

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
SEPTEMBER 12, 2005 - 7:00 p.m.

1. ROLL CALL
2. MINUTES
 - A. August 1, 2005 Regular Meeting
3. COMMITTEE AND COMMISSION REPORTS
 - A. Development Review Committee (DRC) Report
 - B. Other Committee Reports
4. PLANNING COMMISSION CONSIDERATION
 - A. Z0-5-05 Initiating Resolution - Zoning Ordinance Amendment – Aged Facilities
5. 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-5-86 Barnes Swamp Toano Business Center Withdrawal
 - G. SUP-27-05 Chickahominy Baptist Church Expansion
 - H. Z0-5-05 Zoning Ordinance Amendment – Aged Facilities
 - I. SUP-26-05 Williamsburg Landing Parking Addition
6. PLANNING DIRECTOR'S REPORT
7. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF AUGUST, 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. ROLL CALL

Jack Fraley
Ingrid Blanton
Jim Kennedy
Mary Jones
Wilford Kale
Don Hunt
George Billups

ALSO PRESENT

John Horne, Development Manager
Marvin Sowers, Planning Director
Allen Murphy, Principal Planner/Zoning Administrator
Adam Kinsman, Assistant County Attorney
Tamara Rosario, Senior Planner II
Matthew Arcieri, Senior Planner
Ellen Cook, Planner
Matthew Smolnik, Planner
Joel Almquist, Planner
Jose Riberio, Planner
Jason Purse, Planner
Toya Ricks, Administrative Services Coordinator

2. MINUTES

Ms. Blanton said she forwarded her corrections to staff via email.

Mr. Sowers said that they were received and would be incorporated into the final draft.

Mr. Fraley motioned to approve the minutes as amended.

Ms. Jones seconded the motion.

In a unanimous voice vote the minutes were approved as amended (7-0).

3. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley presented the report. The DRC considered one case at its July 27th meeting, The Williamsburg Community Chapel Expansion. The DRC unanimously recommended preliminary approval, subject to agency comments.

Ms. Jones motioned to approve the report.

Mr. Kennedy seconded the motion.

In a unanimous voice vote the report was approved (7-0).

B. OTHER COMMITTEE REPORTS - None

4. 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. Z-12-05 Toano Business Center

Mr. Hunt stated that the applicants for items 4-A through 4-E requested deferral of those cases until the September 12, 2005 meeting.

Mr. Hunt opened the public hearing.

Hearing no requests to speak, the public hearings were continued to September 12th.

F. AFD-7-86 Mill Creek Agricultural and Forestal District (AFD) – Findley Addition

Mr. Matthew Arcieri presented the staff report. Mr. John Findlay has applied to add 73.25 acres to the existing Mill Creek AFD. The property is located at 3406 North Riverside Drive and is identified as parcel (1-8H) on the JCC Real Estate Tax Map (9-4). The parcel is zoned A-1, General Agricultural and is located in the Stonehouse District. On July 18th the AFD Advisory Committee recommended approval by a vote of 9-0.

Mr. Hunt opened the public hearing.

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

Mr. Kale motioned approval.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote approval was recommended (7-0). AYE: (7) Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0)

G. SUP-25-05/MP-10-05 Prime Outlets Master Plan Amendment

Mr. Matthew Arcieri introduced Mr. Jose Riberio. Mr. Riberio presented the staff report. Mr. Alvin Anderson and Mr. Dustin Devore have applied on behalf of Williamsburg Outlets, LLC, to amend the existing master plan and special use permit to allow for a 5,600± square foot expansion of Prime Outlets. The properties can be identified as parcels (1-33C), (1-33D), (1-33E)

and (1-28) on the JCC Real Estate Tax Map (33-1). The property is zoned B-1, General Business, with proffers and is designated Community Commercial on the Comprehensive Plan Land Use Map. 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. Staff recommended approval of the application and attached conditions.

Mr. Fraley asked the purpose of the additional parking.

Mr. Riberio said the purpose was to accommodate overflow parking.

Mr. Fraley wanted to know how the parking lot would be accessed.

Mr. Riberio indicated an access route on the location map.

Mr. Fraley confirmed with Mr. Riberio that no signage exists directing traffic to the lot.

Mr. Kale said he would hold his questions regarding traffic for the applicant.

Mr. Kennedy said that several times of the year there is a severe shortage of parking. He asked how this would be addressed.

Mr. Riberio referred the question to the applicant.

Mr. Hunt opened the public hearing.

Mr. Dustin DeVore, Kaufman and Canoles, represented the applicant. Mr. DeVore gave a presentation outlining the proposal.

Mr. Kale asked if the leases required employees to park in the rear parking lot.

Mr. DeVore said it was required.

Mr. Kennedy asked how close this expansion would be to the residential development behind the center.

Mr. DeVore answered 400 feet.

Mr. Kennedy was concerned about the effect of lighting, dumpsters and deliveries on the surrounding residents.

Mr. DeVore said they would use down cast lighting and that dumpsters and delivery services would be done the same as it always has.

Mr. Kale asked about the construction taking place near the Joseph Banks store.

Mr. Paul Reid, the applicant, said the dumpster pads that were approved with the previous expansion are being installed.

Mr. Fraley confirmed that they would house the dumpsters currently sitting in the roadway.

Mr. Kale asked if an encroachment was approved to allow cutting into the buffer.

Mr. DeVore said it was approved with the previous expansion request.

Mr. Kale said this should not be allowed in the future because it cuts into the buffer between this project and the adjacent property.

Ms. Jones clarified that there was no access to the back parking lot from the outlet mall without going back out to Route 60.

Mr. DeVore explained that to provide such access would cause signaling issues on Route 60.

Mr. Kale asked if there was any way to connect the main parking area with the overflow lot.

Mr. DeVore said the applicant would look for ways to improve parking.

Mr. Kale wanted to know how shoppers would access the front of the mall from the rear parking lot.

Mr. Reid said the current expansion includes a breezeway from that parking lot and that signage would be installed. He also said they would provide a one-way access road if the Virginia Department of Transportation (VDOT) would approve it.

Mr. Kale said he thought this addition would make the parking problem worse. He asked if something could be done to help businesses like Ewell Station and the motel that become overflow parking lots for the mall.

Mr. DeVore said they have been in discussions with Ewell Station in the past and would be willing to resume those discussions.

Mr. Kennedy said that in November and December shoppers park at his restaurant that is located in the area. He also voiced some of the parking and traffic concerns voiced by mall employees and other area merchants, including security lighting and access to employee parking areas.

Ms. Jones asked if the current lighting meets code.

Mr. DeVore said it was up to code for what is there now.

Mr. Fraley asked if the applicant would be agreeable to conditions for improved lighting, directional signage to parking areas, and movable planters near the Polo store.

Mr. DeVore said yes.

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

Mr. Kennedy motioned to approve the application with the amended conditions recommended by Mr. Fraley. He also urged the applicant to consider parking solutions improving access to the rear parking areas.

Mr. Kale seconded the motion. He also asked the applicant to act in good faith to deal with the parking issues.

Mr. Fraley clarified the amended conditions and agreed with Mr. Kale's request for parking improvements.

Ms. Blanton agreed with the previous comments and amended conditions.

Ms. Jones agreed that satellite parking might be something that should be considered.

In a unanimous roll call vote the application and amended conditions were recommended for approval (7-0).

H. SUP-24-05 Williamsburg Winery – Gabriel Archer Tavern

Mr. Matthew Arcieri presented the staff report. Mr. Vernon Geddy has applied for a special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of the Gabriel Archer Tavern restaurant which is operated by and in conjunction with the Williamsburg Winery. The existing special use permit for the tavern expired. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The property is at 5800 Wessex Hundred and can be further identified as parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval of the application and attached conditions.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He stated that all issues had been resolved. Mr. Geddy asked the Commission to recommend approval and made himself available for questions.

Mr. Kale stated that the applicant resolved the outstanding issues eight months later than expected.

Mr. Geddy said he had advised his client not to come back until everything was resolved. He said he recommended his client not ask for more time.

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

Mr. Fraley motioned to approve the application.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: (7) Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0)

I. SUP-22-05 Shops at Norge Crossing

Ms. Ellen Cook introduced Mr. Jason Purse. Mr. Purse presented the staff report. Mr. Gregory Davis of Kaufman and Canoles has applied for a special use permit to construct 8 retail shops totaling 13,000 square feet at 7500 Richmond Road. This parcel is located at the intersection of Norge Lane and Richmond Road and can be further identified as Parcel Number (1-71E) on the JCC Real Estate Tax Map (23-2). It is part of the Norge Crossing Shopping Center and is currently zoned B-1, General Business, with proffers. Staff found that with the proposed conditions the application is compatible with the Comprehensive Plan. Staff recommended approval of the application and attached conditions.

Ms. Blanton asked about the proposal's impact on the Yarmouth Creek Watershed Protection Plan.

Mr. Purse stated that one of the conditions included the goals and priorities of the plan.

Ms. Blanton asked if the developer provided funding for education or other protective measures.

Mr. Purse said SUP conditions can not request money.

Ms. Blanton wanted to know if it could be proffered.

Mr. Purse explained that proffers are generated through Rezoning rather than Special Use Permits.

Mr. Hunt asked if the existing BMP would remain.

Mr. Purse said yes.

Mr. Hunt opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the applicant. Mr. Davis presented the project and showcased the developer's previous project in James City County. He asked the Commission to approve the application.

Mr. Kale asked if the applicant had any questions regarding the conditions.

Mr. Davis said no. He said the applicant was in agreement with the conditions.

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

Mr. Kennedy recused himself.

Mr. Kale stated his pleasure with the developer's previous project in the County.

Ms. Blanton echoed Mr. Kale's comments.

Mr. Kale motioned to approve the application.

Ms. Blanton seconded the motion.

In a unanimous roll call vote the application was recommended for approval (6-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Hunt; NAY: (0). Kennedy abstained.

