

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
DECEMBER 5, 2005 - 7:00 p.m.

1. ROLL CALL
2. MINUTES
 - A. November 7, 2005 Regular Meeting
3. COMMITTEE AND COMMISSION REPORTS
 - A. Development Review Committee (DRC) Report
 - B. Other Committee Reports
4. PUBLIC HEARINGS
 - A. Z-13-05 Village at Toano
 - B. Z-17-05/MP-14-05 Greensprings MP Amendment
 - C. Z-15-05/MP-12-05 Stonehouse Planned Community MP Amendment
 - D. Z-13-04/MP-10-04/SUP-31-04 Monticello at Powhatan North
 - E. Z-16-05/MP-13-05 New Town Sec. 9 – Settler’s Market
 - F. AFD-1-89 Armistead 2006 Renewal
 - G. AFD-1-93 Williamsburg Farms 2006 Renewal
 - H. ZO-9-05 Zoning Ordinance Amendment – Appeals from the BZA
 - I. ZO-6-05 Zoning Ordinance Amendment – Retail Gardening Supplies
 - J. SUP-30-05 St. Olaf Catholic Church
 - K. Z-12-05 Toano Business Center
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 SEVENTH DAY OF NOVEMBER, 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
Don Hunt
Jim Kennedy
Mary Jones
George Billups
Shereen Hughes
Wilford Kale

ALSO PRESENT

William Porter, Assistant County Administrator
John Horne, Development Manager
Marvin Sowers, Planning Director
Adam Kinsman, Assistant County Attorney
Don Davis, Principal Planner
Tammy Rosario, Senior Planner
Matthew Arcieri, Senior Planner
Ellen Cook, Senior Planner
Matthew Smolnik, Planner
Jason Purse, Planner
Toya Ricks, Administrative Services Coordinator

Mr. Marvin Sowers read a statement regarding a newspaper article that appeared in the Virginia Gazette the previous Saturday. He apologized to members of the Planning Commission and citizens for emails by staff that gave the perception of denigrating the role of the Commissioners. Mr. Sowers also stated that staff values the Planning Commission decision-making process.

2. MINUTES

A. OCTOBER 3, 2005 REGULAR MEETING

Mr. Fraley motioned to approve the minutes.

Mr. Kennedy seconded the motion.

In a unanimous voice vote the minutes were approved (6-0). (Kale abstained)

3. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley presented the report. The DRC considered four cases at its November 2nd meeting. The Committee recommended preliminary approval, subject to agency comments for: Colonial Heritage Phase 4 for 137 lots, two entrances on Massie Lane for Titan Concrete, and a mixed retail-residential property at 4315 New Town Avenue in New Town. The Committee also recommended preliminary approval, subject to agency comments of its quarterly review of the shared parking plan for New Town. A fifth case, landscape modifications for DCB LLC's storage

facility in Greenmount, was deferred at the applicant's request. Mr. Fraley stated that all votes were unanimous.

Mr. Kennedy motioned to approve the DRC report.

Ms. Jones seconded the motion.

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

B. POLICY COMMITTEE

Mr. Billups presented the report. The Committee considered case ZO-6-05 at its October 27th meeting. He said the Committee endorsed the proposal but requested a more specific definition of some terms. Mr. Billups stated that the case was on the agenda to be considered later in the meeting when more detail would be given.

4. PLANNING COMMISSION CONSIDERATION

A. 2006 PLANNING COMMISSION CALENDAR

Mr. Sowers presented the proposed schedule. He said the calendar was similar to the 2005 calendar including moving meetings that would fall after a holiday to the second week of the month. He also noted that reserve dates had been included as well.

Mr. Kennedy motioned to approve the calendar.

Mr. Billups seconded the motion.

Mr. Kale asked when Planning Commission packets were available to the media each month.

Mr. Sowers said that packets are available to the media the morning after the Commissioners' are delivered.

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

B. ZO-6-05 INITIATING RESOLUTION – GARDEN SUPPLIES DEFINITION

Mr. Arcieri presented the initiating resolution. The Policy Committee met and considered an amendment to the Zoning Ordinance to allow retail garden supplies in the A-1 Zoning District. The Committee endorsed the change but asked staff to prepare a definition of retail garden supplies. Staff recommended approval of the resolution.

Mr. Billups asked if any Policy Committee members wished to speak.

Ms. Jones said the term “garden supplies” seemed rather broad. She said that since this was an amendment to the Zoning Ordinance it should have a tighter definition of what garden supplies entailed.

Ms. Hughes agreed with Ms. Jones

Mr. Billups said the key things were compliance and justification.

Mr. Kennedy motioned to approve the resolution.

Mr. Kale seconded the motion.

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

C. ZO-9-05 INITIATING RESOLUTION – APPEALS FROM BOARD OF ZONING APPEALS

Mr. Kinsman presented the initiating resolution. He said that County Code states that an appeal from the decision of the Board of Zoning Appeals must be made within 30 days from the date that the decision is filed in the office of the Board. He said that a recent decision of the Virginia Supreme Court invalidated a similar provision. Mr. Kinsman recommended adoption of the initiating resolution to change the County Code to comport with the Court decision.

Mr. Kale asked what the Court felt was more appropriate.

Mr. Kinsman said that the 30 day appeal period would start the date that the Board makes its final decision rather than the date when the decision was filed in the office of the Board.

Mr. Kale motioned to approve the resolution.

Mr. Kennedy seconded the motion.

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

5. PUBLIC HEARINGS

- A. ZO-6-05 Zoning Ordinance Amendment – Retail Sales/Gardening Supplies
- B. Z-12-05 Toano Business Center
- C. Z-14-05/MP-11-05 Burnt Ordinary MP Amendment
- D. Z-15-05/MP-12-05 Stonehouse Planned Community MP Amendment
- E. Z-13-05/MP-10-04/SUP-31-05 Monticello at Powhatan North
- F. Z-16-05/MP-13-05 New Town Sec. 9 Settler’s Market

Mr. Hunt stated that the applicants requested deferral of their cases. He also stated that the applicant for Z-14-05/MP-11-05 Burnt Ordinary MP Amendment requested an indefinite deferral.

Mr. Sowers said staff concurred with the requests.

Mr. Hunt opened the public hearing.

Mr. Andrew Poole, 4019 E. Providence Road, spoke regarding case Z-13-05/MP-10-05/SUP-31-05 Monticello at Powhatan North. He stated that historical data shows that in James City County density increases do not provide any benefits to citizens. Mr. Poole also said density increases strain County services and increase traffic. He asked Commissioners to review proposals very closely for sufficient benefits and mitigate impacts.

Hearing no other requests; the public hearings were continued.

Mr. Kale stated that there currently exists an Adequate Public Schools Facilities Test policy by the Board of Supervisors. He stated that he felt the Planning Commission needs an Adequate Public Schools Facilities Test which would include in the enrollments in of each school the expected enrollments from projects already approved by the Commission but not yet built.

Mr. Kennedy agreed and requested that water be included as well.

Ms. Hughes said that road capacity should be included also.

Mr. Kale asked for clarification of Ms. Hughes' request.

Ms. Hughes said she would like to see the anticipated capacity of projects already approved as well.

Mr. Kale motioned to have the Policy Committee study all three issues.

Ms. Jones said the Policy Committee would gladly review the matters.

Mr. Fraley agreed.

Mr. Kennedy seconded the motion.

Mr. Billups said the Policy Committee would study these issues. He also stated that he has been trying to gain a cumulative outlook on these items.

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

G. WARHILL TRACT

Mr. Matthew Arcieri presented the staff report. James City County has applied to rezone approximately 155± acres from PUD-C, Planned Unit Development - Commercial, and M-1, Limited Business/Industrial, with proffers, to 145± acres of PUD-R, Planned Unit Development -

Residential, 8.77± acres of PUD-C, Planned Unit Development - Commercial and 1.14± acres of R-8, Rural Residential, with amended and restated proffers, for the development of the Williamsburg/James City County Third High School, Thomas Nelson Community College - Williamsburg Campus, 8.77± acres of commercial development. The properties are located at 5700 Warhill Trail and 6450 Centerville Road and can be further identified as Parcel Nos. (1-12) and (1-13) on James City County Real Estate Tax Map No. (32-1). Staff found the proposal consistent with the Comprehensive Plan and previous actions taken by the Board of Supervisors. Staff recommended approval.

Mr. Hunt opened the public hearing.

Hearing no requests; the public hearing was closed.

Mr. Kennedy motioned to approve the proposal.

Mr. Billups seconded the motion.

Mr. Kale stated that the building was designed to accommodate 1,200 students. He asked how the building could be expanded to accommodate the School Board's standard of 1,400 students.

Mr. Porter pointed to an approximate location on the site plan.

Mr. Kale stated that the building could not expand to accommodate more than 1,400 students without denigrating recreational activities and parking.

Mr. Porter said that additional recreation would take place at the District Sports Complex. He also thought a use agreement was being developed.

Mr. Kale asked if a use agreement had been tried before.

Mr. Porter said yes.

Mr. Kale asked which group had priority for use.

Mr. Porter said he assumed that for school facilities it would be the schools and for County facilities it would be groups that already had agreements.

Mr. Kale and Mr. Porter discussed how priority and user agreements would work.

Mr. Kale asked if it would make better sense to move the parking for the high school towards the stadium and share it.

Mr. Porter said it was unlikely given the topography and the plan that has been approved by the School Board.

Mr. Kale said the site plan was not designed for flexibility. He said he was concerned that the school will be obsolete when it opened.

Mr. Porter said there are competing interests for the un-programmed area shown on the site plan that it would have to be worked out. He said that with respect to Thomas Nelson, the County was responsible for parking lots, buildings, roads, water and sewer and storm water.

Mr. Kennedy said shared core facilities could have been utilized for these facilities.

Mr. Porter pointed to a shared building on the site plan. He also said there is an agreement between Thomas Nelson and the School Board to allow students from the high school to take classes and receive credit.

Mr. Kennedy said that Community Colleges traditionally have more night classes so that some of the additional classroom space at the college could be used by the high school and vice versa. He also asked what phase of construction the high school was in.

Mr. Porter said they had broken ground.

Mr. Kale asked how many other facilities would be allowed to break ground before the rezoning was approved.

Mr. Porter said the school could be placed there under the current zoning. He said the rezoning was to bring all the elements together. Mr. Porter also said that once the land for the college had been turned over to the State, local ordinances would not apply if no proffers were attached.

Ms. Jones said she was concerned about the lack of auxiliary gymnasiums and the need for busing for physical education and sports activities. She also said she did not think this was the best design for the land. Ms. Jones said the stadium should be built with expansion in mind to accommodate tournaments.

Mr. Porter said the stadium would be built to accommodate expansion.

Mr. Fraley said the property allocation was inadequate. He said the school should be designed to expand beyond 1,400 students. He also talked about his experiences as a coach in trying to locate and staff athletic fields. Mr. Fraley stated that he would support the proposal.

Mr. Porter said the school size was set by school board policy.

Mr. Hunt stated that he had the same reservations about expansion.

Mr. Billups said the key thing is to turn the land over to the State. He said he agreed with the other Commissioners, but would approve the transfer of the land.

In a roll call vote the application was approved (6-1). AYE: Kennedy, Jones,

Fraley, Hughes, Billups, Hunt (6); NAY: Kale (1).

H. Z-13-05 VILLAGE AT TOANO

Mr. Jason Purse presented the staff report. Mr. Vernon M. Geddy, III has applied to rezone approximately 20.881 acres of land near the intersection of Forge Road and Richmond Road from A-1, General Agricultural, to R-5, Multi-Family Residential, with proffers, for the development of 91 town homes under condominium ownership. The property is also known as parcel (1-10) on the JCC Tax Map (12-3). The site is shown on the 2003 Comprehensive Plan Land Use Map with two different designations. Staff recommended the Planning Commission defer the case until all agency comments had been received and taken into account.

Mr. Billups asked what the sales prices of the town homes would be.

Mr. Purse said \$300,000.

Mr. Hunt opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant. He stated that he recognized the case would be deferred but wanted to take the opportunity to get feedback from Commissioners. Mr. Geddy highlighted some of the benefits of the proposal. He said there would be one developer ensuring a quality design. He also said two-thirds of the development would be two unit buildings and the balance would be three unit buildings.

