAN

Designed JSP	Drawn GRR
Scale 1"=200'	Date 4/25/05
Project No. 9048-00	Drawing No. 1 OF 1

being more particularly described on Schedule A hereto (the "Hazelwood Property").

C. Johnsons are the owners of two tracts or parcels of land located in James City County, Virginia, with an address of 3850 Richmond Road, Toano, Virginia, and being Tax Parcel 1220100018, containing approximately 4.69 acres, and with an address of 3505 Rochambeau Drive, Toano, Virginia, and being Tax Parcel 1220100019, containing approximately 23.20 acres, both being more particularly described on Schedule A hereto (the "Johnson Property").

D. The HW Property, the Hazelwood Property, and the Johnson Property are sometimes herein collectively referred to as the "Property."

E. Buyer has contracted to purchase the Property.

F. The Johnson Property is now zoned A-1. The HW Property and the Hazelwood Property is now zoned B-1. All of the Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map.

G. Buyer, with the consent of the Owners, has applied to rezone a portion of the Property from A-1 and B-1 to R-2, with proffers, and a portion of the Property from A-1 and B-1 to R-5, with proffers, a portion of the Property from B-1 and to B-1,

There shall be a maximum of 415 single family attached and detached dwelling units on the Property. The Property shall be developed in conjunction with The Villages at Whitehall, LaGrange Village, development with a single master property owners association for all villages as provided in Condition 2.

2. Owners Association. There shall be organized a master owner's association for the Villages at Whitehall development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual Villages or neighborhoods within Villages in which all owners in the Village or neighborhood, by virtue of their property ownership, also 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

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 of common areas on the Property 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.

4. Cash Contributions for Community Impacts. (a) A contribution of \$1,061.00 for each detached dwelling unit on the Property and of \$796.00 for each attached 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,

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 sidewalk and road improvements, library uses, and public use sites.

(d) A contribution of \$3,750.00 for each detached dwelling unit on the Property and of \$1,875.00 for each attached 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.

(e) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or site plan approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process.

(f) 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

200 foot left turn lane and 200 foot left turn taper shall be constructed.

(b) At the western entrance from Rochambeau Road into Area 3 and Area 1 of the Property as shown on the Master Plan, an east bound 150 foot right turn taper a west bound 200 foot left turn lane and 200 foot left turn taper, a west bound 150 foot right turn taper and an east bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

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(c) At the eastern entrance from Rochambeau Road into Area 3 of the Property as shown on the Master Plan, a east bound 150 foot right turn taper and a west bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

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(d) At the entrance from Rochambeau Road into the B-1 parcel of the Property as shown on the Master Plan, a west bound 150 foot right turn taper shall be constructed.

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(e) The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of the building permit for the Master Plan Area served thereby.

(f) Prior to the issuance of building permits for buildings in Taskinas or Rochambeau Villages and subject to the approval

properties to the Director of Planning and VDOT for their review and approval, a traffic study confirming that the road as designed meets VDOT design and construction standards and guidelines for the projected traffic using the road.

6. Route 60 Community Character Buffer. (a) There shall be a variable width buffer along the Route 60 frontage of the Property to provide screening between the Village of Hickory Neck and Route 60 and an appropriate foreground to historic Hickory Neck Church. Owner shall submit a landscape plan for this buffer for review and approval by the Development Review Committee. This landscape plan may include a landscaped farm pond also serving as a stormwater BMP as shown on the Master Plan and shall contain trees, shrubs, groundcovers and/or grasses, fencing and berming to retain and/or create a sense of open farmland or pasture while screening the Village from the direct view of vehicles traveling on Route 60. The buffer shall be graded to create a gentle slope from Route 60 to a low landscaped berm located behind the lots adjacent to the buffer. The combination of the berm and landscaping shall, when the landscaping has reached maturity, screen the adjacent houses from the direct view of vehicles traveling on Route 60. The buffer provided shall measure a minimum of 300 feet deep. The buffer shall be exclusive of any lots or units. Agricultural

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median along the Route 60 frontage to Hickory Neck Village.