J SUP-23-05 TGI Friday's

Mr. Matthew Smolnik introduced Mr. Joel Almquist. Mr. Almquist presented the staff report. Mr. Vernon Geddy III has applied for a special use permit on the parcel located at 5521 Richmond Road, which is currently zoned B-1, General Business in order to construct and operate a TGI Friday's restaurant. The property is also known as parcel (1-5A) on the JCC Real Estate Tax Map (33-3). Mr. Geddy has filed the special use permit application because the proposal is projected to generate more than 100 peak hour trips to and from the site. The site is designated as Neighborhood Commercial on the JCC Comprehensive Plan. Limited business activity areas located within the Primary Service Area, serving residents of the surrounding neighborhoods in the immediate area and having only a limited impact on nearby development, are designated Neighborhood Commercial. Staff found the proposal consistent with surrounding developments. Staff recommended approval of the application and attached conditions.

Mr. Kale, Mr. Almquist and the applicant's traffic consultant discussed access to the property.

Mr. Kennedy asked what colors would be used on the exterior of the building.

Mr. Almquist presented a color sketch showing red and white awnings. He stated that the Planning Director had final approval.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He said he thought the location was a good fit for this use.

Mr. Kennedy asked if more neutral colors could be used.

Mr. Geddy said the color scheme was consistent with all TGI Friday's stores. He did state that the colored sketch appeared to be brighter than it will appear at the store.

Mr. Kale encouraged the Planning Director take a close look at the colors.

Mr. Geddy said the applicant was happy with the proposed conditions.

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

Mr. Kennedy motioned for approval. He did state his concern with the traffic on Route 60.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY (0).

K. SUP-20-05 USA Waste of Va. Landfills, Inc. Renewal

L. SUP-19-05 Branscome Borrow Pit Renewal

Mr. Matthew Smolnik presented the staff report. Mr. Vernon Geddy III has applied to renew SUP-008-00 and SUP-009-00 at 700 Blow Flats Road and the parcel directly adjacent to it, currently zoned M-2, General Industrial, in order to continue the operation of borrow pits. The properties are also known as parcels (1-3) and (1-2) on the James City County Real Estate Tax Map (60-3). Mr. Geddy is requesting slight changes to the existing special use permits, which are primarily intended to reflect the completion of environmental remediation and timbering activities on the sites. The applicant is also requesting to eliminate the five year time limit on the special use permits. The sites are designated General Industrial by the James City County Comprehensive Plan. Staff recommended approval subject to proposed conditions including retention of the five year renewal requirement.

Mr. Sowers added that VDOT also recommended retention of a five year expiration date.

Ms. Blanton asked about the negative impacts mining will have on the neighboring tidal wetlands.

Mr. Smolnik stated that there will be enough distance that no negative impacts are anticipated.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. The applicant has mined at this location for over 35 years. He recited some of the advantages of this proposal. Mr. Geddy asked for renewal of the applications and elimination of the five year time limit.

Mr. Kennedy recalled that the company was sold shortly after the previous renewal.

Mr. Geddy noted that there have been no changes in the way the company or the borrow pits have been operated locally.

Mr. Greg Davis, Kaufman and Canoles, represented adjacent property owner, Greenmount Associates. Mr. Davis stated that his client did not oppose the application. He urged retention of the five year renewal required.

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

Mr. Kennedy motioned to approve the applications with a five year expiration.

Ms. Jones seconded the motion.

Mr. Billups stated his concerns about the safety and health conditions that currently exist. He said there were no steps being taken to correct or lessen the impact of dust, debris, etc. to residents.

Mr. Sowers said that public notice was given and that no residents came forward. He also said there were conversations with neighbors during the previous renewal request.

Mr. Billups said there was an obligation to ensure the health and safety of residents even if they do not appear.

Ms. Jones stated that the staff report indicated that those conditions will be properly regulated.

Mr. Billups said marine life is another concern.

Mr. Geddy stated that creation of the tidal wetlands is a proposed benefit and will require exhaustive permitting.

Mr. Kale confirmed that proper experts will be consulted such as the Virginia Marine Resources Commission. He also stated his concern that the road be kept free of debris.

The Commission and the applicant discussed the improvements to Blow Flats Road.

In unanimous roll call votes both applications were recommended for approval (7-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0).

The Commission adjourned for five minutes.

M. Z-4-05/SUP-7-05 Langley Federal Credit Union at New Town

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. The case was deferred at the July 11th Planning Commission meeting. At that time the Planning Commission recommended that the applicant revisit the issues of the number of drive-through lanes, address the proffer deficiencies and explore shared parking. In response the applicant reduced the number of drive-through lanes requested from seven to five (four teller lanes and one ATM lane for immediate use) plus two teller lanes reserved for future use. The remaining two lanes would require DRC approval. The applicant submitted proffers which address the deficiencies previously noted, including participation in the New Town Commercial Property Owner's Association. The applicant also expressed a willingness to work with adjoining landowners on shared parking when the adjoining parcels are developed.

Staff found the proposed use consistent with the surrounding development, the New Town Design Guidelines, and the Comprehensive Plan and recommended approval of the application and attached conditions.

Mr. Hunt opened the public hearing.

Mr. Ray Suttle, Jr., of Jones, Blechman, Woltz, and Kelly, represented the applicant and introduced Tom Tingle, the architect.

Mr. Tom Tingle, Guernsey-Tingle, made a presentation outlining the project and identifying the changes made as a result of staff's, the Design Review Board's and the Planning Commission's requests.

Mr. Fraley applauded Mr. Tingle on the design.

Mr. Kale agreed with Mr. Fraley on the design. He disagreed with the number of drive-through lanes. He said that some New Town Design Review Board (DRB) members had expressed their support for a reduction to him.

Mr. Kale and Mr. Tingle discussed how the drive-through reduction could be achieved architecturally. Mr. Kale also stated his desire for any requests for expansion to be made before the full Planning Commission.

Ms. Blanton thought the applicant had done an admirable job responding to the New Town Design Guidelines. However; she felt the New Town principles favored pedestrians and that three drive-through tellers and one ATM lane was sufficient. Ms. Blanton was not comfortable with allowing the possibility of future expansions.

Mr. Fraley agreed with Mr. Kale that future expansion requests come before the full Commission. He said he had also had discussions with DRB members concerning their desire for fewer lanes. Mr. Fraley noted that the current James City County branch does not have a drive-

through and does not seem to experience traffic back-ups. He questioned whether this project was a fit for New Town.

Mr. Kennedy commended the applicant and felt the changes reflected their desire to be in New Town. He did not think New Town would be a walking community and this is on the outskirts of New Town. He asked if the applicant would look to move elsewhere if the additional lane was not approved.

Mr. Tom Horner, the applicant, discussed how this location was chosen. He stated that their consultant had originally recommended that they locate in the Richmond Road/Lightfoot Road area based on their customers' demographics, but they preferred a New Town location. He insisted that the project required four drive-up tellers lanes and that three would not work. He explained that one teller works two lanes so that an odd number of lanes would mean one person would be working at 50%. Mr. Horner also said he was responding to their members who have said they do not do business at the Colony Square branch because it does not have a drive-through and because they cannot cross the road safely.

Mr. Fraley asked the applicant to explain how he would lose money with three lanes when nearby institutions only have three.

Mr. Horner explained that other institutions have one teller working three lanes and he felt he could better serve his members with one teller working two lanes.

Mr. Kennedy disagreed with the other Commissioners and stated his support of the proposal.

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

Mr. Hunt said that after listening to the applicant he understood his argument that the additional drive-through was a matter of efficiency.

Ms. Blanton stated her understanding that when visiting New Town one would park or walk over and do a number of errands at once. She felt the notion of zipping through in a car and going elsewhere is counter to what New Town is trying to accomplish.

Mr. Billups said he did not think that one additional drive-through warranted denial of the application.

Mr. Kennedy asked if anyone was present from the DRB. He stated his opinion that it was grossly unfair that DRB members would call some individual members of the Commission without calling all of them in order to express their concerns after having made a decision that indicated that they were in support of the plan. He thought they should have appeared before the Planning Commission and made their statements available to everyone.

Mr. Fraley again complimented the applicant on the proposal and their responsiveness in incorporating changes from last month's meeting. He also said he was not persuaded and would not support the request.

Ms. Jones agreed that the facility is one of the gateways to New Town and should comply with the pedestrian friendly spirit of the community. She said she would not support three drive-through tellers and one ATM.

Mr. Kale motioned to approve and amend the application allowing no more than four drive-through lanes including the ATM and requiring any requests for expansion to be presented to the full Commission.

Mr. Fraley seconded the motion.

Mr. Kinsmen confirmed that both the rezoning and special use permit applications would be voted on together.

Mr. Kennedy suggested entering a substitute motion to approve the application as presented.

Ms. Blanton confirmed with Mr. Kale the effect of passage of his motion. She did not support allowing the possibility of future expansion.

Mr. Fraley agreed with Ms. Blanton on the issue of expansion.

Mr. Kennedy stated that the applicant may prefer a vote on Mr. Kale's motion.

Mr. Tingle stated the applicant's preference for a vote on the application as presented.

Mr. Kale withdrew his motion.

Mr. Kennedy motioned to approve the application as presented.

Mr. Fraley seconded the motion.

The motion to recommend approval of the application failed (3:4). AYE: Billups, Kennedy, Hunt (3); NAY: Kale, Blanton, Fraley, Jones (4).

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)

Mr. Matthew Smolnik presented the staff report. Mr. Vernon Geddy has applied on behalf of Rauch Development to rezone approximately 22.81 acres of land currently zoned A-1, General Agriculture to R-2 Cluster, General Residential with special use permit for a residential cluster overlay to construct a maximum of 79 residential dwelling units with an overall density cap of 3.46 dwelling units per acre. The Comprehensive Plan Land Use Map designates these properties as

Low Density Residential with one dwelling unit per acre. This property is located east of Anderson's Corner at 8716, 8720 and 8724 Barhamsville Road, and 3225 Old Stage Road, The property is more specifically identified as parcels (3-1), (3-2), (1-21) on the JCC Real Estate Tax Map No. (12-1) and parcel (1-21) on the JCC Real Estate Tax Map No. (12-2).