Mr. Kennedy asked where the recreation would be located and how large the playground would be.

Mr. Geddy pointed to the areas on the location map. He said the playground was a quarter of an acre.

Mr. Kennedy asked what amenities would be in the areas.

Ms. Vaughan Reimer, Land Mark Design Group, said it would be a passive park with community gardens. She said the playground would have toddler equipment in one area and equipment for older children in another.

Mr. Kennedy asked how close the entrance and exit were to the Fire Department. He also asked what the traffic studies show with regard to being so close to the Fire Department.

Ms. Reimer did not know the distance. She said the traffic studies show that it would be fine. She also said there was some flexibility to move them if necessary.

Mr. Kennedy stated that he was concerned about the proximity to the Fire Department, the lack of recreation, and the size of the playground.

Ms. Reimer said there would be gathering areas in each courtyard.

Mr. Geddy completed his presentation. He said the development would be an attractive addition to the revitalization of Toano.

Mr. Billups asked the least number of units that could be built and still maintain the project.

Mr. Geddy said he could not answer.

Mr. Billups asked if there was an age restriction.

Mr. Geddy said there was no age restriction but the target market was empty nesters.

Mr. Billups asked if any of the \$350,000 unit prices could be adjusted to accommodate lower to moderate income citizens.

Mr. Geddy said it could be looked into but stated that it was not the intention of the project.

Mr. Kale said that he could not take any position on the proposal until the completion of the Toano Community Character Area Study. He was also concerned about the request for a height waiver.

Mr. Geddy stated that the reason for the height waiver request was to get the steeply pitched roofs. He also stated that the project had been underway for two years.

Mr. Kale suggested the applicant wait until the completion of the study.

Mr. Fraley asked when the study was expected to be finished.

Mr. Sowers said January 2006.

Mr. Fraley said he had difficulty supporting the proposal until the study was completed. He questioned whether the project fit the location. He also stated his concerns about traffic. Mr. Fraley asked staff to review the policy of relying on independent traffic studies paid for by applicants.

Ms. Hughes concurred with the previous comments. She stated that she saw the area as a transition between the Village of Toano and adjacent rural land and did not feel the proposed buffer was adequate. Ms. Hughes also stated her concerns over the lack of affordable housing.

Mr. Kennedy said the problem with the Comprehensive Plan was that it is not Land Use specific. He said he had concerns about traffic and recreation and did not think it was a good fit. Mr. Kennedy said he could not support the application.

Mr. Geddy said that over the last three years a number of affordable projects had been approved. He said that need is being met.

Ms. Linda Rice, 2394 Forge Road, represented Friends of Forge Road in Toano. Ms. Rice

recommended denial of the proposal and submitted a petition supporting the recommendation. She stated some of the concerns were traffic, inappropriateness for a Community Character Corridor, the pending study, and the possible domino effect of inspiring other rezonings.

Mr. Rich Krapf, 2404 Forge Road, recommended deferral until the completion of the Toano Community Character Area Study. He said the project was wrong for a Community Character Area and Corridor. Mr. Krapf also said the project was out of scale for the area and negatively impacted traffic.

Ms. Victoria Gussman, 7308 Church Lane, said the proposal offered some positive elements but needed improvement. She also said she was concerned about schools.

Mr. Joel Gussman, 7308 Church Lane, requested deferral of the proposal until the Toano Community Character Area Study is completed. He stated that he wanted to see a revival of Toano and that any project should enhance that.

Mr. Ray Basley, 4060 S. Riverside Drive, was concerned about the strain on County services including water and schools. He said there did not appear to be enough room for emergency vehicles. Mr. Basley recommended denial of the application.

Mr. Kale motioned to defer the application.

Ms. Jones seconded the motion.

In a unanimous voice vote the application was deferred.

I. Z-7-05/MP-5-05/HW-3-05 JAMESTOWN RETREAT

Mr. Matthew Smolnik presented the staff report. Mr. Vernon M. Geddy, III has applied to rezone 16.5 acres at 1676 & 1678 Jamestown Road and 180 Red Oak Landing Road currently zoned LB, Limited Business, LB, Limited Business and R-2 General Residential respectively to R-5 Multi-Family Residential. The property is also known as parcels (1-36), (1-37), and (1-39) on the James City County Real Estate Tax Map (47-3). The applicant is proposing to consolidate three properties into one and proposes to redevelop the single property with four - three story buildings containing a total of 66 age-restricted condominium units at a density of 4.0 dwelling units per acre. The site is designated for Low Density Residential and Conservation Area by the James City County Comprehensive Plan. Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre with up to four units per acre with certain benefits. Conservation Areas are land suitable for fish and game preserves, parks and other open space that compliment the natural environment.

Staff believed that the proposal will negatively impact the surrounding properties. Staff found the proposal inconsistent with the Comprehensive Plan Land Use Map designation and recommended the Planning Commission recommend denial of this application to the Board of Supervisors.

Mr. Hunt opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant. Mr. Geddy showed photos of the property and the abandoned retail store currently on the property. He said the proposal will enhance the Jamestown Corridor before Jamestown 2007 and meet a need for active adult housing in the community. Mr. Geddy also showed proposed elevation plans.

Mr. Kale said the building shown on the elevation plans appeared to be four stories. He asked for a guarantee that nothing would be stored in the attic space.

Mr. Geddy said yes.

Mr. Kale asked why the applicant and staff had not reached an agreement that would have allowed staff to support the application.

Mr. Geddy said the applicant was not aware of the remaining small issues until Friday.

Mr. Kale asked if the applicant would consider a one month deferral to resolve those issues. He also expressed his concern with encroachment into the wetlands.

Mr. James Peters, AES Consulting Engineers, said they have had discussions with the Environmental Division about the possibility of being close to the wetlands during construction but that they will try to avoid that.

Mr. Kale asked Staff if the proposal will require DRC consideration.

Mr. Sowers confirmed that it would.

Mr. Peters talked about the proffer for rare and endangered species and the applicant's efforts to minimize impacts to wetlands.

Ms. Kathleen Hornung, 108 Wood Pond Circle, represented the Settlers Mill Homeowners' Association. Ms. Hornung referenced a letter from the Association Board of Directors included in the Commissioners' packets. She said the group felt the 150' foot buffer along Jamestown Road should be maintained. Ms. Hornung said they were also concerned about the environmental issues.

Mr. Dan Caprio, 132 Exmoor Court, represented Grace Covenant Presbyterian Church. Mr. Caprio stated their support because of its benefit to the blighted area.

Mr. Reed Weir, 29179 The Hall Road, Branchville, VA., said his property is adjacent to the East of the parcel. Mr. Weir recommended denial of the proposal. He also requested similar density for his property should the proposal receive approval.

Mr. Kale asked to see Mr. Weir's property on the location map.

Mr. John Schmerfeld, 128 Jordan's Journey, represented The Friends of Powhatan Creek Watershed. Mr. Schmerfeld stated that the organization was concerned with wetlands and steep

slopes. He also referenced a letter from the group included in the Commissioner's packets. Mr. Schmerfeld outlined the potential changes in hydrology on the site.

Mr. Kale asked Mr. Schmerfeld his opinion on how the church as the street has denigrated wetlands on the site and how this proposal would further impact them.

Mr. Schmerfeld said that he did not know how old the wetlands were but felt that it should be reviewed by a hydrologist.

Mr. Kale asked Mr. Schmerfeld if he was concerned that a typical BMP would not function at the site.

Mr. Schmerfeld said alternatives might have to be considered.

Ms. Ann Hewitt, 147 Raleigh, said that the four buildings being considered for a height waiver could be seen from the Parkway Bridge at Jamestown Settlement. Ms. Hewitt read page 134 of the Comprehensive Plan site and asked Commissioners those guidelines.

Ms. Kensett Teller, TK Oriental Antiques, said that the proposal was not consistent with the surrounding uses and was out of scale and balance. She also stated concerns about wetlands, traffic, height, and large amounts of hard surfaces.

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

Ms. Jones commended the applicant for meeting with neighbors. Ms. Jones said she did not think the proposal was a good fit for the parcel. She also stated that the project was not an overall enhancement to Jamestown Road.

Mr. Fraley thanked the applicant for addressing input from neighbors and creating a better design. Mr. Fraley said the area was in dire need of redevelopment. He also stated that the current zoning was more consistent with the surround area.

Ms. Hughes concurred with Ms. Jones and Mr. Fraley. She said that A-type hydrologic soils exist on the site where the LID basins will be placed. Ms. Hughes stated concerns with any disturbance of wetlands.

Mr. Kennedy praised the quality of the applicant's work and his attention of detail. Mr. Kennedy also stated his contentment with the current zoning and hoped the applicant had other options.

Mr. Kale asked how many units could be constructed by-right on the residential portion of the site.

Mr. Geddy answered approximately 18.

Mr. Kale noted several letters from citizens referencing a report from the Wessex Group indicating a negative impact to the County of \$110,000 annually. Mr. Kale said he had not seen the report.

Mr. Geddy said the letters were based on an earlier version of the proposal that included rental units with greater density. Mr. Geddy said the current proposal at build out would provide an annual positive for the County.

Mr. Kale stated his concern that staff did not support the proposal. He also said he agreed that something should be done with the site but he was not sure this was the right project.

Mr. Billups stated that he felt the 150 foot setback could be maintained with commercial on the front and residential on the rear. He said he did not think rezoning was necessary.

Mr. Geddy pointed out that with a commercial development only a 50 foot buffer would be required.

Mr. Fraley motioned to deny the application.

Mr. Kale seconded the motion.

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

6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the report. He pointed out up-coming meetings of the Rural Lands and Toano Area Study Committees.

Mr. Billups inquired about the feasibility of a signal at Centerville and Longhill Roads.

Mr. Sowers said Staff would initiate discussions with Virginia Department of Transportation.

Mr. Kale notified the other Commissioners that he had requested staff provide copies of the email document that was discussed in the Virginia Gazette.

Mr. Kinsman said the document was lengthy and offered to make it available on CD.

Mr. Kennedy talked about his reasons for requesting copies of the aforementioned emails. He reminded staff that Planning Commissioners volunteer to better serve the community. He suggested both the Rural Lands and Toano Area Studies be placed on hold until the make-up of the Committees could be reviewed.

Mr. Fraley said that work should be done to repair the relationship between staff and Planning Commissioners. He also stated his disappointment with Senior Staff.

Mr. Kale talked about his perception of the culture that prevails in the Division. He said his comments were based on his experiences with staff and specific cases. Mr. Kale also expressed his disappointment.

7. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 10:38 p.m.

Donald Hunt, Chairman

O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY
DEVELOPMENT REVIEW COMMITTEE REPORT**

FROM: 11/1/2005 THROUGH: 11/30/2005

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-150-04	Abe's Mini Storage
SP-004-05	Longhill Grove Fence Amend.
SP-008-05	Williamsburg National Clubhouse Expansion
SP-009-05	Colonial Heritage Ph. 1, Sec. 4 SP Amend.
SP-021-05	Villages at Powhatan Ph. 5 SP Amend.
SP-066-05	Warhill Sports Complex Basketball Facility
SP-071-05	Merrimac Center Parking Expansion
SP-076-05	Warhill Multiuse Trail
SP-089-05	Stonehouse- Rt. 600 Utilities
SP-093-05	The Pointe at Jamestown, Ph. 2 Amend.
SP-097-05	Stonehouse Presbyterian Church
SP-101-05	Fairmont Pump Station
SP-103-05	Colonial Heritage Ph. 4
SP-104-05	Powhatan Plantation Maintenance Building
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-112-05	College Creek Water Main
SP-115-05	Farm Fresh Fuel Express
SP-121-05	Shops at Norge Crossing
SP-127-05	Wythe-Will Rear Parking Striping Plan
SP-131-05	Ironbound Square Road Improvements Ph. 1
SP-132-05	4311 John Tyler Tower Co-location
SP-133-05	Prime Outlets Ph. 6
SP-134-05	Windsor Hall SP Amend.
SP-135-05	Massie Material Storage SP Amend.
SP-136-05	Colonial Heritage Ph. 5 Sec. 1
SP-137-05	Williamsburg Place Expansion
SP-139-05	St. Olaf Temp. Trailer
SP-140-05	Hankins Industrial Park Ph. 2 Cabinet Shop
SP-141-05	New Town, Block 14, Parcel B (Design Center)
SP-142-05	Busch Gardens Market Bldg
SP-144-05	Jolly Pond Vet Hospital SP Amend.