This landscaping shall be designed to compliment the Hickory Neck Village Community Character Corridor buffer landscaping and shall include trees, shrubs and groundcovers in accordance with a plan submitted to and approved by the Director of Planning.

The median shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

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8. **Rochambeau Road Buffers.** (a) Along the Rochambeau Road frontage of Rochambeau Village, the 75 foot buffer shall be planted as set forth herein to provide a visual screen between the road and the Village through a reforestation plan. This plan may include some earth moving and berming and shall include a seeding and planting plan as recommended by the State of Virginia's Department of Forestry and approved by the Director of Planning. The planting mix shall include at least two types of evergreen trees and a variety of deciduous trees including Oak, Maple and Gum as well as native understory trees including Redbud and Dogwood. The buffer shall achieve an effective visual screen (6'-8' height of plantings and berming) within six years from time of installation. The buffer shall be left undisturbed to reforest with the exception of a more groomed landscape at the Village entrances. The buffer shall be planted

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9. Pedestrian Connections to Adjacent Properties. Owner shall provide pedestrian connections between the Property and the adjacent properties generally as 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 Property. 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 the Village containing such connections.

10. Streetscape Guidelines. The Owner shall provide and install streetscape improvements 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. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential units in adjacent structures.

an 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 4(e)) 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.

12. 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

styles embodied in "Villages at Whitehall, Supplemental Community Information" prepared by AES Consulting Engineers submitted as a part of the rezoning application and incorporating appropriate and suitable sustainable building practices as recommended in the Sustainable Building Sourcebook of the City of Austin for the approval of the Development Review Committee prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). The Guidelines shall specifically address appropriate architectural treatments for the rear elevation of any dwelling units facing Rochambeau Road or School Lane in Taskinas Village. Once approved, the Guidelines may not be amended without the approval of the Development Review Committee. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

14. **Hickory Neck Church.** Owner shall design the stormwater BMPs and system on the Property to serve the proposed expansion of Hickory Neck Church and shall grant the Church the necessary easements to drain into such system. Owner shall preserve and enhance the existing hedgerow located along the common property line between the Property and Hickory Neck Church in the vicinity of the road connection to the Hickory

sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units. Owner shall either (i) install sidewalks along the Route 60 and Rochambeau Road frontage of the Property or (ii) in lieu thereof, construct a hard surface multi-use trail with a design approved by the Director of Planning along such road frontages with connections to the internal trail system on the Property or (iii) in lieu thereof, make a payment to the County for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalks.

17. Commercial Uses. In the portion of the Property rezoned to B-1, with proffers, the following uses, otherwise permitted by right, shall not be permitted:

- automobile service stations;
- hotels, motels, tourist homes and convention centers;
- indoor sports facilities
- indoor theaters
- radio and television stations and accessory antenna or towers or tower mounted wireless communication facilities, which are 60 feet or less in height;
- fast food restaurants; and
- wholesale and warehousing.

18. Curb and Gutter. Streets (but not the private alleys) within the Property shall be constructed with curb and gutter

shall be maintained by the Association or a neighborhood association. 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.

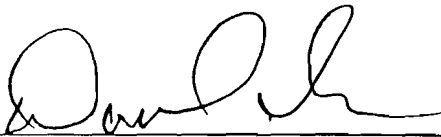
23. Reserved Right of Way. Owner shall reserve the area 50 feet in width shown on the Master Plan as "Future Connections to Adjacent Property" for a possible future road connection to the adjacent parcels to the south and west of the Property. Owner shall have no responsibility to construct a connecting road in this area and shall not be obligated to permit the owners of the adjacent parcels to construct a road in such area unless and until Owner and the owner of the adjacent parcels 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

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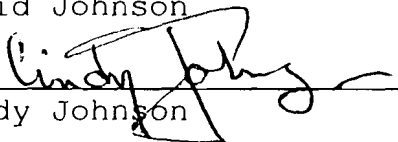
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limiting the use by the adjacent parcel of such roads to cars and light duty trucks and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements warranted by the additional traffic from the adjacent parcels.