Mr. Geddy has also applied on behalf of Rauch Development to rezone approximately 138.54 acres of land currently zoned A-1, General Agriculture and B-1, General Business to R-2 General Residential Cluster and R-5 Multi-Family Residential Cluster, with a special use permit for a residential cluster overlay to construct a maximum of 443 residential dwelling units with an overall density cap of 3.2 dwelling units per acre. 4.59 acres of B-1, General Business zoned property will be rezoned to B-1, with Proffers for an approximate 8,000 square foot building. The Comprehensive Plan Land Use Map designates these properties as Low Density Residential with one dwelling unit per acre. This property is located east of Anderson's Corner at 3400, 3505, 3610, and 3611 Rochambeau Drive and 8350 Richmond Road. The property is more specifically identified as Parcels (1-14) (1-24) (1-22) (1-19) and (1-18) on the JCC Real Estate Tax Map No. (12-2).

Both proposals were deferred at the Planning Commission's July 11th meeting. At that time staff felt Taskinas, Rochambeau, and Hickory Neck Villages were not consistent with a low density residential Comprehensive Land Use designation. Mr. Smolnik said staff further believed the three villages did not adequately protect historical structures or scenic vistas nor sufficiently help to achieve the Anderson's Corner Mixed Use area vision.

The applicant has revised the proposals and staff found that they sufficiently addressed the technical issues raised at the previous Planning Commission meeting. Staff recommended approval of the applications with the attached conditions.

Mr. Kennedy asked if changes were made to the location of the recreational facilities.

Mr. James Peters, AES Consulting Engineers, said one small interior recreation open space was removed and replaced with a combined larger open space in another location. Mr. Peters pointed to them on the location map.

Mr. Kennedy and Mr. Peters discussed the locations of the shared facilities.

Mr. Sowers added that each of the two applications has proffered to meet the recreational standards recommended in the County's Recreational Master Plan.

Mr. Fraley questioned the appropriateness of rezoning commercial parcels to residential when the Comprehensive Plan for Anderson's Corner suggests business and commercial as primary uses with residential being a supporting use.

Mr. Smolnik stated that the parcel adjacent to this proposal has thirty-nine acres and is currently zoned B-1 with the potential for 300,000 – 400,000 square feet of commercial space.

Mr. Fraley asked why the applicant did not propose more commercial.

Mr. Sowers offered that these particular sites are not part of the adjacent Mixed Use area. He said they are designated low-density residential on the Comprehensive Plan. Mr. Sowers stated that previous reviews of the Comprehensive Plan identified the B-1 zoning as inconsistent and recognized that there is a tremendous amount of commercial zoning already designated in this area.

Mr. Kale asked if down-zoning has been considered.

Mr. Sowers answered no. He also outlined the process to down-zone.

Mr. Kennedy stated his apprehension about allowing this project without a study of the entire area. He asked if staff had considered the impact of having a commercial development so close to a residential area.

Mr. Sowers said that under the current guidelines of the Comprehensive Plan staff felt this application met enough of its tenets that a recommendation of denial was not warranted.

Mr. Kennedy said that he supported a recommendation of denial based on the fact that he would like to see a study of this area.

Mr. Fraley noted that the Planning Commission at its last meeting recommended that the Board of Supervisors commission a study of this area to establish a vision.

Mr. Sowers confirmed that the Board decided to not move forward with a study at this time.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He gave a presentation outlining the revision of the proposal since the last meeting. Mr. Geddy asked for a recommendation of approval.

Ms. Jones asked about the James City Service Authority's (JCSA) concerns about how the project will be integrated into the public water and sewage system.

Mr. Geddy stated that a master water and sewer plan will be required prior to site plan submission.

Mr. Sowers confirmed that such a condition is attached to the application.

Ms. Blanton suggested that development start away from the road and come forward so that the vegetation will have time to mature and provide a screen to those homes near the road.

Ms. Terri Hudgins, 111 Knollwood Drive, represented the Stonehouse District Citizens Association. The association opposed the rezoning as proposed by the applicant.

Mr. Jerry Jutras, 102 Plains View Road, expressed his support of the application.

Ms. Mary Magoon Delara, 92 Sand Hill Road, stated her opposition to blocking the left hand turn land from Sand Hill Road onto Old Stage Road and Rochambeau.

Mr. Rich Krapf, 2404 Forge Road, said he did not believe this proposal represented the best possible use of this land. He recommended deferral of the application until a comprehensive study of the area can be completed.

Ms. Linda Rice, 2394 Forge Road, represented the Friends of Forge Road. She commended the applicant on the improvements to the plan but requested denial of the application until an area study could be completed.

Mr. Charlie Crawford, 7849 Church Lane, said the project represented a good opportunity to the County. He also stated that future proposals would still be subject to approval.

Mr. Willard Delara, 92 Sand Hill Road, requested that convenience stores be added to the list of excluded uses for the 8,000 square foot commercial/retail building that will be located near the junction of Rochambeau, Old Stage Road and School House Lane.

Mr. Geddy said that the list of excluded uses included uses permitted by right in the B-1 Zoning District and convenience stores would require a request for a Special Use Permit. He also said that if VDOT does not approve blocking the left hand turn land from Sand Hill Road then the road would be left as it is.

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

Mr. Kennedy stated that he felt the applicant had gone the extra mile. He also said that the County has not gone the extra mile and urged a study of Anderson's Corner before acting on this case.

Ms. Jones said the Board of Supervisors had the opportunity to commission a study and chose not to. She said she was not thrilled about rezoning what is currently B-1 to R-2 but felt it was supported by the Comprehensive Plan. She stated her support for the proposal.

Ms. Blanton agreed with Ms. Jones. She stated her disappointment that a study was not commissioned. Ms. Blanton stated that she felt this project represented a good direction for the area.

Mr. Kale said that if the Board had chosen to conduct a study he would have asked the developer to wait. He also said he thought this was a good project and does not run counter to what was intended in Anderson's Corner.

Mr. Billups stated that the developer had made a good faith effort and that he would support the application.

Mr. Hunt stated his main concern was that the forthcoming residents may not be supportive of future commercial proposals for the parcels at Anderson's Corner that are designated commercial.

Mr. Fraley stated his support for an area study and his concerns about rezoning from commercial to residential. He also stated his feeling that this was a project that would set standards and wished it had more commercial, but it had his support.

Mr. Fraley motioned for approval of the application and attached conditions.

Ms. Blanton seconded the motion.

In a roll call vote the application was recommended for approval (6-1) AYE: Billups, Kale, Fraley, Blanton, Jones, Hunt (6); NAY: Kennedy (1).

7. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the Initiating Resolution for a Zoning Ordinance Amendment to allow facilities for the residence and for care of the aged by special use permit in the R-8 Zoning District. Staff recommended approval.

Mr. Kennedy motioned to approve the resolution.

Mr. Fraley seconded the motion.

Mr. Billups asked how much growth would be generated by the proposal.

Mr. Sowers said the growth would not come about until someone actually applied for a special use permit.

Mr. Billups asked what the potential for growth would be.

Mr. Sowers said this was the first time such a request has been made and he could guess.

Mr. Horne said this specific proposal was for a parking lot but the zoning change could allow for other types of applications.

Mr. Kale asked if there was any other way to allow a parking lot than a zoning change.

Mr. Horne outlined the Williamsburg Landing's need for shared parking behind a building on the Airport property which is zoned R-8.

Ms. Blanton confirmed that approval of the resolution only allowed staff to research the matter and does not give approval.

Mr. Kale offered a substitute motion for deferral to allow staff to look into alternatives other than a zoning change.

Mr. Fraley asked if staff was in the due diligence stage.

Mr. Horne said that there were internal discussions about how to accomplish this with the least amount of change to the Ordinance.

Mr. Fraley asked if staff would be inconvenienced by waiting.

Mr. Horne said it was the applicant's timetable not staff's.

Mr. Kennedy asked about the urgency of the parking lot.

Mr. Horne did not know.

Mr. Hunt said they do have a parking problem.

Mr. Fraley seconded the motion for deferral.

Mr. Billups stated his support of Mr. Kale's motion.

In a unanimous voice vote the motion to defer passed (7-0).

Mr. Hunt thanked Staff and Commissioners for their support and kind words concerning the death of his father. He also thanked Ms. Blanton for her input and diligent service.

Mr. Fraley said Ms. Blanton is a superstar and that he would miss her a lot.

Mr. Kale expressed his enjoyment of his association with Ms. Blanton.

Ms. Blanton said it has been her distinct honor and privilege to have served on the Planning Commission. She said she will miss everyone and miss James City County.

Mr. Sowers thanked Ms. Blanton. He said Staff has enjoyed working with her and appreciated her service to the community.

Ms. Jones said she has a huge amount of respect for Ms. Blanton and will miss her.

8. 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: 8/1/2005 THROUGH: 8/31/2005

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 Amend.
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-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-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-070-05	St. Bede Church Dam Improvement Plan
SP-071-05	Merrimac Center Parking Expansion
SP-076-05	Warhill Multiuse Trail
SP-079-05	Warhill Water Facility Improvements
SP-080-05	Stonehouse Water Facility Improvements
SP-084-05	New Town - Block 8, Parcel E
SP-086-05	JCC-Toano Convenience Center
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
SP-097-05	Stonehouse Presbyterian Church

Wednesday, September 07, 2005

Page 1 of 6

SP-099-05	Williamsburg Landing SP Amend.
SP-100-05	Bay Aging
SP-101-05	Fairmont Pump Station
SP-102-05	LaGrange Pkwy and Rt 600 to Rt 606
SP-103-05	Colonial Heritage Ph. 4
SP-104-05	Powhatan Plantation Maintenance Building
SP-105-05	New Town, Sec. 4, Block 10, Parcel C
SP-106-05	New Town Block 5 Dumpster Relocation
SP-107-05	Warhill - Eastern Pond Dam Renovations
SP-108-05	Settlement at Monticello (Hiden)
SP-109-05	5791 Centerville Cingular Tower
SP-110-05	Prime Outlets- Ph. 5B Sheds
SP-111-05	TCS Materials- Office Renovation/Addition
SP-112-05	College Creek Water Main
SP-113-05	New Town Block 6 & 7 Parcel E (Dental Bldg)
SP-115-05	Farm Fresh Fuel Express
SP-116-05	Cookes Garden Center