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SP-145-05 New Town, Langley Federal Credit Union
 SP-146-05 Riverside Medical Canopy Addition
 SP-147-05 Warhill - TNCC Site Improvements

B. PENDING FINAL APPROVAL

EXPIRE DATE

SP-063-03	Warhill Sports Complex, Parking Lot Expansion	7 /12/2006
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-141-04	Carolina Furniture Warehouse	4 /6 /2006
SP-003-05	Williamsburg National- Golf Maintenance Facility	2 /28/2006
SP-017-05	Williamsburg Community Chapel Expansion	8 /1 /2006
SP-024-05	Norge Water System Improvements	4 /8 /2006
SP-026-05	Williamsburg Plantation, Sec. 10 Amend.	4 /14/2006
SP-041-05	Warhill - Third High School	5 /13/2006
SP-042-05	STAT Services, Inc.	6 /6 /2006
SP-051-05	Colonial Heritage Ph. 3, Sec. 3	6 /6 /2006
SP-060-05	Community Sports Facility (Stadium)	5 /27/2006
SP-062-05	Greenmount-DCB LLC Storage	10/3 /2006
SP-070-05	St. Bede Church Dam Improvement Plan	7 /1 /2006
SP-073-05	Jeanne Reed's Office/Warehouse	6 /17/2006
SP-087-05	Archaearium at Historic Jamestowne Amend	8 /1 /2006
SP-094-05	Homestead Garden Center	10/13/2006
SP-100-05	Bay Aging	9 /12/2006
SP-102-05	LaGrange Pkwy and Rt 600 to Rt 606	9 /26/2006
SP-105-05	New Town, Block 10, Parcel C	10/21/2006
SP-111-05	TCS Materials- Office Renovation/Addition	11/10/2006
SP-116-05	Cookes Garden Center	10/5 /2006
SP-122-05	Titan Concrete	11/7 /2006
SP-123-05	Michelle Point	10/3 /2006
SP-124-05	New Town, Block 10 Amend.	10/25/2006
SP-125-05	New Town, Block 10 Parcel D (Foundation Square)	11/7 /2006
SP-128-05	New Town Sec. 3 & 6 Roadways Ph. 4	11/2 /2006
SP-129-05	New Town Retail Ph. 2 SP Amend.	10/25/2006
SP-130-05	4451 Longhill Road Tower	10/20/2006

C. FINAL APPROVAL

DATE

SP-006-05	Stonehouse - The Fairways	11/8 /2005
SP-031-05	7839 & 7845 Richmond Road Office/Retail	11/8 /2005
SP-035-05	Baylands Federal Credit Union	11/22/2005
SP-053-05	New Town, Ph. 5, Sec. 4 Roadway	11/16/2005
SP-064-05	TGI Friday's	11/10/2005
SP-079-05	Warhill Water Facility Improvements	11/9 /2005
SP-080-05	Stonehouse Water Facility Improvements	11/9 /2005

SP-138-05 Busch Gardens- Pompeii Photo Kiosk
SP-143-05 Warhill - Access Road and Storm Sewer SP Amend
D. EXPIRED

11/23/2005
11/18/2005
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-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-039-05	Hofmeyer Limited Partnership
S-042-05	Toano Business Centre, Lots 5-9
S-044-05	Colonial Heritage Road & Sewer Infrastructure
S-057-05	8942 Croaker Road Subdivision Lots 1-2
S-059-05	Peleg's Point, Sec. 6
S-065-05	Argo Subdivision
S-066-05	8739 Richmond Rd Subdivision
S-075-05	Racefield Woods Lots 5A-5E
S-076-05	Racefield Woods Lots 5E-5I
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-090-05	Powhatan Secondary Ph. 7-C
S-094-05	Warhill Tract Parcel 1
S-095-05	Landfall Village
S-096-05	ROW Conveyance- 6428 Centerville Road
S-097-05	ROW Conveyance- 6436 Centerville Road
S-098-05	ROW Conveyance- Warhill
S-100-05	Gosden & Teuton BLA
S-101-05	Bozarth - Mahone
S-103-05	106 Jackson St

S-104-05	1121 Stewarts Rd.
S-105-05	Stonehouse Land Bay 31
S-106-05	Colonial Heritage Ph. 5 Sec. 1
S-107-05	Wal Mart Dist. Center BLE
S-108-05	3020 Ironbound Rd. BLE
S-109-05	ROW Conveyance- Zion Baptist Church
S-110-05	Zion Baptist Church BLE & BLA
S-112-05	8942 Croaker Road Subdivision, Lots 3-4
S-113-05	6425 & 6428 Conservancy BLA
S-114-05	Colonial Heritage Ph. 1 Sec. 5 Lots 1-30
S-115-05	5021 John Tyler BLA & BLE

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 /2006
S-098-03	Stonehouse Glen, Sec. 1	4 /5 /2006
S-101-03	Ford's Colony - Sec. 35	2 /2 /2006
S-116-03	Stonehouse Glen, Sec. 2	4 /6 /2006
S-002-04	The Settlement at Monticello (Hiden Tract)	3 /1 /2006
S-037-04	Michelle Point	10/3 /2006
S-059-04	Greensprings West Ph. 6	9 /13/2006
S-074-04	4571 Ware Creek Road (Nice Family Subdivision)	12/21/2005
S-075-04	Pocahontas Square	9 /16/2006
S-108-04	Marion Taylor Subdivision (2nd Application)	12/22/2005
S-111-04	Colonial Heritage Ph. 3, Sec. 1	2 /7 /2006
S-115-04	Brandon Woods Parkway ROW	9 /16/2006
S-002-05	The Pointe at Jamestown Sec. 2B	2 /18/2006
S-015-05	Colonial Heritage Ph. 3, Sec. 2	4 /27/2006
S-043-05	Colonial Heritage Ph. 3, Sec. 3	6 /6 /2006
S-053-05	Kingsmill-Spencer's Grant	7 /11/2006
S-054-05	Williamsburg Landing/Waltrip BLA	7 /14/2006
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-068-05	New Town - Block 10 Parcels B, C & D	7 /29/2006
S-071-05	Gordon Creek BLA	8 /2 /2006
S-078-05	Fairmont Subdivision Sec. 1- 4 (Stonehouse)	10/3 /2006
S-079-05	Colonial Heritage Ph. 4	11/7 /2006
S-091-05	Windmill Meadows	10/3 /2006

C. FINAL APPROVAL

DATE

S-106-03	Colonial Heritage Ph. 2, Sec. 3	11/4 /2005
S-063-04	123 Welstead Street BLE	11/18/2005
S-090-04	Minichiello Villa	11/23/2005
S-047-05	Colonial Heritage Ph. 2, Sec. 1 Lots 14-73	11/3 /2005
S-052-05	2050 Bush Neck Subdivision	11/16/2005

S-062-05	New Town, Main St. Block 1, 2, & 3	11/9 /2005
S-067-05	136 Magruder- Sadie Lee Taylor	11/8 /2005
S-074-05	James River Commerce Center Parcels 1A, 1B, 6, 9	11/10/2005
S-092-05	8879 Barnes Road Subdivision	11/9 /2005
S-111-05	Forest Glen Lot 4 Correction	11/16/2005

D. EXPIRED

EXPIRE DATE

REZONING Z-13-05, Village at Toano

Staff Report for December 5, 2005 Planning Commission Meeting

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Center

October 3, 2005 (applicant deferral) 7:00 p.m.

November 7, 2005 (deferred)

December 5, 2005

Board of Supervisors:

February 2006 (tentative) 7:00 p.m.

SUMMARY FACTS

Applicant:

Vernon Geddy III, Geddy, Harris, Franck & Hickman, L.L.P.

Land Owner:

Jessica D. Burden, Rose Bunting, Elsie Ferguson, and Jack Ferguson

Proposed Use:

Construction of 94 town home units

Location:

3126 Forge Road

Tax Map/Parcel:

(12-3) (1-10)

Parcel size:

20.881 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

R-5, Multi-family Residential, with proffers

Comprehensive Plan:

Moderate Density Residential and Low Density Residential

Primary Service Area:

Yes

STAFF RECOMMENDATION

The applicant has requested deferral of this case until the completion of the Toano Village Area Study. Staff concurs with this request.

Staff Contact:

Jason Purse

Phone: 253-6685

Jason Purse

ATTACHMENTS:

1. Deferral Letter

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

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VERNON M. GEDDY, JR.
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ANDREW M. FRANCK
RICHARD H. RITZ

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

email: vgeddy@ghflaw.com

November 29, 2005

Mr. Jason Pursc
James City County Planning Dept.
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Z-13-05 Villages at Toano

Dear Jason:

I am writing on behalf of the applicant to request that the Planning Commission defer consideration of this case until the completion of the Toano Village Area Study.

Very truly yours,

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



Vernon M. Geddy, III

VMG/ch
Cc: Mr. Wally Scruggs
Mr. Marc Gutterman

**REZONING CASE NO. Z-17-05 & MASTER PLAN NO. MP-14-05. Greensprings
Staff Report for the December 5, 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

December 5, 2005 7:00 p.m.
January 10, 2005 7:00 p.m. (Tentative)

SUMMARY FACTS

Applicant: Mr. Christopher Basic, AES

Land Owner: Mr. C. Lewis Waltrip

Proposal: The applicant has proposed to rezone 1396.5 acres of land and to amend the master plan and proffers to increase the number of single family detached residential dwelling units of Greensprings West Phase VII. The applicant proposes an additional thirty units on approximately 35 acres; 17 units had been previously approved for this site. A total of 1505 units had been previously approved for the entire 1396.5 acre project; this proposal would bring the new total to 1535 units.

Location: Specifically, 4200 Longview Landing

Tax Map/Parcel Nos.: Specifically, Parcel (1-24) on Tax Map (36-3)

Parcel Size: 1396.5 acres overall/35 acres in Phase VII

Existing Zoning: R-4, Residential Planned Community, with proffers

Proposed Zoning: R-4, Residential Planned Community, with revised proffers

Comprehensive Plan: The entire planned community is located in an area that is partially designated Rural Lands and partially designated Low Density Residential. The additional dwelling units are proposed in an area that is designated Rural Lands.

Primary Service Area: The entire planned community is located partially inside and partially outside the PSA. The additional dwelling units are proposed in an area that is outside the PSA.

STAFF RECOMMENDATION

The applicant has requested that this case be deferred until the January 9, 2006 Planning Commission meeting in order to resolve various outstanding issues. Staff concurs with this request.

Staff Contact: Kathryn Sipes

Phone: 253-6685

Kathryn Sipes

ATTACHMENT:

1. Deferral letter from applicant

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

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MAILING ADDRESS:

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

ANDREW M. FRANCK
RICHARD H. RIZK

November 29, 2005

Ms. Kathryn Sipes
Planner
James City County Development
Management
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Case No. MP-14-05, Greensprings Master Plan Amendment

Dear Kate:

I am writing on behalf of the applicant to request that the Planning Commission defer consideration of this case until its January, 2006 meeting. We are requesting this deferral to allow us to respond fully to the comment letter we received November 28, 2005 following our several meetings and to work with you to resolve any and all outstanding issues. We look forward to presenting this case to the January Commission Meeting.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VMG/ch

REZONING 15-05/MASTER PLAN 12-05. Stonehouse Planned Community Amendment Staff Report for the December 5, 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

November 7, 2005 (deferred) 7:00 p.m.

December 5, 2005

Board of Supervisors:

January 10, 2005 (tentative) 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Greg Davis and Mr. Tim Trant, Kaufman & Canoles

Land Owner:

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

Proposal:

To amend the master plan and proffers for the Stonehouse Planned Community. Major changes include:

- Realigning Fieldstone Parkway and changing the zoning line between PUD-R and PUD-C.
- Changing land uses within previously approved land bays and shifting units between development areas and land bays.
- Incorporating the Stinette Tract (currently zoned A-1) into the Planned Unit Development (PUD-R).
- Revision of various proffers, particularly for Transportation.