David Johnson

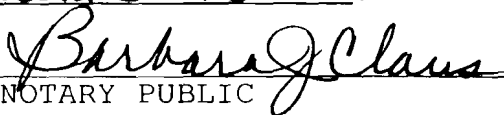


Cindy Johnson

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1
day of July, 2005, by David Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1
day of July, 2005, by Cindy Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

Exhibit A
Property Description

PLANNING DIRECTOR'S REPORT

August 2005

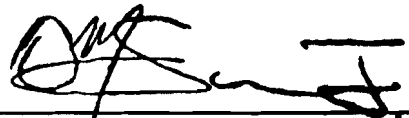
This report summarizes the status of selected Planning Division activities during the last 30 days.

- Ordinance Amendments. Case No. ZO-4-05 Wireless Communications Facilities was approved by the Planning Commission (PC) on July 11 and will be considered by the Board of Supervisors (BOS) on August 8. Case No. ZO-3-04 Fast Food Restaurants in Mixed Use Districts was approved by the PC June 6 and the BOS July 12.
- Cash Proffer Policy. By a 3-2 straw pole at its July 26 work session, the Board of Supervisors' agreed to adopt a cash proffer policy for schools.
- Rural Lands Study. The Renaissance Planning Group met with Planning Staff on July 25. The purpose of the meeting was to explore data needs, discuss communication techniques, and exchange ideas about how various aspects of the project will be conducted. Staff is working now to create a list of citizens who might be willing to lead the rural lands project. This list will be provided to the Board of Supervisors for their action.
- Virginia Capital Trail: Green Springs and Chickahominy River Phases. The ground breaking for the Green Springs phase was held July 12, with Governor Mark Warner as the keynote speaker. County staff were recognized for their active project involvement. Staff continued to work with VDOT to move the Chickahominy phase forward.
- 2007 Community Activities Task Force. The Task Force continued to meet in July to plan and coordinate community activities and beautification efforts.
- Historic Triangle Corridor Enhancement Committee. The Committee continued to meet in July on the Jamestown Road demonstration project to put together its fall enhancement program. The Committee is accepting enhancement grant applications from businesses and homeowners associations along Jamestown Road. The application deadline is August 1.
- Route 5 Chickahominy River Bridge Replacement. VDOT held a public hearing on this project on July 27 at the Chickahominy Riverfront Park. Construction is expected to begin in fall 2006.
- Staffing. Joel Almquist, a 2004 graduate of Virginia Tech, began his duties as planner on July 11. He brings a background in environmental policy to the Division. Joel has worked most recently in the home construction industry and was most pleased to move indoors before this summer's heat wave.

Kathryn Sipes, a native of the Williamsburg area, will begin her role as planner on August 15. She is a graduate of Ball State University in Indiana and has a great deal of experience in the field of Community Development. Kate currently commutes daily to Richmond and looks forward to all the new free time that she will have.

David German, who holds a Master's in Urban and Regional Planning from the University of Colorado at Denver, also begins his duties as a planner on August 15. David holds his undergraduate degree in business from the University of Southern California and worked in the private sector for a decade prior to returning to graduate school. Dave and his wife are moving here from Colorado.

- New Town Cases. The New Town Design Review Board considered the following cases at its June 16 meeting:
 1. Unanimously approved the Subdivision Plat for the Main Street Parcels in Blocks 2 and 3
 2. Unanimously approved the paver changes for Village Square as proposed
 3. Approved the final buildings colors, the mechanical screening and the mechanical screening colors as submitted
 4. Approved plans for the Ironbound Square Senior Housing Community after making suggestions
 5. Approved signage for Petsmart, Pier One Imports, and a sample signage for Buildings 7 and 8 at Windsor Meade Marketplace and for the Bank of American Building, Block 2
 6. Approved resubmitted house plans for affordable units in Blocks 5 and 8
 7. Conceptual approval subject to the Board's comments of the Ironbound Gym Building, Block 10 on New Town Avenue
 8. Approved the resubmitted site and landscape plan of Dr. Schumann Medical Building, Block 3
 9. Approved conceptual site and building plans for Springman Dental Office Building Block 7



O. Marvin Sowers, Jr.