B. PENDING FINAL APPROVAL

EXPIRE DATE

SP-056-03	Shell Building - James River Commerce Center	3 /14/2006
SP-110-04	Christian Life Center Expansion Ph. 1	12/6 /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-017-05	Williamsburg Community Chapel Expansion	8 /1 /2006
SP-026-05	Williamsburg Plantation, Sec. 10 Amend.	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-031-05	7839 & 7845 Richmond Road Office/Retail	8 /23/2006
SP-032-05	New Town, Village Square	4 /29/2006
SP-035-05	Baylands Federal Credit Union	8 /1 /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-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-069-05	Baseball Field Drainage for JHS- SP Amend.	9 /6 /2006
SP-073-05	Jeanne Reed's Office/Warehouse	6 /7 /2006
SP-082-05	Warhill- Western Pond Dam Renovations	7 /5 /2006
SP-087-05	Archaearium at Historic Jamestowne Amend	8 /1 /2006

C. FINAL APPROVAL

		DATE
SP-112-04	Wythe-Will Distribution Center, Landscaping Amend.	8 /2 /2005
SP-040-05	The Retreat Well Lot SP Amend.	8 /1 /2005
SP-057-05	Warhill - High School Access Road	8 /9 /2005
SP-059-05	Warhill - Storm Trunk System Improvements	8 /9 /2005
SP-072-05	New Town, Block 3, Parcel B	8 /4 /2005
SP-074-05	Hickory Neck Church New Worship Facility	8 /16/2005
SP-077-05	New Town, Block 10	8 /17/2005
SP-081-05	Cookes Gardens Shed Addition & Kitchen Display	8 /10/2005
SP-083-05	New Town - Block 8 Ph 1B Amend. #1	8 /2 /2005
SP-098-05	Busch Gardens- England Village Break Area	8 /15/2005
SP-114-05	Prime Outlets Ph. 5A & 5B Sidewalk Amend.	8 /26/2005

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-121-04	Wellington Public Use Site
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-051-05	Ripley Property Subdivision
S-057-05	Croaker Road Subdivision
S-059-05	Peleg's Point, Sec. 6
S-065-05	Argo Subdivision
S-066-05	8739 Richmond Rd Subdivision
S-072-05	JCC-Toano Convenience Center Subdivision
S-073-05	Forest Glen Lot 4 Sec. 1
S-075-05	Racefield Woods Lots 5A-5E
S-076-05	Racefield Woods Lots 5E-5I
S-078-05	Fairmont Subdivision Sec. 1- 4 (Stonehouse)
S-079-05	Colonial Heritage Ph. 4
S-080-05	Brantley BLA
S-081-05	New Town, Sec. 6, Parcel 2 BLE
S-082-05	Fernandez BLA
S-083-05	Curry Revocable Trust
S-085-05	Haven Landing Ph. 1
S-086-05	Haven Landing Ph. 2

S-087-05	New Town, Block 9, Parcel B
S-090-05	Powhatan Secondary Ph. 7C
S-091-05	Windmill Meadows
S-092-05	8879 Barnes Road Subdivision

B. PENDING FINAL APPROVAL

EXPIRE DATE

S-044-03	Fenwick Hills, Sec. 3	6 /25/2006
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 (Hiden)	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-080-04	Williamsburg Winery Subdivision	12/6 /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-003-05	Waterworks & S. Clement BLA	2 /23/2006
S-015-05	Colonial Heritage Ph. 3, Sec. 2	4 /27/2006
S-017-05	Polk Estates	4 /27/2006
S-043-05	Colonial Heritage Ph. 3, Sec. 3	6 /6 /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-060-05	Oaktree Office Park BLE	8 /18/2006
S-062-05	New Town, Main St. Block 1, 2, & 3	8 /3 /2006
S-063-05	John Barry Davidson BLE	7 /6 /2006
S-064-05	Stonehouse Commerce Park, Sec. D, Parcels A & B	7 /21/2006
S-067-05	136 Magruder- Sadie Lee Taylor	8 /2 /2006
S-068-05	New Town - Block 10 Parcels B, C & D	7 /29/2006
S-070-05	Benjamin Hogge Family Subdivision	7 /26/2006
S-071-05	Gordon Creek BLA	8 /2 /2006
S-074-05	James River Commerce Center Parcels 1A, 1B, 6, 9	8 /10/2006
S-077-05	Scott's Pond Sec. 3C	8 /19/2006

C. FINAL APPROVAL

S-055-03	Colonial Heritage Ph. 1, Sec. 5
S-077-04	James River Commerce Center
S-081-04	Norge Neighborhood Subdivision of Lot 3
S-120-04	New Town, Block 8, Parcel C
S-058-05	Ironbound Square BLE & Plat Amend.
S-061-05	7839 & 7845 Richmond Road BLE
S-084-05	Williamsburg/Jamestown Airport BLA
S-089-05	Ford's Colony, Sec. 7, Lots 99 & 100

DATE

8 /19/2005
8 /25/2005
8 /3 /2005
8 /5 /2005
8 /19/2005
8 /24/2005
8 /11/2005
8 /24/2005

D. EXPIRED**EXPIRE DATE**

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2286 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS; in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required, pursuant to Virginia Code §15.2-2286; and

WHEREAS; the Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 24-349 of the Zoning Ordinance for the consideration of permitting facilities for the residence and/or care of the aged with a special use permit in the R-8, Rural Residential District. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Donald C. Hunt
Chair, Planning Commission

ATTEST:

O. Marvin Sowers, Jr.
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 12th Day of September, 2005.

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

Staff Report for the September 12, 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 September 12, 2005 - 7:00 p.m., Building F Board Room October 3, 2005 - 7:00 p.m., Building F Board Room
Board of Supervisors:	November 8, 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 October 3, 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 8-05. Williamsburg Wicker and Rattan Retail Center
Staff Report for the September 12, 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

June 6, 2005 (deferred) 7:00 p.m.

July 11, 2005 (deferred)

August 1, 2005 (deferred)

September 12, 2005

Board of Supervisors:

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

SUMMARY FACTS

Applicant:

Mr. James Peters of AES Consulting Engineers

Land Owner:

Oscar B. and Elva W. Harrell

Proposal:

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

Location:

7414 Richmond Road

Tax Map/Parcel Nos.:

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

Parcel Size:

1.13 acres

Existing Zoning:

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

Proposed Zoning:

B-1, General Business District, with Proffers

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested a one month deferral in order to allow more time to resolve outstanding issues. Staff concurs with the request.

Staff Contact: Ellen Cook

Phone: 253-6685

Ellen Cook

ATTACHMENTS:

1. Deferral Letter

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

ATTORNEYS AT LAW

E-mail: vgeddy@widomaker.com

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

1177 JAMESTOWN ROAD
WILLIAMSBURG, VIRGINIA 23185
TELEPHONE: (757) 220-6500
FAX: (757) 229-5342

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

ANDREW M. FRANCK
RICHARD H. RIZK

August 24, 2005

Ms. Ellen Cook
James City County Planning Dept.
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Williamsburg Wicker and Rattan/Case No. Z-08-05

Dear Ellen:

I am writing to confirm our conversation in which I requested that the Planning Commission to defer consideration of this case until its October 2005 meeting.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VMG/ch

Cc: Mr. and Mrs. Oscar Harrell
Mr. James Peters

**SPECIAL USE PERMIT-21-05 / MASTER PLAN-9-05. Olde Towne Timeshares Amendment
Staff Report for the September 12, 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

July 11, 2005 (deferred) 7:00 p.m.

August 1, 2005 (deferred)

September 12, 2005

Board of Supervisors:

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

SUMMARY FACTS

Applicant:

Mr. Robert Anderson of McKinney and Company

Land Owner:

Heritage Resorts, Inc.

Proposal:

Timeshare Units

Location:

5380 Olde Towne Road

Tax Map/Parcel Nos.:

(32-4)(1-26), (32-4)(1-26A), (32-4)(1-36), (33-3)(1-30)

Parcel Size:

130.4 acres

Zoning:

R-2, General Residential District, Cluster

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested a one month deferral in order to allow more time to resolve outstanding issues. Staff concurs with the request.

Staff Contact: Ellen Cook

Phone: 253-6685

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

August 29, 2005

Mr. O. Marvin Sowers
Director of Planning
James City County
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, LA
CLARB Certified Landscape Architect

Cc: J. P. Ottino
C. Caldwell
M. Spruill
V. Geddy

HEADQUARTERS
100 South Railroad Avenue
Ashland, Virginia 23005
(804) 798-1451
(804) 798-7072 Fax

WILLIAMSBURG
480 McLaws Circle, Suite 150
Williamsburg, Virginia 23185
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PANAMA
McKinney Internacional
Calle Aquilino de la Guardia
Torre Banco General, Piso II
Panamá, República de Panamá
(507) 265-0165
(507) 265-1185 Fax

www.mckinney-usa.com

REZONING-07-05 & MASTER PLAN-05-05. Jamestown Retreat
Staff Report for the September 12, 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

September 12, 2005 7:00 p.m.
October 11, 2005 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III on behalf of Michael Brown

Land Owner: Edward T. and Mamie Nixon, and Hazel Richardson

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

Location: 1676 & 1678 Jamestown Road and 180 Red Oak Landing

Tax Map/Parcel Nos.: (1-36) (47-3), (1-37) (47-3) and (1-39) (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: Inside

STAFF RECOMMENDATION

The applicant has requested that the above referenced case be deferred until the October 3, 2005 Planning Commission meeting to allow additional time to meet with surrounding property owners to discuss the proposal.

Staff Contact: Matthew J. Smolnik, Planner Phone: 253-6685

Matthew J. Smolnik

ATTACHMENTS:

1. Deferral letter from applicant

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 220-5342

MAILING ADDRESS:

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

email: vgeddy@widomaker.com

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

ANDREW M. FRANCK
RICHARD H. RIZK

September 1, 2005

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

Jamestown Retreat/7-007-05

Dear Matt:

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

Sincerely,



Vernon M. Geddy, III

REZONING 12-05. Toano Business Center

Staff Report for the September 12, 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

August 1, 2005 (deferred)

7:00 p.m.