There is no proposed increase to the total number of approved residential units within the Stonehouse Planned Community.

Location:

The property is located at or in the vicinity of 9151, 9101, 9186, 9100, 9750, 9301, 9251, 9451, 9501, 9401, 9250, 9400, 9150, 9600, 9601, 9750, 9800, and 9801 Mount Zion Road, 9235 Fieldstone Parkway, 3820 Rochambeau Drive, 170 Sand Hill Road, 3600 and 3900 Mt. Laurel Road, 4100, 4130, 4170, and 4150 Ware Creek Road, 3612 LaGrange Parkway, 9760 Mill Pond Run and 10251, 9501, 9675, and 9551 Sycamore Landing Road

Tax Map/Parcel Nos.:

Parcels (1-25), (1-27), (1-28) (1-29) on Tax Map (4-4), Parcel (1-10) on Tax Map (5-3), Parcels (1-1), (1-2) (1-3), (1-4) on Tax Map (6-3), Parcels (1-1), (1-2) on Tax Map (6-4), Parcels (1-20), (1-21), (1-29), (1-22) on Tax Map (7-4), Parcel (1-47) on Tax Map (12-1), Parcels (1-3), (1-2), (1-13), (1-5), (1-4), (1-6), (1-8), (1-7), (1-11), (1-9), (1-10), (1-12) on Tax Map (5-4), Parcels (1-8A), (1-19), (1-21), (1-22) on Tax Map (13-1), Parcels (1-2), (1-1) on Tax Map (6-1), Parcels (1-27), (1-28) on Tax Map (13-2), Parcel (1-26) on Tax Map (12-2), Parcel (1-1) on Tax Map (7-1)

Parcel Size:

4,684 acres

Existing Zoning: Planned Unit Development Residential & Commercial with Proffers, and
A-1, General Agricultural District (Stinette
Tract)
Proposed Zoning: Planned Unit Development Residential & Commercial 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

KAUFMAN & CANOLES

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

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

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

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

4801 Courthouse Street
Suite 300
Williamsburg, VA 23188

November 30, 2005

Via U.S. Mail & Email

Ellen Cook
Senior Planner
James City County
101-A Mounts Bay Road
Williamsburg, VA 23185

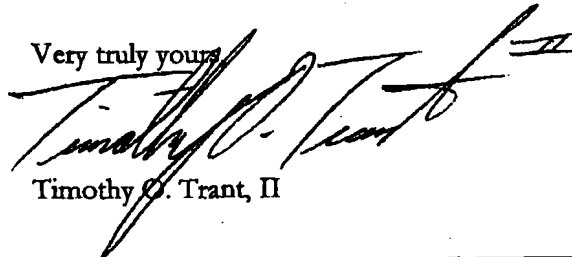
**Re: Stonehouse Planned Unit Development
Proposed Land Use Modifications
James City County Case Numbers Z-11-03 and MP-11-03
Our Matter No. 100281**

Dear Ellen:

The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on December 5, 2005. The applicant and its consultants are working diligently to respond to the various comments received from the James City County Department of Development Management ("Staff") and to bring the application to a final, presentable form. Given the detailed nature of Staff's comments, the applicant is not likely to have responded in time for Staff to present the application at the December 5, 2005 Planning Commission meeting. Accordingly, the applicant recognizes that Staff will not be prepared to make a complete staff report nor make a recommendation to the Planning Commission regarding the case at the December 5, 2005 meeting. Therefore, the applicant requests that any action on the case by the Planning Commission be deferred until the January 9, 2006 Planning Commission meeting.

If you have any questions, please do not hesitate to contact me.

Very truly yours



Timothy O. Trant, II

Disclosure Required by Internal Revenue Service Circular 230: This communication is not a tax opinion. To the extent it contains tax advice, it is not intended or written by the practitioner to be used, and it cannot be used by the taxpayer, for the purpose of avoiding tax penalties that may be imposed on the taxpayer by the Internal Revenue Service.

Chesapeake

Hampton

Newport News

Norfolk

Richmond

Virginia Beach

REZONING Z-13-04, Monticello at Powhatan North

Staff Report for December 5, 2005 Planning Commission Meeting

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

PUBLIC HEARINGS

Planning Commission:

December 5, 2005

7:00 pm

Board of Supervisors:

January 10, 2006 (tentative)

7:00 pm

Building F Board Room; County Government Center

SUMMARY FACTS

Applicant:

Timothy O. Trant, Kaufman and Canoles

Land Owner:

Lawrence E. Beamer

Proposed Use:

Construction of 91 condominium units

Location:

4450 Powhatan Parkway

Tax Map/Parcel

(38-3) (1-01)

Parcel Size:

36.48 acres

Existing Zoning:

R-8, Rural Residential

Proposed Zoning:

R-2, General Residential w/Cluster Overlay

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested deferral of this case until January 9, 2006 in order to resolve various issues associated with the case and proffers. Staff concurs with this request.

Staff Contact:

Joel Almquist

Phone: 253-6685

Joel Almquist

Attachments

1. Deferral Request Letter

KAUFMAN & CANOLES

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

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

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

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

4801 Courthouse Street
Suite 300
Williamsburg, VA 23188

November 30, 2005

Via U.S. Mail & Email

Joel Almqvist
Planner
James City County
101-A Mounts Bay Road
Williamsburg, VA 23185

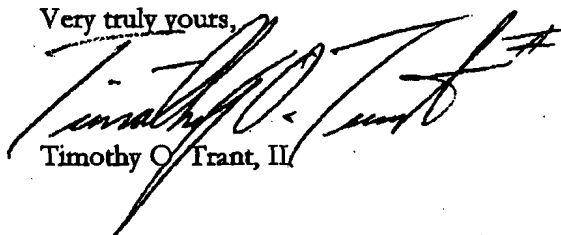
Re: Powhatan Enterprises, Inc.
Monticello at Powhatan North (Phase III)
James City County Case No's. Z-13-04, MP-10-04, & SUP-31-04
Our Matter No. 79791

Dear Joel:

The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on December 5, 2005. The applicant and its consultants are working diligently to respond to the various comments received from the James City County Department of Development Management ("Staff") and to bring the application to a final, presentable form. Given the detailed nature of Staff's comments, the applicant is not likely to have responded in time for Staff to present the application at the December 5, 2005 Planning Commission meeting. Accordingly, the applicant recognizes that Staff will not be prepared to make a complete staff report nor make a recommendation to the Planning Commission regarding the case at the December 5, 2005 meeting. Therefore, the applicant requests that any action on the case by the Planning Commission be deferred until the January 9, 2006 Planning Commission meeting.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Timothy O. Trant, II

Chesapeake

Hampton

Newport News

Norfolk

Richmond

Virginia Beach

REZONING-16-05. New Town Section 9 – Settlers Market
MASTER PLAN-13-05. New Town Section 9 – Settlers Market
Staff Report for the December 5, 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

December 5, 2005

7:00 p.m.

January 10, 2005

7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III on behalf of AIG Baker Development, LLC and Developer's Realty Corporation

Land Owner:

WHS Land Holdings, LLC and New Town Associates, LLC

Proposal:

To apply Design Guidelines and rezone 50.3 acres to MU, Mixed Use, with proffers. If approved, proposed construction includes approximately 335,000 square feet of office and commercial space and approximately 150 residential units.

Location:

At the intersection of Monticello Avenue and Route 199

Tax Map/Parcel Nos.:

(38-4) (1-3), (38-4) (1-2), (38-4) (1-52) and a portion of (38-4) (24-3)

Parcel Size:

50.3 acres

Existing Zoning:

R-8, Rural Residential with proffers and an approved Master Plan and M-1, Limited Business / Industrial

Proposed Zoning:

MU, Mixed Use

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested that this case be deferred until the January 9, 2005 Planning Commission meeting to continue working on the Master Plan and Design Guidelines.

Staff Contact: Matthew J. Smolnik

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

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

email: vgeddy@ghflaw.com

November 29, 2005

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

Settler's Market/New Town Section 9

Dear Matt:

I am writing on behalf of the applicants to request this case be deferred until the January 2006 Planning Commission meeting. Thanks for your help.

Very truly yours,

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

Vernon M. Geddy, III

VMG/ch
Cc: Mr. John Abernathy

**AGRICULTURAL & FORESTAL DISTRICT-1-89. Armistead 2006 Renewal
Staff Report for the December 5, 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

December 5, 2005 7:00 p.m.
January 10, 2005 7:00 p.m.

SUMMARY FACTS

Owner	Parcel No.	Acres
Sarah H. Armistead	(31-2)(1-14)	53.78
Sarah H. Armistead	(31-2)(1-17)	84.50
Sarah H. Armistead	(31-3)(1-29)	132.08
Sarah H. Armistead	(31-4)(1-1)	41.18

Zoning: R-8, Rural Residential and A-1, General Agricultural

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds that the AFD is consistent with the surrounding zoning and development and consistent with the goals of the Comprehensive Plan and recommends the continuance of the Armistead Agricultural and Forestal District for a period of four years and ten months subject to the enclosed conditions.

On November 29, 2005 the AFD Advisory Committee recommended renewal of this district by a vote of 9-0.

Staff Contact: Matthew Arcieri

Phone: 253-6685

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must either be continued, modified, or terminated. This report reviews AFD-1-89, Armistead which is scheduled to expire in January.

The Armistead AFD consists of approximately 311.83 acres located between Longhill Road and Centerville Road and is bounded by the County's Warhill Sports Complex, Ford's Colony, Forest Glen, Fox Ridge, Longhill Station and Adam's Hunt subdivisions. Specifically, the AFD is currently comprised of the following:

Owner	Parcel No.	Acres
Sarah H. Armistead	(31-2)(1-14)	53.78
Sarah H. Armistead	(31-2)(1-17)	84.50
Sarah H. Armistead	(31-3)(1-29)	132.08
Sarah H. Armistead	(31-4)(1-1)	41.18

DISTRICT HISTORY

The Armistead Agricultural and Forestal District was created in 1989 for a term of four years and originally consisted of five parcels totaling 403 acres.

- The District was renewed in 1994 and 1998 for four year periods with no addition or withdrawal of acreage.
- On February 9, 1999, the Board of Supervisors approved the withdrawal of approximately 90 acres (Elizabeth Carter Tract) as part of a rezoning for Ford's Colony on the south side of Longhill Road. Following this action the district contained approximately 311.83 acres.
- The District was renewed in 2002 for a four year period with no addition or withdrawal of acreage.

As part of the 2006 renewal it is proposed that all existing properties remain in the district for a total district size of 311.83 acres.

ANALYSIS

The bulk of the District is woodland with the majority of the property zoned R-8, Rural Residential, with one parcel zoned A-1, General Agricultural. The parcels in the District are designated as Low Density Residential by the Comprehensive Plan and all are within the Primary Service Area. The Comprehensive Plan's Community Character goal is to enhance and preserve the County's scenic, cultural, rural, farm, forestal, natural and historic resources. The AFD program helps satisfy this goal and therefore this renewal is consistent with the 2003 Comprehensive Plan.

CHANGE IN CONDITIONS

Staff recommends that if continued, the Districts be re-established for a term of **four years and ten months**. The additional ten months is a one-time addition allowing the County to synchronize the terms of all districts so that they expire in the same month. Synchronizing the districts will not only make it easier to administer the renewal process but also allow the Board of Supervisors to review the AFD program and associated policies as a whole in 2010.

All other conditions are proposed to remain the same.

RECOMMENDATION

Staff finds that the AFD is consistent with the surrounding zoning and development and consistent with the goals of the Comprehensive Plan and recommends the continuance of the Armistead Agricultural and Forestal District for a period of four years and ten months subject to the following conditions. On November 29, 2005 the AFD Advisory Committee recommended renewal of this district by a vote of 9-0.