September 12, 2005

Board of Supervisors:

October 11, 2005 (tentative)

7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy

Land Owner:

Toano Business Center, L.L.C.

Proposal:

3,575 SF Bank; 4,725 SF Convenience Store; Mini-Storage Facility; 34,630 SF Retail; 54,000 SF Office/Warehouse

Location:

9686 and 9690 Old Stage Road

Tax Map/Parcel Nos.:

(4-4)(1-34), (4-4)(1-4)

Parcel Size:

21.23 acres

Existing Zoning:

A-1, General Agricultural District

Proposed Zoning:

MU, Mixed Use, with Proffers

Comprehensive Plan:

Mixed Use and Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested a one month deferral in order to allow more time to resolve outstanding issues. Staff concurs with the request.

Staff Contact: Ellen Cook

Phone: 253-6685

Ellen Cook

ATTACHMENTS:

1. Deferral Letter

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

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

ANDREW M. FRANCK
RICHARD H. RIZK

September 1, 2005

Ms. Ellen Cook
James City County Planning Dept.
101-A Mounts Bay Road
Williamsburg, Virginia 23185

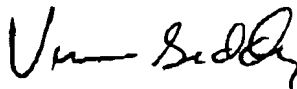
Re: Toano Business Center/7-12-05

Dear Ellen:

I am writing to request that the Planning Commission defer consideration of this case until its October 2005 meeting.

Very truly yours,

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



Vernon M. Geddy, III

VMG/ch

Cc: Mr. Michael C. Brown

Staff Report for the September 12, 2005, Board of Supervisors Public Hearing

PUBLIC HEARINGS

Building F Board Room; County Government Complex

October 11, 2005 7:00 p.m.

Michael Brown

Toano Business Center LLC

Withdrawal of 79.12 acres from the existing Barnes Swamp AFD

Old Stage Road

(4-1)(5-1), (4-1)(5-2), (4-1)(5-3), (4-1)(5-4) and (4-1)(5-5)

79.12 acres

A-1, General Agricultural

Rural Lands

Outside

Phone: 253-6685

PROJECT DESCRIPTION

In August of 2002 the Board of Supervisors renewed the Barnes Swamp AFD for a period of four years. Mr. Michael Brown has requested a withdrawal of 79.12 acres from the Barnes Swamp AFD. It is comprised of five parcels identified as Tax Map Nos. (4-1)(5-1), (4-1)(5-2), (4-1)(5-3), (4-1)(5-4) and (4-1)(5-5). The property to be withdrawn is accessed from Old Stage Road.

In April of 2005 the James City County Planning Division approved a subdivision dividing the original 79 acre parcel into five lots. This subdivision was approved in error as the conditions of the AFD district prohibit subdivisions of less than 25 acres. The applicant has also filed a second subdivision to resubdivide parcel (4-1)(5-5) into an additional four lots bringing the total number of lots for this parcel to nine, the maximum permitted for a minor subdivision. The second subdivision can not be approved as long as the parcel remains in the AFD.

PUBLIC IMPACTS

Surrounding Zoning and Development

The parcel is zoned A-1, General Agricultural, and are surrounded by similarly zoned property. The parcel is entirely wooded.

Public Utilities

Public water and sewer is unavailable.

COMPREHENSIVE PLAN

Land Use Map Designation

The 2003 Comprehensive Plan designates this parcel as Rural Lands.

Staff Comments: The majority of parcels within the Barnes Swamp AFD are also designated Rural Lands. One Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The Agricultural and Forestal District program supports this objective.

ANALYSIS

On September 24, 1996, The Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels that are outside the Primary Service Area. That policy and criteria are as follows:

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from Agricultural and Forestal Districts during the terms of those districts
2. The criteria for withdrawal during the terms of the districts are as follows:
 - A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
 - B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner, that could not otherwise be realized upon expiration of the AFD.
 - C. The request would not cause damage or disruption to the existing district.
 - D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever criteria it

deems appropriate for the individual case.

Each of these criteria have been evaluated by staff:

Criteria 2A: Change in Circumstances

Staff believes that both the applicant and staff, with proper due diligence, should have been aware that the property was in an AFD when the application to subdivide was made. There has not been a change in circumstances that would merit withdrawal. **The application does not meet this criteria.**

Criteria 2B: Request Would Serve a Public Purpose

The withdrawal is not for any public purpose. **The application does not meet this criteria.**

Criteria 2C: No Damage or Disruption to District

Should this withdrawal be approved, the size of the Barnes Swamp AFD would be 1,805 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. In addition the withdrawal is a small part of a large AFD so that the district should not be significantly disrupted if some other property owners withdraw during the August 2006 renewal. **The application meets this criteria.**

Criteria 2D: Conformance with the Comprehensive Plan

The parcel is being subdivided under the provisions of the A-1 subdivision (3 acre lot minimum). The proposed and platted lots range in size from 5.01 acres to 24.585 acres, exceeding ordinance minimums. Staff finds that the proposed residential lots would be consistent with the Comprehensive Plan's Rural Lands designation. **The application meets this criteria.**

RECOMMENDATION

Should this withdrawal be approved, the size of the Barnes Swamp AFD would be 1,805 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. Staff finds the proposed withdrawal is not consistent with all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts outside the PSA. However, staff does note that the ultimate use of this property is consistent with the Comprehensive Plan and the withdrawal will not cause the Barnes Swamp AFD to be discontinued. Given the unusual circumstances behind this request staff has no major objections should the Board wish to approve this withdrawal. On September 6, 2005 the AFD Advisory Committee recommended denial of this application by a vote of 8-0 with one abstention.

Matthew D. Arcieri

:

ATTACHMENTS:

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

AFD-5-86; Barnes Swamp, Toano Business Center, LLC Withdrawal



UNAPPROVED MINUTES OF THE SEPTEMBER 6, 2005 MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE

AFD-5-86 Barnes Swamp: Toano Business Centre, L.L.C. Withdrawal

Mr. Arcieri gave a summary of the staff report. He explained the Board of Supervisor's adopted policy and listed the withdrawal criteria for AFD parcels outside the Primary Service Area that were established. He further stated that staff had no objections to the withdrawal. Mr. Ford asked for the County Attorney's opinion on the matter in accordance with what the Code says and stated that if the Board of Supervisors approved this withdrawal there would not be anything to stop them from approving any withdrawal proposed outside of the PSA.

Mr. Kinsman stated that there were provisions to get out of an AFD with good and reasonable cause. He noted that the Board of Supervisors adopted a resolution in 1996 that contains a set of four general policy reasons that suggest a parameter for defining good and reasonable cause. He further stated that the policy also permitted additional criteria to determine the definition of good and reasonable cause. Mr. Kinsman then stated that the Committee could recommend withdrawal if they determined that any one of the criteria were sufficient to establish good and reasonable cause.

Mr. Kinsman added that any time a staff error is made in derogation of the Ordinance, the mistake is a nullity from its inception. He explained that this means the subdivision never happened and ceases to have been legally approved, as errors like this do not become law. He stated that staff's decision cannot go against the Ordinance and that there are ways to prevent that from occurring. He added that if the AFD Committee, Planning Commission, and Board of Supervisors did not approve the withdrawal, then the deed could be amended along with an affidavit stating that the property could not be subdivided given current land use and tax status and did not happen.

Mr. Ford stated that the Board of Supervisors set the policy for withdrawing property outside the Primary Service Area and that the AFD Committee should not approve it because if their recommendation was upheld by the Board, they would essentially be nullifying the policy, therefore setting a precedent for future cases with similar merits.

Mr. Kinsman restated that the four criteria can be used as well as additional criteria that the Committee felt pertained to establishing good and reasonable cause for the individual case. Mrs. Lowe asked how the decision would weigh in future applications for additions or withdrawals from a public perception standpoint. Mr. Kinsman stated he could not determine whether it would increase applications or not but that it would set a precedent in the public eye to the extent that the public could factor in the Committee's decision in their own decision to withdraw. Mr. Arcieri noted that precedent in this case would require staff error. Mr. Kinsman agreed. Mr. Arcieri stated that a decision would weigh in staff error and that it would be a defining characteristic in any precedent established. Mr. Abbott noted

that this was only the second mistake in nine years. Mr. Abbott expressed that he was surprised that it only happened twice during the period.

Mr. Abbott asked if the applicant would be held responsible for any tax penalties if the subdivision was upheld, given the source of the mistake. Mr. Ford responded that the land owner had to pay the taxes back for the period of time elapsed between the changes in the use of the land. He noted that the Commissioner of the Revenue could set a larger penalty for not being notified of the change in the use of land that was in an AFD and under land use taxation. He further stated that the tax books showed lower assessed value of AFD land. Mr. Abbott asked if there was a layer on Real Estate's property information system that showed land in an AFD and land in conservation easements, and if that mechanism was readily apparent and available to any user. Mr. Richard Bradshaw replied that a planner had access using GIS, but that he was unsure if a citizen could obtain that information on the Real Estate website.

Mr. Abbott noted that if the application for withdrawal was turned down, the applicant could come back in August when the renewal period was up to withdraw the piece he wished to subdivide. He asked for confirmation that if the Committee and Board of Supervisors turned the proposal down, that the applicant would have to wait until next August to obtain approval for a subdivision. Mr. Ford concurred and stated that if he withdrew next August, rollback taxes would still apply. Mr. Richard Bradshaw confirmed that the applicant would pay rollback taxes on the current year and preceding five years.

Mr. Gilley asked if there were any more questions before they voted. Mrs. Garrett stated that she felt criteria 2C could not be met, because she saw the withdrawal as inflicting damage to the district. She restated that in allowing it, the Committee would be letting the applicant out a year in advance of the renewal period. Mr. Ford noted that criteria 2C which stated that, "The request would not cause damage or disruption to the existing district," was meant to protect other landowners in the AFD that would suffer the consequence of losing AFD status if the district fell below 200 acres due to a withdrawal.

Mr. Gilley asked for a roll call vote. Mr. Andy Bradshaw stated that he would abstain from voting because of his role on the Board of Supervisors. He further noted that the Board would value the opinion of the AFD Committee.

Mr. Arcieri noted that the Planning Commission would consider the request at its Monday, September 12 meeting.