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) The subdivision does not result in the total acreage of the district to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Parcels inside the Primary Service Area and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors policy pertaining to "Withdrawal of Lands From Agricultural and Forestal Districts Within The Primary Service Area," adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.1-4301 et. seq. which are not in conflict with the policies of this district. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

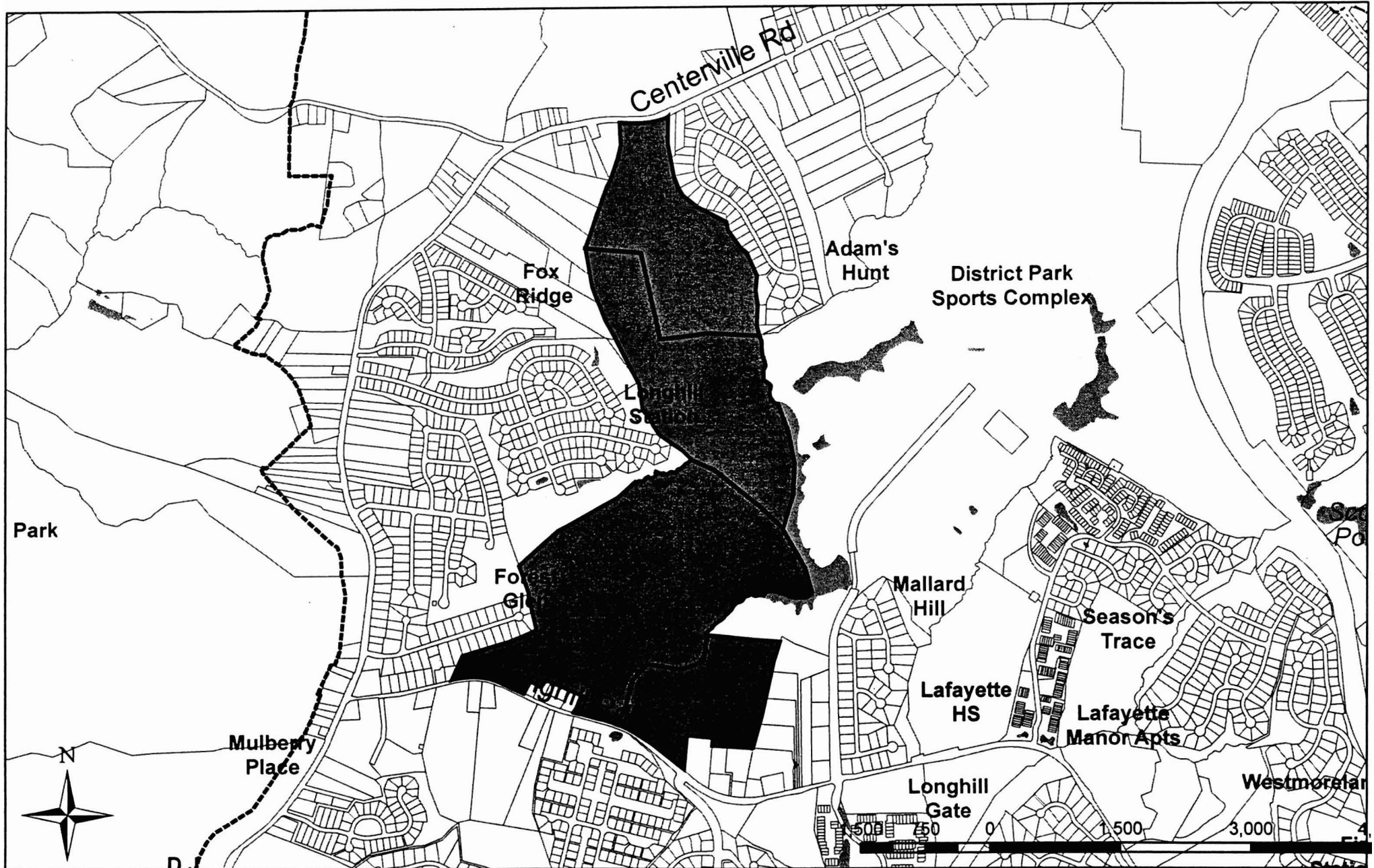
Matthew D. Arcieri

ATTACHMENTS:

1. Location Map
2. Minutes of the November 29, 2005 AFD Advisory Committee Meeting

AFD-1-89

Armistead (2006 Renewal)



UNAPPROVED MINUTES OF THE NOVEMBER 29 MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE

A. AFD-5-86 Cranston's Pond AFD

Ms. Kate Sipes gave the staff report and staff's recommendation of approval. Mr. Ford stated that if the total acreage dipped under 20 acres the applicant would no longer qualify for land use taxation status. Mr. Richard Bradshaw noted that three acres of the 23 acre parcel were non-qualifying and that with the proposed subdivision and change of deeded ownership, there may be a problem during AFD renewal because there must be at least 25 acres to be considered part of an AFD. The applicant noted that they joined the AFD with less than 25 total acres and write in their total acreage on tax forms they receive every year from the Office of the Commissioner of Revenue. Mr. Richard Bradshaw noted that he would have to further review the situation but that the potential impact would be the required payment of rollback taxes if the land had to come out of the AFD.

Discussion ensued about how transparent the deed was in showing how the land was assessed. Mr. Richard Bradshaw explained that currently, three acres were assessed at current market value, while the residual 20 acres was being valued as timberland, therefore qualifying for land use status. He pointed out that rollback taxes would be the same whether the withdrawal was voluntary or involuntary (due to disqualification) Mr. Abbott noted that if the land was unable to be renewed into the AFD, the applicant could place a conservation easement on the 20 acres to qualify for land use taxation status. Mr. Ford stated that when the property owner first joined the AFD they may have had enough timber land to qualify for land use taxation and since the parcel was contiguous with others in the AFD, it was accepted into the district. Mr. Andy Bradshaw asked if AFD regulations allowed a subdivision that left a remnant parcel of less than 25 acres. Mr. Arcieri noted that this regulation applied to the location of communication towers. Mr. Abbott moved for approval. Ms. Garrett seconded the motion and with no further discussion the motion passed unanimously.

B. AFD-1-89 Armistead AFD Renewal

Mr. R. Bradshaw asked if renewal was staff or applicant initiated. Mr. Arcieri noted that the renewal was staff initiated and that the applicant could ask for withdrawal up until the time it was reviewed by the Board of Supervisors. Mr. A. Bradshaw inquired about the length of terms. Mr. Arcieri noted that all terms were synchronized so that all districts were up for renewal at the same time in November 2010. Mr. R. Bradshaw moved for approval. Ms. Garrett seconded the motion and the motion passed unanimously. Upon further discussion, the AFD Committee asked staff to verify that the owner of the four properties comprising the AFD was still Ms. Sarah Armistead.

C. AFD-1-93 Williamsburg Farms AFD Renewal

Mr. Ford asked if a previously withdrawn tract of land was being put back into the AFD. Mr. Arcieri noted that approximately 60 acres were being added into the District but that the tavern and inn would be excluded from the District. Discussion

ensued about which commercial operations should be excluded. Mr. Ford noted that all of the original AFD was recorded using an aerial survey. Mr. Arcieri responded that the new acreages were based upon the physical survey. Mr. R. Bradshaw noted that Mr. Duffeler was putting back property that he initially took out and that agricultural land was coming back in. Mr. R. Bradshaw moved for approval. Ms. Garrett seconded the motion and the motion passed unanimously. Upon further discussion, the AFD Committee requested that staff revise the District so that required parking around the tavern and access drives to the tavern were excluded from the District.

**AGRICULTURAL & FORESTAL DISTRICT-1-93. Williamsburg Farms 2006 Renewal
Staff Report for the December 5, 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

December 5, 2005 7:00 p.m.
January 10, 2005 7:00 p.m.

SUMMARY FACTS

Owner	Parcel No.	Acres
Williamsburg Farms, Inc.	(48-4)(1-10)	161.11
Williamsburg Vineyards, LLC	(48-4)(1-10B)	23.42
Wedmore Place, LLC	(48-4)(1-10D)	70.31
Williamsburg Vineyards, LLC	(48-4)(1-12)	29.70

Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds that the AFD is consistent with the surrounding zoning and development and consistent with the goals of the Comprehensive Plan and recommends the continuance of the Williamsburg Farms Agricultural and Forestal District for a period of four years and ten months to the enclosed conditions.

On November 29, 2005 the AFD Advisory Committee recommended renewal of this district by a vote of 9-0.

Staff Contact: Matthew Arcieri

Phone: 253-6685

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must either be continued, modified, or terminated. This report reviews AFD-1-93, Williamsburg Farms which is scheduled to expire in January.

The Williamsburg Farms AFD consists of approximately 219.3 acres located on the east side of Lake Powell Road and is adjacent to the Vineyard's at Jockey's Neck subdivision. Specifically, the AFD is currently comprised of the following:

Owner	Parcel No.	Acres
Williamsburg Farms, Inc.	(48-4)(1-10)	161.11
Williamsburg Vineyards, LLC	(48-4)(1-10B)	23.42
Wedmore Place, LLC	(48-4)(1-10D)	70.31
Williamsburg Vineyards, LLC	(48-4)(1-12)	29.70

Note that the above acreages total more than the current district size. Portions of these parcels have been excluded from the district for existing commercial uses and future development.

DISTRICT HISTORY

The Williamsburg Farms Agricultural and Forestal District was created in 1994 for a term of four years and consisted of two parcels totaling 311 acres. At the time of creation, 10 acres, which included the Gabriel Archer Tavern and a proposed inn, were excluded from the district.

- During the review of the district for renewal in 1997, a five-acre, unsubdivided tract on the eastern side of the District at the end of Conservancy Road was withdrawn leaving the AFD with approximately 306 acres.
- In 1999, the Board of Supervisors approved the withdrawal of an additional 4.5 acres at the end of Conservancy Road, leaving the AFD with approximately 301.5 acres.
- During the review of the district for renewal in 2002, an additional 7.2 acres was withdrawn along Jockey's Neck Trail leaving the district with approximately 294.3 acres.
- On August 10, 2004, the Board of Supervisors approved the withdrawal of an additional 75 acres, leaving the AFD with approximately 219.3 acres.

As part of the 2006 renewal, staff has worked with the Williamsburg Winery to redraw the boundaries of the Williamsburg Farms AFD. 60.74 acres are proposed to be added to the district bringing its total size to 280.04 acres. The revised district excludes the Gabriel Archer Tavern and the Wedmore Place Inn.

ANALYSIS

Although the amount of property in this AFD has been adjusted with development of the Williamsburg Winery, the majority of the district has remained in either an agricultural use or protected as open space. All property in the district is zoned R-8, Rural Residential. The parcels in the District are designated as Low Density Residential by the Comprehensive Plan and all are within the Primary Service Area. The Comprehensive Plan's Community Character goal is to enhance and preserve the County's scenic, cultural, rural, farm, forestal, natural and historic resources. The AFD program helps satisfy this goal and therefore this renewal is consistent with the 2003 Comprehensive Plan.

CHANGE IN CONDITIONS

Staff recommends that if continued, the Districts be re-established for a term of **four years and ten months**. The additional ten months is a one time addition allowing the County to synchronize the terms of all districts so that they expire in the same month. Synchronizing the districts will not only make it easier to administer the renewal process but also allow the Board of Supervisors to review the AFD program and associated policies as a whole in 2010.

All other conditions are proposed to remain the same.

RECOMMENDATION

Staff finds that the AFD is consistent with the surrounding zoning and development and consistent with the goals of the Comprehensive Plan and recommends the continuance of the Williamsburg Farms Agricultural and Forestal District for a period of four years and ten months subject to the following conditions. On November 29, 2005 the AFD Advisory Committee recommended renewal of this district by a vote of 9-0.