Mr. Ford stated that if the Committee approved it, no teeth would be left in the AFD policy. Mrs. Lowe responded that the AFD Committee should not make a decision it would later regret, especially considering all the land in the County that is already being rapidly lost to development.

Mr. Gilley asked for questions before voting. Mr. Ford made a motion to deny the request for withdrawal and Mrs. Garrett seconded. The motion passed unanimously with Mr. Andy Bradshaw abstaining.

SPECIAL USE PERMIT-27-05: Chickahominy Baptist Church Expansion
Staff Report for the September 12, 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

September 12, 2005 at 7:00 p.m.
October 11, 2005 at 7:00 p.m. (Tentative)

SUMMARY FACTS

Applicant:

Ms. Marion J. Brown

Land Owner:

Chickahominy Baptist Church

Proposal:

The applicant has proposed to construct a 5,800 square foot addition to the existing church

Location:

2900 Chickahominy Road

Tax Map/Parcel

Parcels (1-8), (1-9) and (1-9A) on tax map (22-3).

Parcel Size

1.75 combined acres for all three parcels

Existing Zoning:

R-8, Rural Residential

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff believes that this proposal is consistent with the Comprehensive Land Use Map designation and is compatible with surrounding zoning and development. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. 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:

Matthew J. Smolnik, Planner

Phone: 253-6685

Project Description

Ms. Marion J. Brown of Chickahominy Baptist Church has applied for a special use permit to allow for an expansion of the church's facilities. A special use permit is required for houses of worship in R-8, Rural Residential Districts. Located at 2900 Chickahominy Road, the Chickahominy Baptist Church is currently a one-story building with a gross floor area of 3,912 square feet and seats 190 persons. There are two gravel parking lots on the property which can accommodate a total of 70 vehicles. The proposed one-story expansion is approximately 5,700 square feet in size and will accommodate classrooms, a kitchen, a choir room, restrooms, administrative offices and a fellowship hall. A portico is also proposed along the front entrance to the church. The three parcels to be used for the church operation will be combined into one larger parcel totaling 1.75 acres.

On September 1, 2005 the James City County Board of Zoning Appeals approved a variance to Section 24-

251, Setback Requirements, for the Chickahominy Baptist Church. This variance reduces the required front yard setback from 35 feet to 3 feet at the most extreme point with no additional encroachment into the required setback and is to allow for the construction of a raised patio and portico on the front of the church and an addition on the left side of the church.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Yarmouth Creek

Environmental Staff Comments: The Environmental Division staff has reviewed the proposal and finds the locations of the stormwater management infiltration trenches acceptable. Further environmental issues will be handled at the site plan stage.

2. Public Utilities

The site is served by public water. Sewage is handled through an on-site septic system.

JSCA Staff Comments: JCSA has reviewed the proposal and has no comments at this time.

Health Department Comments: The Health Department has recommended that the applicant consult with an Authorized On-site Soil Evaluator (AOSE) for the development of an on-site sewage disposal system.

Staff Comments: Staff has informed the applicant that additional information will need to be submitted prior to final site plan approval ensuring that the soils on the property are sufficient for an on-site sewage disposal system. Water conservation measures will be placed on the church through the SUP conditions.

3. Traffic

Road Improvements: No road improvements are proposed for Chickahominy Road.

VDOT Comments: The speed limit along this section of Chickahominy Road is 45 mph and 490 feet of sight distance would be needed to sufficiently accommodate this speed. VDOT has noted severe sight distance limitations in both directions at the existing access to the 30-space gravel parking area. Sight distance is limited by a combination of the horizontal alignment of the road, embankments and the church sign. VDOT recommends moving this entrance and relocating the access point to Browns Drive.

Staff Comments: Staff waived the traffic impact study for this application given the amount of traffic generation expected for this use and the favorable capacity conditions on Chickahominy Road. Staff concurs with VDOT and notes that these geometric issues can be addressed at the site plan stage. According to Section 24-59 (a)(c)(17) of the Zoning Ordinance, one parking space is required for every five seats based upon the seating capacity for places of public assembly; therefore the existing sanctuary would require 38 parking spaces. In instances where an event may occur concurrently in the fellowship hall with a church service in the sanctuary at full capacity, staff believes the remaining 32 (from the 70 total) parking spaces are sufficient to accommodate the parking demands. If the entire 5,800 foot addition was placed in the *Category A -High Demand* parking requirements according to Section 24-59 (a)(1)(b) of the Zoning Ordinance, then one parking space would need to be provided for every 200 square feet of floor area. This scenario would require 29 parking spaces, which are provided with the current parking lot design. In summary, concurrent use of the existing sanctuary and proposed addition would require 67 spaces while 70 spaces are currently provided. Based on this information, staff believes that the total number of parking spaces on the property can accommodate the uses at the church.

Comprehensive Plan

- ◆ The James City County Comprehensive Plan Land Use Map designates this property as Rural Lands. Rural Lands are areas containing farms, forests and scattered houses, exclusively outside of

the Primary Service Area (PSA), where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Rural Land use Development Standards speak to siting non-agricultural and non-forestal uses in areas where they minimize impacts or do not disturb agricultural/forestal uses or open fields.

Staff Comments:

Staff believes the proposed use, with the attached conditions, is consistent with the Land Use designation of the Comprehensive Plan. The site is not suitable for agricultural or forestal use and is largely surrounded by single-family detached homes on similarly zoned, non-agricultural land. While non-agricultural or non-forestal uses are not encouraged in Rural Lands, staff finds the proposed use acceptable given the use's minimal impact to the surrounding area and the existing on-site and surrounding uses.

CONCLUSIONS AND CONDITIONS

The United States government enacted the Religious Land Use and Institutionalized Persons Act of 2000 (the "Act"). The Act prohibits imposing a substantial burden on the free exercise of religion through land use regulations unless there is a compelling government interest. It is staff's opinion that the conditions contained in this special use permit are reasonably related to the impacts caused by the use of the property and do not constitute a substantial burden on the free exercise of religion.

Staff believes that this proposal is consistent with the Comprehensive Land Use Map designation and is compatible with surrounding zoning and development. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. 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 SUP conditions listed below.

1. This Special Use Permit shall be valid for a church expansion not to exceed 5,900 square feet in size 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.
2. 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 Director of Planning, with the architectural elevations titled Chickahominy Baptist Church Conceptual Design Elevations submitted with this special use permit application, dated March 4, 2005 and drawn by Louis W. Johnson, Jr.
3. 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 foundation have passed required inspections.
4. 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.

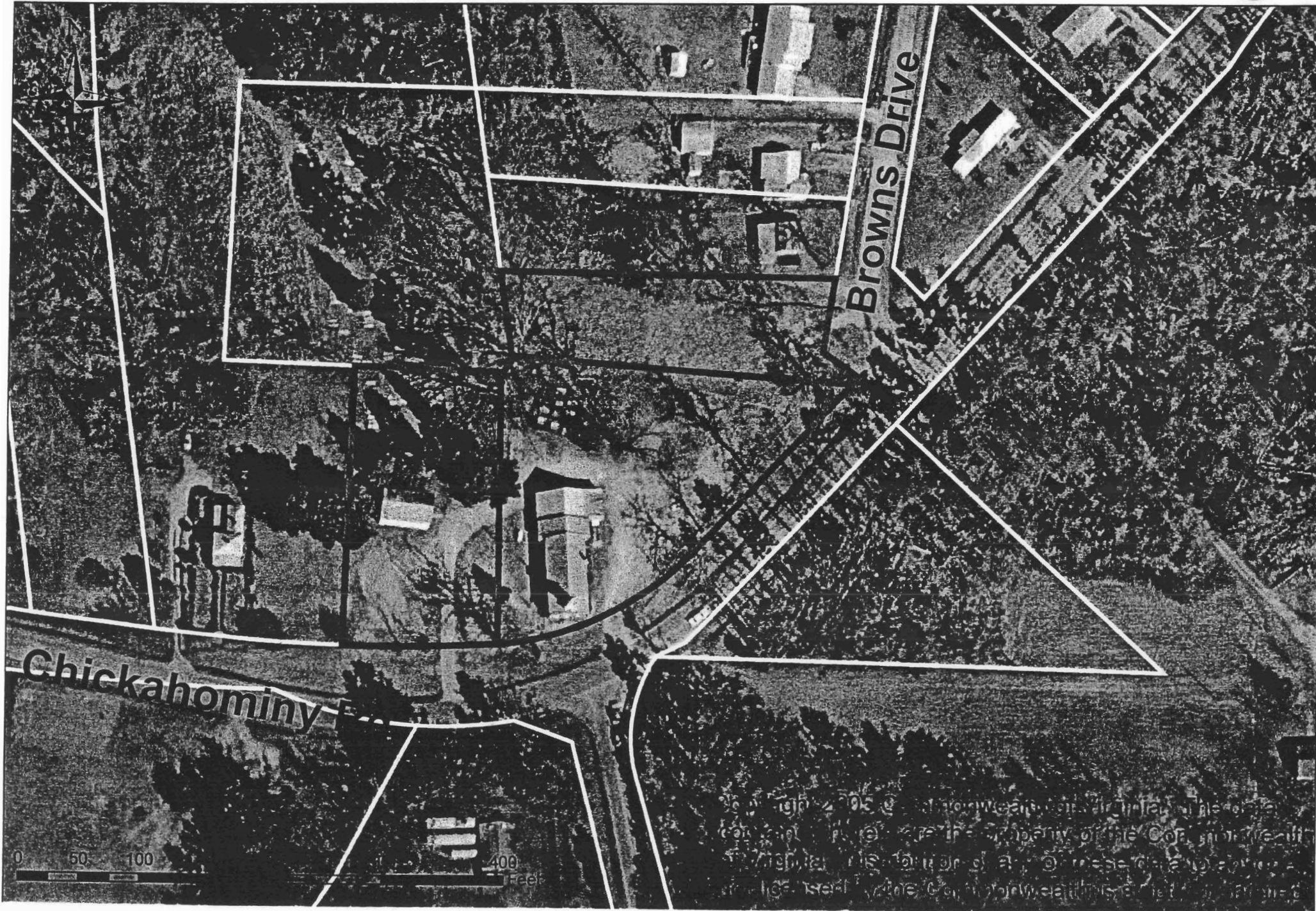
5. A Phase I Archaeological Study for the area to be disturbed by the expansion shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.
6. 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.
7. The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.
8. 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.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Matthew J. Smolnik

Attachments:

1. Location Map
2. Architectural Elevations (under separate cover)

SUP-27-05: Chickahominy Baptist Church Expansion



MEMORANDUM

TO: The Planning Commission

FROM: Matthew Arcieri, Senior Planner

RE: Permitting Facilities for the Residence and/or Care of the Aged in the R-8 Zoning District

DATE: September 12, 2005

Williamsburg Landing has requested that the R-8, Rural Residential zoning ordinance be amended to permit “facilities for the residence and/or care of the aged” with a special use permit. The specific reasons for this request can be found in the staff report for the accompanying special use permit application (Case No. SUP-26-05); therefore this report only addresses the proposed ordinance amendment.

Currently the R-8 district only permits nursing homes with an approved special use permit. A nursing home is defined as a facility that provides nursing services on a continual basis. The Williamsburg Landing does offer nursing services but, due to its residential component, is classified as a “facility for the residence and/or care of the aged”. Therefore it is not permitted in the R-8 district.

Nursing Homes and facilities for the residence and/or care of the aged are currently a specially permitted use in the R-5, Multifamily Residential District and the PUD, Planned Unit Development District.

RECOMMENDATION

Staff recommends that the Zoning Ordinance be amended to permit facilities for the residence and/or care of the aged in the R-8 Zoning District with a special use permit. Staff notes that nursing homes are already a specially permitted use. Other similar currently permitted facilities include rest homes for fewer than 15 adults (permitted by-right) and rest home for 15 or more adults (SUP required). This language will permit facilities with similar impacts as those already allowed. Through the special use permit process, the Planning Commission and Board of Supervisors will have the ability to review and mitigate any potential negative impacts on a site specific basis.

Staff recommends the Planning Commission recommend approval of the attached ordinance.

Matthew Arcieri

Attachment:

1. Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-349, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-349, Uses permitted by special use permit only.

Article V. Districts

Division 8. Rural Residential District, R-8

Section 24-349. Uses permitted by special use permit only.

Nursing homes and facilities for the residence and/or care of the aged.

Michael J. Brown, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

sect24_349amend.ord

SPECIAL USE PERMIT-26-05. Williamsburg Landing Parking Addition
Staff Report for the September 12, 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

September 12, 2005 7:00 p.m.
October 11, 2005 7:00 p.m.

SUMMARY FACTS

Applicant: Paul Gerhardt, Kaufman and Canoles

Land Owner: Mary S. Waltrip

Proposal: Construct an accessory parking lot to serve a facility for the residence and/or the care of the aged and future shared parking for the airport.

Location: 20 Marclay Road

Tax Map/Parcel Nos.: (48-2)(1-12)

Parcel Size: 1.57 acres

Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

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

Staff Contact: Matthew D. Arcieri Phone: 253-6685

PROJECT DESCRIPTION

Mr. Paul Gerhardt of Kaufman and Canoles has applied for a special use permit to permit the construction of an accessory parking lot to be owned and operated by the Williamsburg Landing. Note that this case is being processed concurrently with a zoning ordinance amendment to make facilities for the residence and/or care of the aged a specially permitted use in the R-8 zoning district. Please refer to that staff report for discussion of the proposed zoning ordinance change.

The applicant is proposing subdividing 1.57 acres current owned by Mary Waltrip and constructing a 100 space accessory parking lot to be constructed and operated by the Williamsburg Landing. A special use permit is required in accordance with Sec. 24-55(b)(2) of the parking ordinance which states that accessory parking must have a zoning classification that permits the use the parking will serve. Since facilities for the residence and/or care of the aged will be a specially permitted use in R-8 it is necessary for the Williamsburg Landing to receive a special use permit for the parking lot.

A site plan and subdivision associated with this case have already been processed administratively and will receive final approval pending approval by the Board of Supervisors of this SUP and its associated zoning ordinance amendment.

PUBLIC IMPACTS

Environmental

Watershed: College Creek

Staff Comments: The Environmental Division has approved the site plan associated with this case.

Public Utilities

Staff Comments: JCSA has two minor technical corrections to be made to the site plan prior to final approval.

Transportation

The parking lot will be accessed from Williamsburg Landing Drive. The lot also includes future gated emergency access onto Marclay Road. The applicant has indicated that this lot may serve as shared parking with the Williamsburg Jamestown Airport in the future. In accordance with Sec. 24-55(b) off-site parking for this facility would require approval by the Development Review Committee.

COMPREHENSIVE PLAN

Land Use Map Designation

This property is designated low density residential. Non-residential uses should complement the residential character of the low density area and should have traffic, noise, lighting and other impacts similar to surrounding or planned residential uses.

Conditions

Staff is proposing the standard lighting condition and a fencing condition to mitigate any potential negative visual impacts.

Staff Comments: Staff believes that, with the proposed conditions to mitigate any potential negative impacts, the parking lot is consistent with the Comprehensive Plan.

RECOMMENDATION

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

1. This Special Use Permit shall be valid for the construction and operation of a 100 space parking lot

serving as an accessory use to a nursing and/or care of the aged facility and an airport.

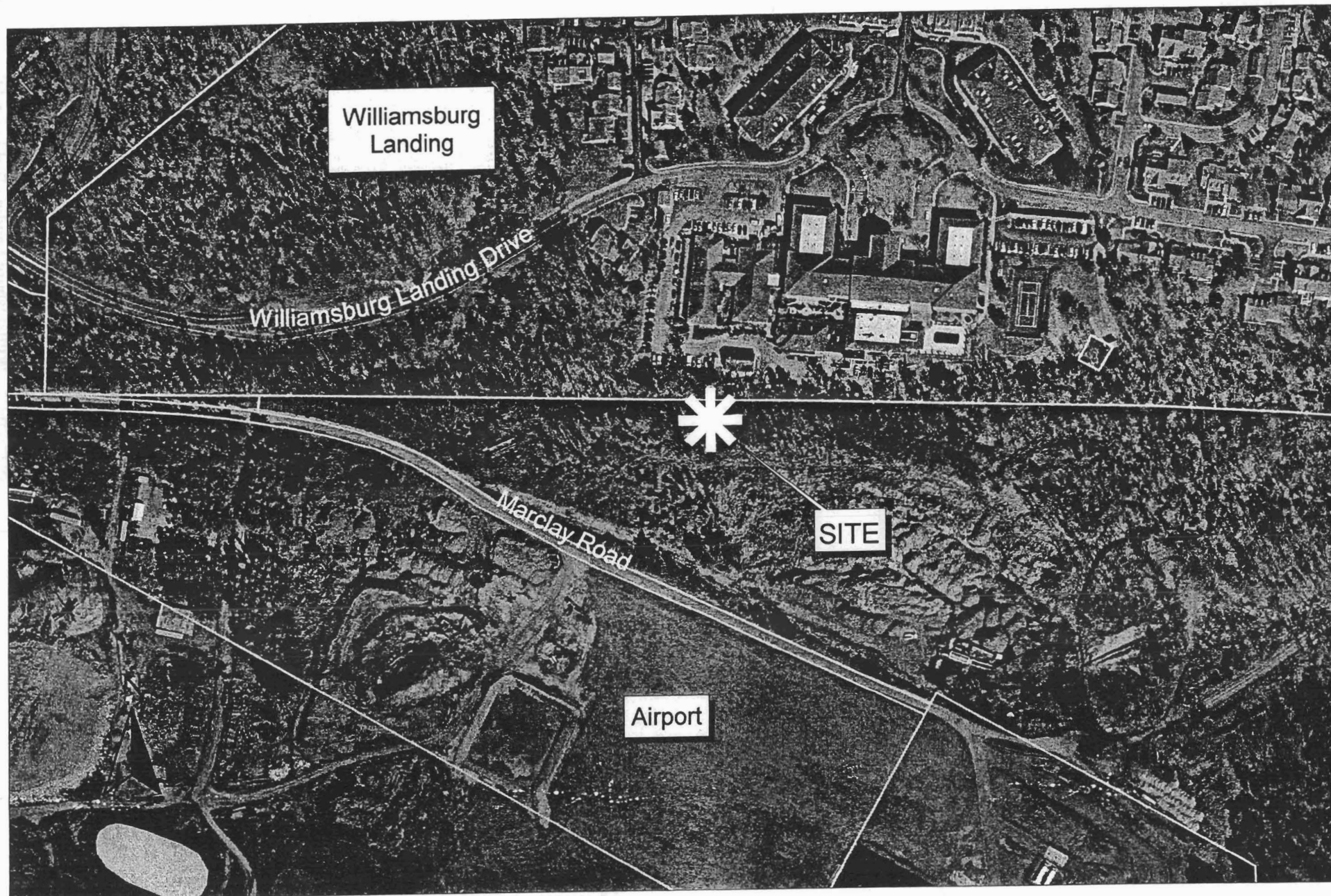
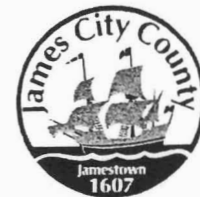
2. Prior to final approval of the site plan for the parking lot, a boundary line adjustment plat shall be approved and recorded that adjusts the property line of James City County Real Estate Tax Map No. (48-2) Parcel No. (1-2) to include the portion of what is now Parcel No. (1-12) on which the parking lot is to be constructed.
3. 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 as adjusted per condition 2 above.
4. The fencing used to enclose the parking area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval. An alternative style and/or type of fencing may be substituted with the approval of the Director of Planning.
5. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