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) The subdivision does not result in the total acreage of the district to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
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Matthew D. Arcieri

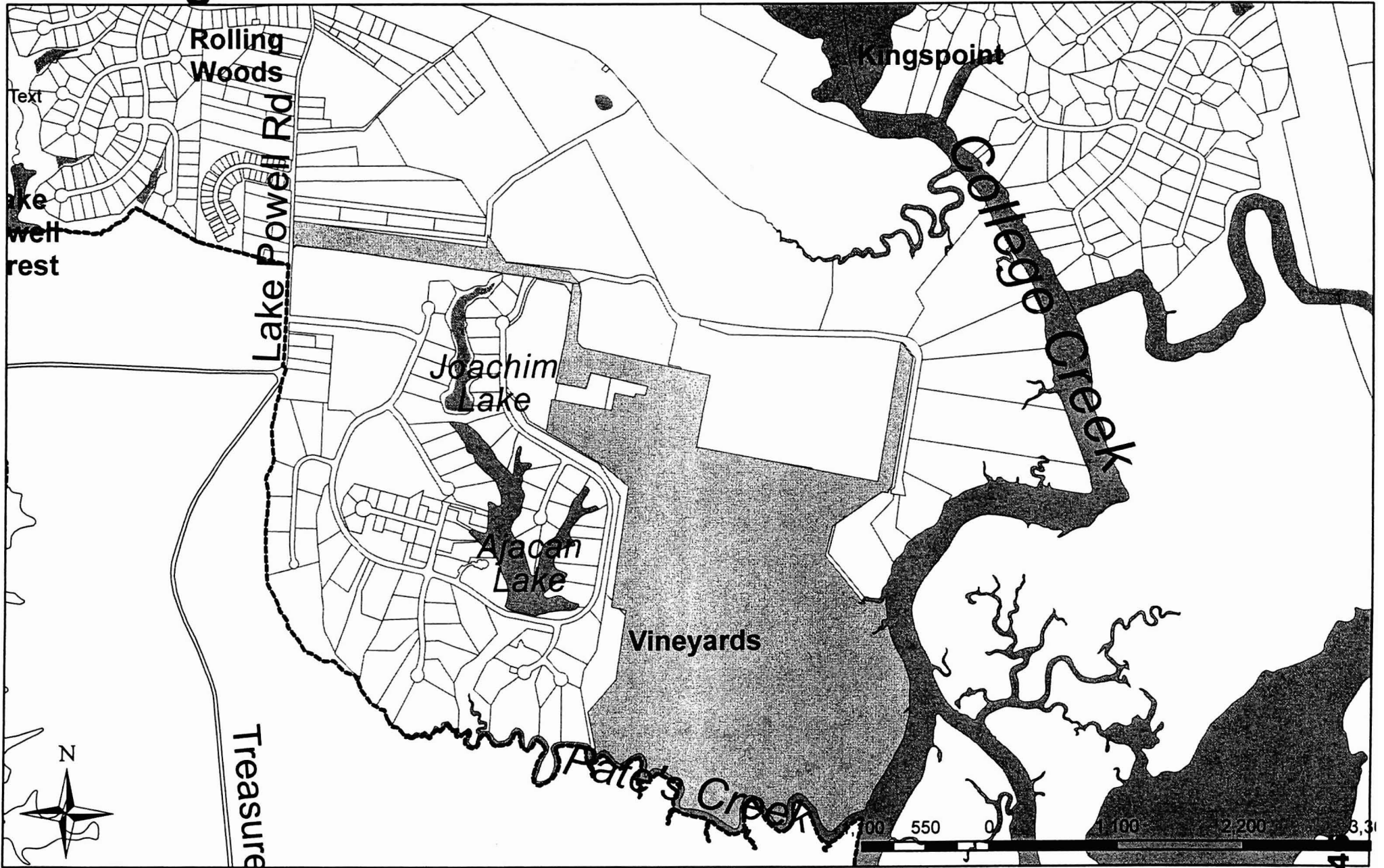
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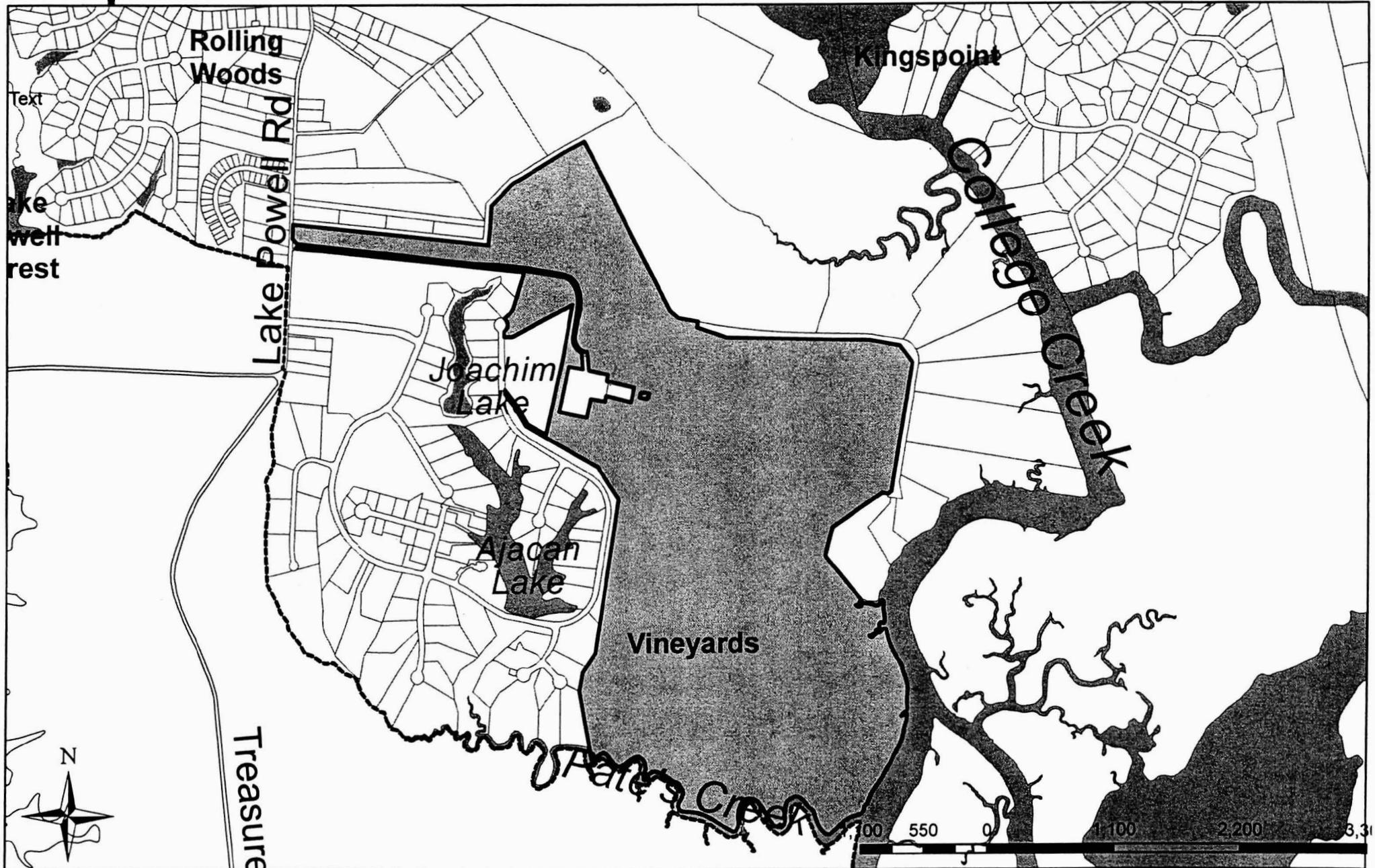
AFD-1-93

Williamsburg Farms (2006 Renewal)

Existing District



AFD-1-93 Williamsburg Farms (2006 Renewal) Proposed District



UNAPPROVED MINUTES OF THE NOVEMBER 29 MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE

A. AFD-5-86 Cranston's Pond AFD

Ms. Kate Sipes gave the staff report and staff's recommendation of approval. Mr. Ford stated that if the total acreage dipped under 20 acres the applicant would no longer qualify for land use taxation status. Mr. Richard Bradshaw noted that three acres of the 23 acre parcel were non-qualifying and that with the proposed subdivision and change of deeded ownership, there may be a problem during AFD renewal because there must be at least 25 acres to be considered part of an AFD. The applicant noted that they joined the AFD with less than 25 total acres and write in their total acreage on tax forms they receive every year from the Office of the Commissioner of Revenue. Mr. Richard Bradshaw noted that he would have to further review the situation but that the potential impact would be the required payment of rollback taxes if the land had to come out of the AFD.

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MEMORANDUM

TO: Members of the Planning Commission

FROM: Adam R. Kinsman, Assistant County Attorney

RE: Amendments to Board of Zoning Appeals Procedures

DATE: November 7, 2005

The process by which a person may appeal from a decision of the BZA is governed by Virginia Code § 15.2-2314. Before 2001, this section of the Virginia Code stated that a petition for appeal must be filed “within thirty days after the filing of the decision in the office of the board [of zoning appeals].”¹ This code section was revised in 2001 to state that a petition may be filed “within 30 days after the final decision of the board [of zoning appeals].”²

In *Board of Zoning Appeals of Fairfax County v. Board of Supervisors of Fairfax County*,³ the Virginia Supreme Court (the “Supreme Court”) held that a “final decision” of the BZA is “the decision that resolves the merits of the action pending before that body or effects a dismissal of the case with prejudice.” Thus, the “final decision” of the BZA is made when the BZA votes on the decision, not when the clerk of the BZA files that decision.

County Code § 24-666 states that any person may appeal a decision of the BZA “within 30 days after the filing of the decision in the office of the board [of zoning appeals].” Attached is a proposed revision to this section of the County Code to ensure that it comports with the Code of Virginia and the recent holding of the Supreme Court.

RECOMMENDATION:

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

Adam R. Kinsman

Attachment:

1. Draft Ordinance

¹ Former Virginia Code § 15.2-2314 (1997).

² Virginia Code § 15.2-2314.

³ Record nos. 042274 and 042326, September 16, 2005.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VIII, APPEALS, DIVISION 3, REGULATIONS GOVERNING APPEALS, SECTION 24-666, PETITION FOR CERTIORARI TO REVIEW DECISION OF BOARD.

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 24-666, Petition for certiorari to review decision of board.

Article VIII. Appeals
Division 3. Regulations Governing Appeals

Sec. 24-666. Petition for certiorari to review decision of board.

(a) *Petition to circuit court.* Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals or any taxpayer or any officer, department, board or bureau of the county may present to the Circuit Court of James City County a petition specifying the grounds on which aggrieved within 30 days after the ~~filing of the decision in the office of the~~ final decision of the board. A “final decision” is the decision that resolves the merits of the action pending before the board or effects a dismissal of the case with prejudice.

(b) *Allowance of writ of certiorari.* Upon the presentation of such petition, the court will allow a writ of certiorari to review the decision of the board of zoning appeals and will prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which will not be less than ten days and may be extended by the court. The allowances of the writ will not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) *Board required to return papers and other facts.* The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(d) *Taking of testimony; finding of facts and conclusions of laws.* If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reserve or affirm, wholly or partly, or may modify the decision brought up for review.

(e) *Costs.* Costs shall not be allowed against the board unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

MEMORANDUM

DATE: December 5, 2005

TO: The Planning Commission

FROM: Joel Almquist, Planner

SUBJECT: Case No. ZO-06-05. Retail Sales of Plant and Garden Supplies

Upon citizen request, staff is proposing to amend two sections of the Zoning Ordinance, both related to retail plant and garden centers. The changes would be as follows:

1. Amend Section 24-213 within the A-1, General Agriculture, District to allow retail plant and garden supply stores with a special use permit.
2. Amend Section 24-2, Definitions, to include the definition of “plant and garden supply sales.”

Currently, retail sales of plant and garden supplies are allowed in B-1, General Business; LB, Limited Business; M-1, Limited Business Industrial; and MU, Mixed Use districts as a by-right land use.

Within the A-1 Zoning District, there are retail uses that are allowed both as by-right and with a special use permit. By-right uses include farmers’ markets up to 2,500 square feet, wayside stands for agricultural products limited in area to 500 square feet, and wineries including retail shops for the sale of wine. Specially permitted uses include convenience stores, farm equipment sales and service, farmers’ markets over 2,500 square feet, feed/seed and farm supplies, gift and antique shops, lumber and building supply stores, manufacture and sales of wood products, retail shop associated with community recreational facilities, and wayside stands for agricultural products over 500 square feet.

The A-1 Zoning District generally covers the Rural Lands designation in the 2003 Comprehensive Plan. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the Primary Service Area (PSA). However, a few of the smaller direct agricultural or forestal-support uses, home-based occupations, and certain uses which require very low-intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area.