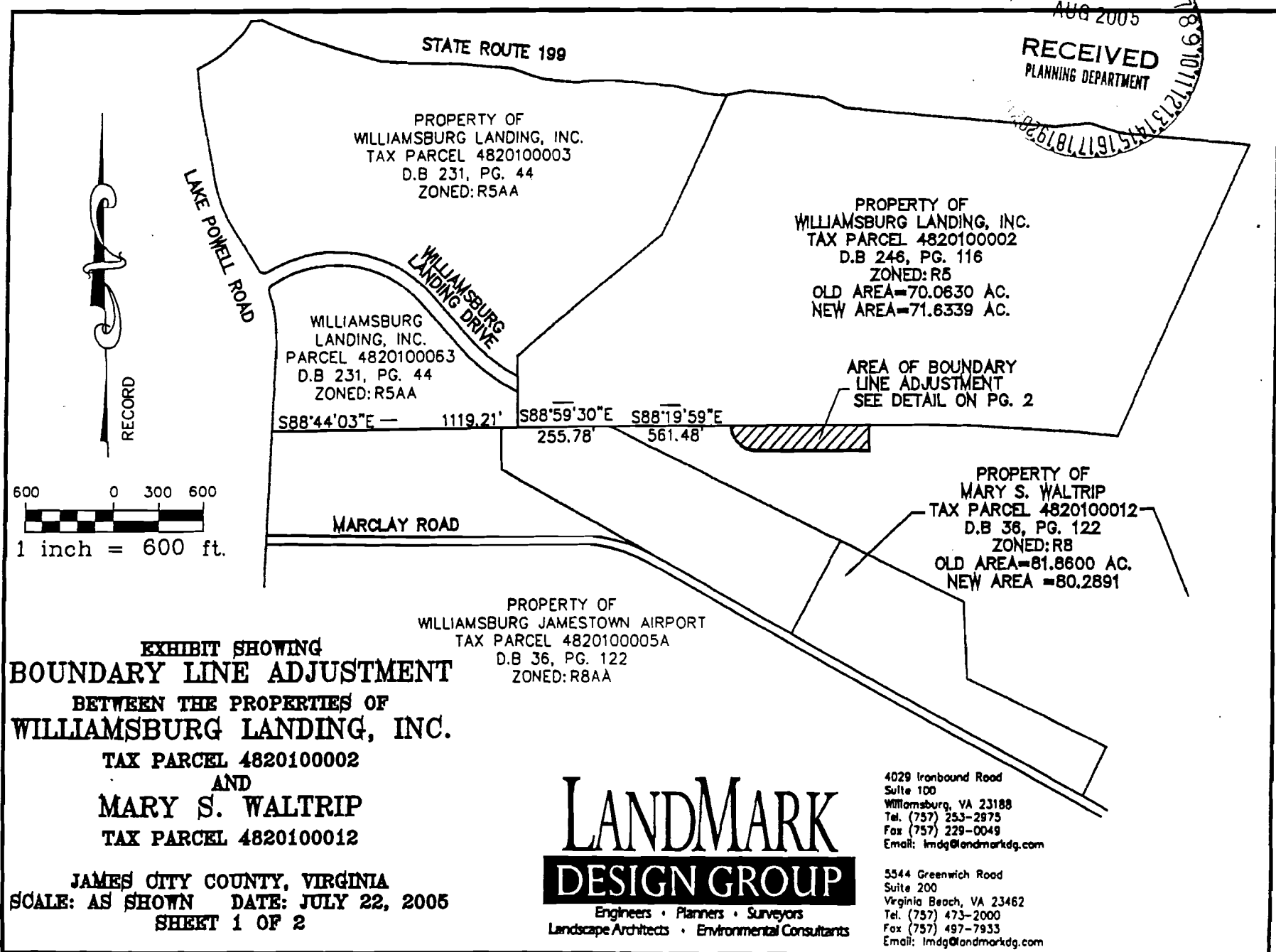
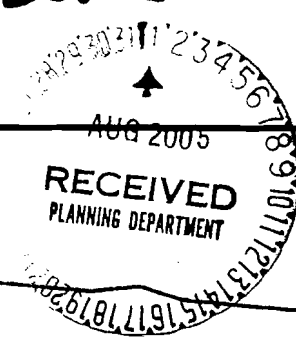
Matthew D. Arcieri

ATTACHMENTS:

1. Location Map
2. Exhibit Showing Boundary Line Adjustment

SUP-26-05; Williamsburg Landing Parking Addition





**EXHIBIT SHOWING
BOUNDARY LINE ADJUSTMENT
BETWEEN THE PROPERTIES OF
WILLIAMSBURG LANDING, INC.
TAX PARCEL 4820100002
AND
MARY S. WALTRIP
TAX PARCEL 4820100012**

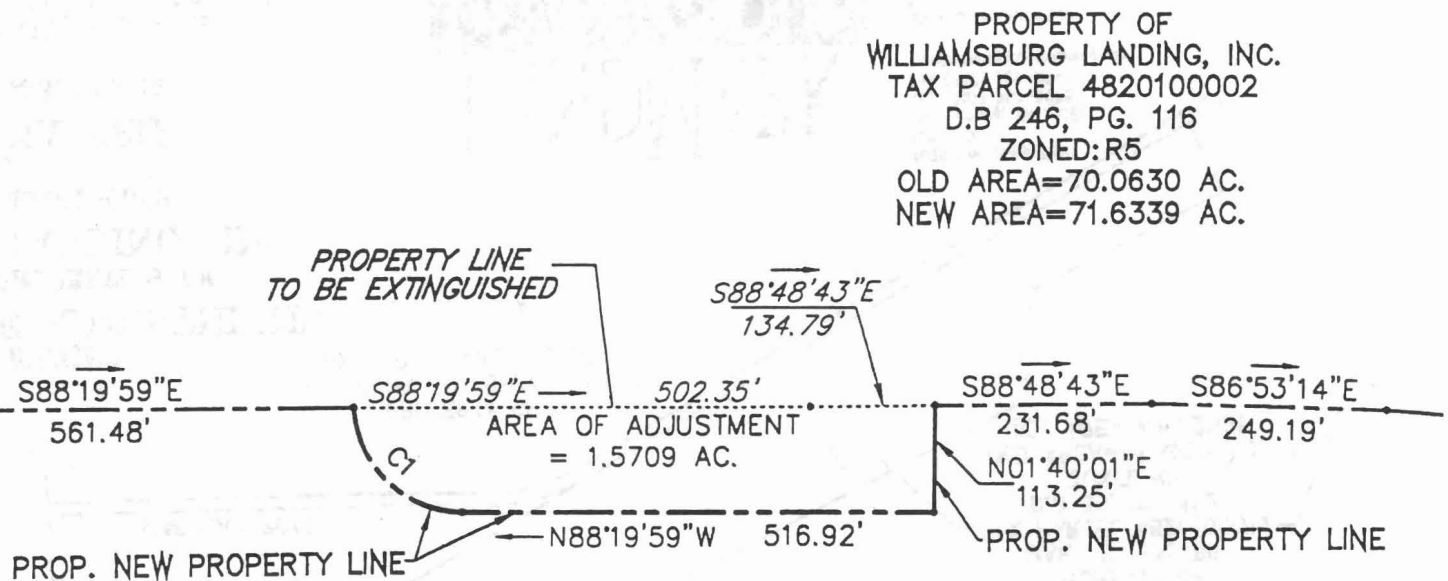
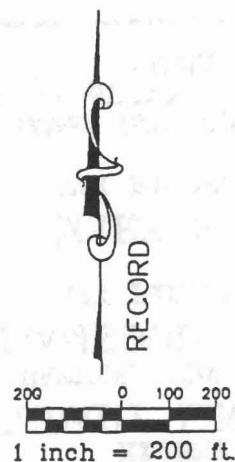
**JAMES CITY COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: JULY 22, 2005
SHEET 1 OF 2**

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

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DWG. NO. : 16207W



CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C1	180.90'	120.50'	112.39'	164.38'	N45°19'36"W	86°00'46"

**EXHIBIT SHOWING
BOUNDARY LINE ADJUSTMENT
BETWEEN THE PROPERTIES OF
WILLIAMSBURG LANDING, INC.**

**TAX PARCEL 4820100002
AND
MARY S. WALTRIP
TAX PARCEL 4820100012**

**JAMES CITY COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: JULY 22, 2005
SHEET 2 OF 2**

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DWG. NO. : 16206W

PLANNING DIRECTOR'S REPORT
September 2005

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

1. Rural Lands Study. We have hired a consulting firm out of Charlottesville, Virginia to assist in conducting our Rural Lands Study. The firm has met several times with staff over the past month and continues to assemble necessary data in preparation for beginning a large scale public input process.
2. Virginia Capital Trail: Chickahominy River Phase. Staff continued to work with VDOT to move the Chickahominy phase forward, including securing necessary easements on several properties to accommodate the trail.
3. Historic Triangle Corridor Enhancement Committee. The Committee continued to meet in August on the Jamestown Road demonstration project to put together its fall enhancement program. The Committee has received a number of enhancement grant applications from businesses and homeowners associations along Jamestown Road and will begin meeting in September to award the grants.
4. Planning Commissioner Training. The Virginia Citizens' Planning Association will hold its next certified training program for Planning Commissioners on October 9-11, 2005 in Roanoke. Commissioners who have not yet attended this seminar are encouraged to do so.
5. New Town Cases. The New Town DRB considered the following cases at its July 21 meeting:
 - Subdivision Plat for Block 10, Parcels B, C and D was approved
 - Subdivision Plat for Block 9, 10 and 11, Right-of-Ways and Lift Station Lot was approved
 - Urban Building Perimeter Landscape Guidelines – No action taken
 - Resubmission Ironbound Square Senior Housing Development - Conceptual Approval of site and building plans
 - Resubmission Settler's Market – Discussion
 - Resubmission CD&A Residential Condos, Blck 8, Building & Site Plans Conceptual Approval of elevation drawings/Approval Site Plan
 - Resubmission CD&A Office Condos – Resubmission Requested
 - Resubmission C.C. Casey Windsor Meade Way Streetscape Plan & Temporary Signage – Approved
 - Conceptual Plan - Foundation Square Mixed Use Buildings, Blck 10 – Will be presented in August/September
6. Toano Sub-area Study. Staff has prepared a request for proposals (RFP) for consultant services pertaining to the Toano area and that RFP had been advertised and targeted to specific firms capable of performing the work. The goal is to have a completed study to the Planning Commission in November and to the Board of Supervisors in December.

O. Marvin Sowers, Jr.