On October 27, 2005, the Planning Commission Policy Committee met to consider the question of adding retail sales of plant and garden supplies as a by-right use or a specially permitted use. After debating the merits of this proposal, it was determined by the Policy Committee that the County would retain greater control over the rural and agricultural areas if the land use was controlled under the special permit process. The Committee then decided that a definition of plant and garden supply sales would be needed to maintain consistency in interpreting the revised ordinance.

Staff believes that the definition of “plant and garden supply sales” is appropriate for inclusion in Section 24-2, Definitions. The definition of “plant and garden supplies” was formed based upon the recommendations of the Policy Committee, definitions used by other municipalities in the region, and based on the services provided by garden centers located on the Peninsula. Staff’s intent was to limit the scope of materials and services that these establishments could provide in order to keep within the intent of the A-1 District.

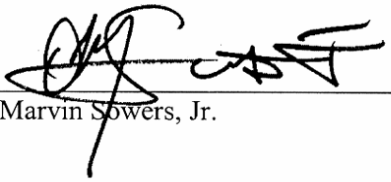
Staff believes that retail sales of plant and garden supplies are appropriate for inclusion in the A-1, General Agriculture, District. If properly designed, these establishments can complement the agricultural character of the land by providing plant and gardening supplies to consumers, while maintaining the rural character of the district through case-by-case review during the special use permit and site plan process. This type of land use

can also complement existing permitted uses in A-1 such as farmers' markets and feed/seed and farm supplies.

Staff recommends that the Planning Commission approve the attached ordinance amendments.

Joel Almquist

CONCUR:



O. Marvin Sowers, Jr.

JA/gb

ZO-06-05.mem

Attachments:

1. Revised 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 I, IN GENERAL, SECTION 24-2, DEFINITIONS; AND ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-213, 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 24-2, Definitions; and Section 24-213, Uses permitted by special use permit only.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Plant and garden supply sales. Stores which shall sell a combination of materials used in the process of creating, cultivating, decorating, and maintaining gardens and landscaped areas. The primary items sold may include plants, shrubs, and trees grown on- or off-site; seeds; produce; hand tools; fertilizer; plant containers and hangers; natural materials such as sand, soil, rock, wood chips, and mulch; and decorative features including sculptures, fountains, ponds, ornaments, and cast or formed cement and ceramic pavers. Patio and outdoor furniture, including grills, gazebos, trellises, and outdoor fireplaces may also be included as secondary and incidental items sold at a plant and garden supply store. Excluded from this definition are mechanical lawn and garden equipment, pools and pool equipment, and lumber and building supplies.

Article V. Districts
Division 2. General Agricultural District, A-1

Section 24-213. Uses permitted by special use permit only.

In the General Agricultural District, A-1, buildings to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and other such guides and standards as may be contained in this chapter.

Retail sales of plant and garden supplies.

Michael C. 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 13th day of December, 2005.

Sec24-2Def.ord

Staff Report for the December 5, 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.

Building F Board Room; County Government Complex

Planning Commission:	December 5, 2005	7:00 p.m.
Board of Supervisors:	December 13, 2005	7:00 p.m.

SUMMARY FACTS

Applicant:	Peter Margan, St. Olaf Building Committee Chair
Land Owner:	Catholic Diocese of Richmond
Proposal:	To bring the existing church facility into conformance with the current zoning ordinance
Location:	104 Norge Lane
Tax Map/Parcel Nos.:	(23-2)(1-16)
Parcel Size:	9.38 acres
Zoning:	R-8, with Proffers
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: Matt Arcieri Phone: 253-6685

PROJECT DESCRIPTION

Mr. Peter Margan, chair of the St. Olaf Building Committee, has applied for a special use permit for the existing church facility located at 104 Norge Lane (at the corner of Norge Lane and Richmond Road). In 1994, the Board of Supervisors approved a rezoning of this property for A-1 and B-1 to R-8, Rural Residential, with Proffers. In 1994, houses of worship were permitted by-right in the R-8 district. In 1999, the R-8 district was amended to make houses of worship a specially permitted use making St. Olaf a legally non-conforming use. Under the zoning ordinance, non-conforming uses cannot be expanded.

Although St. Olaf is in the process of relocating to a new site, there is need for additional meeting and classroom space in the current facility. The church has been donated two office trailers to provide this space; however, they cannot be placed on this site without first bringing the facility into conformance with the zoning ordinance by obtaining a special use permit.

Recognizing that expansion of a house of worship would likely have public impacts, staff has proposed a SUP condition that allows the church to complete minor expansions and renovations (no more than an additional 4,000 square feet) which are currently prohibited since the use is non-conforming.

PUBLIC IMPACTS

Environmental

Watershed: Yarmouth Creek

Staff Comments: Staff believes the limitation on expansion provided by the proposed condition will minimize any additional impact on the environment.

Public Utilities

This site is served by public water and sewer.

Staff Comments: Staff believes the limitation on expansion provided by the proposed condition will minimize any additional impact on water and sewer.

Transportation

Access to the church is exclusively from Norge Lane. Access onto Richmond Road is prohibited through proffers.

2005 Traffic Counts: 18,770, Richmond Road (between Croaker Road and Lightfoot Road)

2026 Volume Projected: 33,500, Richmond Road (between Croaker Road and Centerville Road), listed in the “watch” category in the 2003 Comprehensive Plan.

Conditions:

- Proposed condition two limits the property to one entrance on Norge Lane.

Staff Comments: Staff believes the limitation on expansion provided by the proposed condition will minimize any additional impact on traffic.

COMPREHENSIVE PLAN

Land Use Map Designation

The site is designated as Low Density Residential by the James City County Comprehensive Plan. Recommended uses include very limited commercial establishments, churches, single family homes, duplexes, and cluster. Churches should be located on collector or arterial roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

Other Considerations

- This project is located along the Richmond Road Community Character Corridor and within the Norge Community Character Area.

Conditions

Proposed condition three protects the 100-foot wide buffer between the facility and Richmond Road. This buffer will sufficiently screen the proposed trailers and any other minor expansions.

Staff Comments: Staff finds the existing facility consistent with the Comprehensive Plan. The conditions proposed should preserve existing buffering and access for the site and minimize any additional impacts caused by minor expansions and/or renovations of the facility.

RECOMMENDATION

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 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 operation of a house of worship and accessory uses thereto. Construction and/or placement of new buildings on the property or additions and renovations to existing structures shall be permitted provided these total expansions do not exceed 4,000 square feet.
2. Only one entrance shall be allowed onto Norge Lane.
3. A minimum 100-foot wide undisturbed buffer, free of structures and paving, shall be maintained along Richmond Road except as provided herein. Lighting, trails, sidewalks, fencing and signs may be located in the buffer with the prior written approval of the Planning Director.
4. The design, building materials, scale and colors of any additions or expansions of the existing church shall be compatible with that of the existing church. The final architectural design of any additions or expansions shall be submitted to and approved by the Planning Director prior to final site plan approval.
5. 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.
6. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

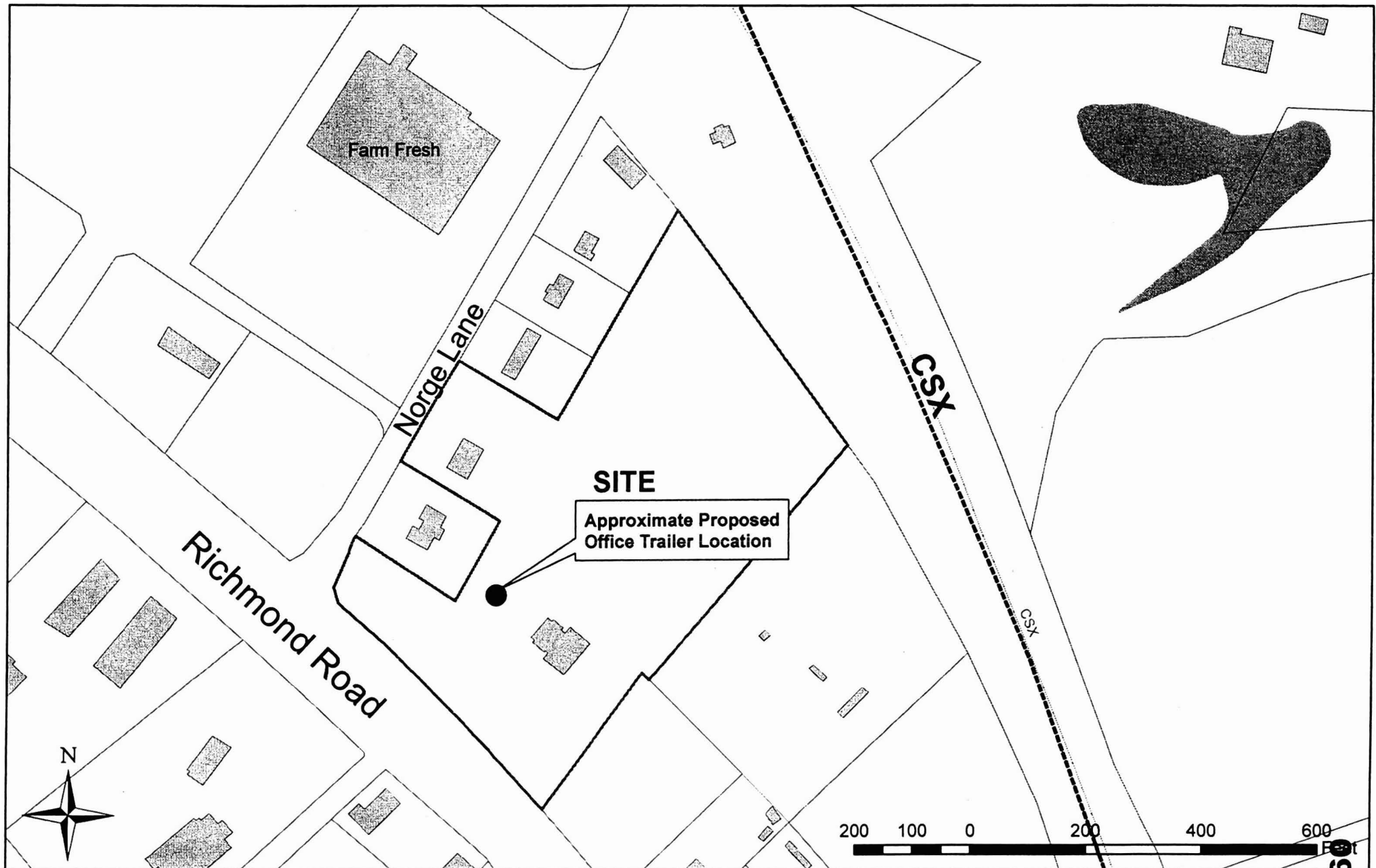
Matthew Arcieri

ATTACHMENTS:

1. Location Map

SUP-30-05

St. Olaf Catholic Church



**REZONING 12-05. Moss Creek Commerce Center (Toano Business Center)
Staff Report for the December 5, 2005, Board of Supervisors 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 (deferred)

October 3, 2005 (deferred)

November 7, 2005 (deferred)

December 5, 2005

Board of Supervisors:

January 10, 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

At the time of this staff report, comments from VDOT on the applicant's revised traffic study had not been received. Based on this, staff recommends deferral of this case, until all agency comments have been received.

Staff Contact: Ellen Cook

Phone: 253-6685

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

PROJECT DESCRIPTION

Mr. Vernon Geddy III has submitted an application on behalf of Michael C. Brown/Toano Business Center L.L.C. to rezone approximately 21.23 acres of land at 9686 and 9690 Old Stage Road from A-1, General Agricultural, to MU, Mixed Use, with proffers, for the development of: 3,575 square foot bank with drive-thru lanes; 4,725 square foot convenience store with fueling stations; a mini-storage facility; 34,630 square feet of retail; and 54,000 square feet of office/warehouse. No residential units are proposed.

The site of the proposed development is currently primarily cleared land with trees along most of the perimeter and several existing structures (which would be demolished). The parcel is located approximately 3,000 feet from the I-64 Barhamsville interchange, and is at the intersection of Route 30 and Fieldstone Parkway, one of the primary entrances into the Stonehouse Planned Unit Development (PUD) community. The parcel directly to the east is within the Stonehouse PUD, and has a “G” or “Office” designation under the approved 1999 Master Plan. The small parcel directly to the south (between the proposed development and Fieldstone Parkway) is owned by The Association at Stonehouse, Inc. and used as space for an entrance feature and landscaping. The land directly across Fieldstone Parkway is designated for Recreation by the 1999 Stonehouse Master Plan. To the north of the parcel are agricultural and single family residential uses, with the parcel directly adjacent zoned A-1; designated Rural Lands by the Comprehensive Plan; and currently within the Barnes Swamp Agricultural and Forestal District (AFD). Land to the west (between Route 30 and I-64) is also currently in single family and agricultural and forestal uses. The land directly across Route 30 is zoned B-1, General Business and designated Mixed Use and Low Density Residential: portions of this land are also currently within the Barnes Swamp AFD.

PUBLIC IMPACTS

Archaeology

Proffers:

- Standard language from the Board of Supervisors Archaeological Policy (Proffer #6).

Staff Comments: The applicant has submitted a Phase I evaluation of this parcel which found that two sites, a tavern/ordinary and the historic Williamsburg Stage Road, were potentially eligible for inclusion in the National Register of Historic Places. The Virginia Department of Historic Resources has reviewed the Phase I study and recommended either avoidance of these sites or completion of a Phase II study. The applicant has indicated that they will be undertaking a Phase II study.

Environmental

Watershed: Ware Creek

Proffers:

- A Master Stormwater Management Plan as part of the site plan submittal for the Property (Proffer #8).

Staff Comments: Environmental Staff has noted minor technical comments to be addressed during the site plan development stage.

Public Utilities

This site is served by public water and sewer.

Proffers:

- Standard water conservation language (Proffer #1).

Staff Comments: JCSA Staff has noted minor technical comments that can be addressed during the site plan development stage.

Transportation

The Master Plan proposes the primary entrance to be on Route 30, approximately 400 feet from the Route 30-Barnes Road intersection, and approximately 900 feet from the Route 30-Fieldstone Parkway

intersection. A second entrance from Fieldstone Parkway is conceptually shown; as this parcel is not owned by the applicant, any future connection(s) to the parcel from a Fieldstone Parkway entrance would require coordination with an adjacent property owner. The estimated net trips generated by this development are as shown in the table below.

Average Daily Trips (NET)	A.M. Peak (NET)		P.M. Peak (NET)	
5,618	Enter	Exit	Enter	Exit
	180	112	249	290

2005 Traffic Counts: VDOT counts for the section of Route 30 between the New Kent County line and I-64 showed a two way daily volume of 7,540 in 2004. The same count in 2001 was 6,954, for an increase of 8 percent over the three years.

2026 Volume Projected: For the section of Route 30 between Route 601 (Barnes Road) and I-64, the 2026 projected volume is 17,000. The Comprehensive Plan lists the daily capacity for a four lane road as 30,000 vehicles. This section of roadway is listed in the 2026 Transportation Projections as “OK”.

Road Improvements: A series of road improvements are recommended in the traffic study as follows:

- Right and left turn lanes at the main entrance on Route 30.
- If only the entrance on Route 30 were constructed: Signalization at the main entrance and at the Fieldstone/Route 30 intersection after confirmation that signal warrants have been exceeded.
- If both entrances were constructed: A left turn at the entrance on Fieldstone Parkway; and possible signalization at the Fieldstone Parkway/Route 30 intersection after confirmation that signal warrants have been exceeded.

Proffers: The improvements listed above have been incorporated into the proffers (Proffer #4); with the exception, however, that signalization of the Fieldstone/Route 30 intersection signalization has not been included. While signalization of this intersection is currently included in the Stonehouse PUD proffers, the applicant has not at this time proffered any contribution to address their development’s share of this and/or other road improvements which will become necessary in whole or in part due to the trips generated by this development. In addition to the road improvements listed above, the applicant has shown a shoulder bike lane on the Master Plan, but has not proffered to construct it, nor proffered that it would be constructed to VDOT standards.

VDOT Comments: VDOT comments on the initial submittal of the traffic study stated that they did not concur with the following items: trip generation rates; use of capture trips as stated in the study; trip distribution patterns as indicated in the analysis; and the method in which reductions in background traffic were taken. VDOT further stated that “we cannot determine the appropriateness of the background traffic volumes and growth rates since the Stonehouse data used was not included in this study”. Finally, VDOT provided the following statement: “The study text states this intersection will fall within the transition from four to two lanes; this will not be allowed. The appropriate roadway improvements will have to be installed to safely mitigate the effects of the development. We also recommend the proximity of the access in relation to the existing Fieldstone Parkway access be considered. Allowing access points that do not have the appropriate spacing will contribute to congestion in this area.” Since the time that VDOT generated these comments, staff understands that VDOT and the applicant have met, and the applicant has submitted a revised traffic study to VDOT and the County. At this time, VDOT comments on the revised traffic study have not yet been received.

Staff Comments: Since VDOT comments on the second traffic study have not been received, and since the first set of comments expressed a high level of concern not only with technical elements of the traffic study but with entrance and roadway configurations, staff does not feel that an overall assessment of the project (including the Master Plan and proffers) as proposed is possible at this time. This fact is reflected in staff’s overall recommendation of deferral.

COMPREHENSIVE PLAN

Land Use Map Designation

The proposed development includes two parcels, one of which (the 1.2 acre parcel) is designated Low Density Residential, and the other, which constitutes the majority of the site (20 acres) is designated Mixed Use. Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes. Mixed Use areas such as Lightfoot are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area.

Mixed Use areas require nearby police and fire protection, arterial road access, access to public utilities, large sites, environmental features such as soils and topography suitable for intense development, and proximity or easy access to large population centers. The timing and intensity of commercial development at a particular site are controlled by the maintenance of an acceptable level of service for roads and other public services, the availability and capacity of public utilities, and the resulting mix of uses in a particular area. Master Plans are encouraged to assist in the consideration of mixed use development proposals. The consideration of development proposals in mixed use areas should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of land uses and their development impacts.

The Stonehouse Mixed Use Area is more specifically described in the Comprehensive Plan as follows: "The principle suggested uses are light industrial and office/business park. Commercial uses should be clearly secondary in nature. Commercial developments should be limited in scale, comprise a small percentage of the land area of the overall development, and be oriented towards support services that employees and residents in the Stonehouse Area can utilize. The commercial uses should not be developed in a "strip" commercial fashion, but rather should be internally oriented with limited and shared access to Route 30. Development in the Mixed Use area should also emphasize shared access and parking, consistent treatment for landscaping and architecture, and the preservation of environmental and cultural resources."

Other Considerations

- **Development Standards.**

Development Standards (General Land Use). Development Standards include and suggest that: permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such development can be adequately addressed; minimize the impact of development proposals on overall mobility, especially on major roads by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances; provide for safe, convenient, and inviting bicycle, pedestrian, and greenway connections to adjacent properties and developments in order to minimize impacts and to provide adequate access between residential and nonresidential activity centers.

Development Standards (Commercial and Industrial Use). Development Standards include and suggest that: mitigate objectionable aspects of commercial or industrial uses through an approach including performance standards, buffering and setback regulations; provide landscape areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County; large retail establishments should be an integral and indivisible component of a larger retail and business enterprise, located close to major arterial roads with adequate buffering from, but also strong pedestrian connections to, residential areas...other considerations include combining large establishments with smaller retail merchants and smaller commercial structures in a well designed and coordinated shopping and business center in a manner that visually reduces their bulk, size and scale...a

unified theme of design, materials and facades, along with shared parking, should complement local architecture and aesthetics.

- **Community Character.** The project fronts on Route 30, which is a Community Character Corridor.

Proffers

The applicant has provided proffers addressing the following items:

Architecture. A general architectural proffer has been provided (Proffer #2).

Lighting. A general lighting proffer has been provided (Proffer #5).

Buffer. The applicant has provided a Perimeter Buffer proffer that addresses, in particular, the buffer between the proposed development and the parcel to the north (Proffer #7).

Reserved Right-of-Way. The applicant has proffered reserved right-of-way for possible future connections to the adjacent parcel (Proffer #9).

Paths. The applicant has proffered a mulch trail along the Route 30 frontage and a hard surface trail along Fieldstone Parkway if approved by the DRC (Proffer #10).

Staff Comments: The Stonehouse Mixed Use area is the largest mixed use area within the County, with land that includes both the Planned Unit Development-Commercial zoning in Stonehouse, and land surrounding the north-west, south-west and south-east quadrants of the Barhamsville interchange. The principle suggested uses for the entire mixed use area are light industrial and office/business park, with commercial as a clearly secondary use that is limited in scale and comprises a small percentage of the land area of the overall development. The development proposal for Moss Creek Commerce Center is clearly primarily commercial in nature, with office/warehouse as the secondary use. Within the context of the whole Mixed Use area, however, this parcel would constitute a fairly small percentage of the millions of square feet of light industrial, office/business park, and commercial possible either under currently approved existing Master Plans or due to existing B-1 zoning. The Comprehensive Plan also states that commercial development should be oriented toward support services that employees and residents in the Stonehouse Area can utilize: this proposal is clearly designed toward that end.

As for the last two sentences of the land use designation description and the Development Standards, staff finds that while the applicant has addressed some aspects through the Master Plan and Proffers (as listed above), several concerns remain:

- While currently shown as internally oriented with one shared access onto Route 30, the Comprehensive Plan suggests that ideally this parcel would be master planned with adjacent parcels to minimize traffic concerns and create an integrated development pattern.
- There are currently no provisions through the Master Plan or Proffers for shared parking.
- While the development meets the minimum ordinance requirements for open space, the zoning ordinance standard of “usable open space linked by pedestrian walkways” has not been fully met.
- While the proposed Master Plan provides for a mix of uses on site, these uses are currently not integrated: each use would have separate access and parking lots. Staff recognizes that some uses, such as the mini-storage facility, would need to be somewhat separated, but based on the other proposed uses, opportunities for integration into would appear to exist.
- While architecture and lighting proffers are currently provided, they are general in nature. The architectural proffer states that “the buildings on the Property shall be of harmonious and/or uniform architectural design and color” but no conceptual elevations have been provided, and the proffer states that “it is not the intent of this Proffer to require any particular architectural style.” Note that should this development be approved, all uses on site would be exempt from the commercial Special Use Permit provisions of the zoning ordinance.

Overall, without full agency comments, staff is not able at this time to fully assess this project’s status with regard to meeting Comprehensive Plan objectives.

RECOMMENDATION

At the time of this staff report, comments from VDOT on the applicant's revised traffic study had not been received. Based on this, staff recommends deferral of this case, until all agency comments have been received.

Ellen Cook

ATTACHMENTS:

1. Location Map
2. Master Plan (Separate Cover)
3. Proffers

JCC-Z-12-05

Moss Creek Commerce Center



PROFFERS

THESE PROFFERS are made this 28th day of October, 2005 by **TOANO BUSINESS CENTER, LLC**, a Virginia limited liability company (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of those certain parcels or pieces of land located in James City County, Virginia, with addresses of 9686 and 9690 Old Stage Road and being Tax Parcels 0440100034 and 040100004 and being more particularly described on Exhibit A hereto (the "Property").

B. The Property is now zoned A-1. The Owner has applied to rezone the Property from A-1 to MU, with proffers.

C. Owner has submitted to the County a master plan entitled "Master Plan, Sherman Property" prepared by LandMark Design Group and dated September 22, 2004 (the "Master Plan").

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning

Ordinance, Owners agree that they shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Water Conservation. The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Irrigation wells shall only draw water from the Upper Potomac or Aquia Aquifers. The standards shall be approved by the James City Service Authority prior to final site plan approval.

2. Architecture. The buildings on the Property shall be of harmonious and/or uniform architectural design and color scheme as determined by the Director of Planning. Owner shall design the buildings within the Property with varied roof lines, wall articulations, window placements and other features to

reduce the mass and unbroken building lines that may occur in certain standard commercial building designs. All buildings immediately adjacent to Fieldstone Parkway or Old Stage Road shall present a front facade to the road. Owner shall submit to the Director of Planning with each site plan for development within the Property conceptual architectural plans, including architectural elevations, for the buildings and associated structures shown on the site plan for the Director of Planning to review and approve for consistency with this Proffer. Decisions of the Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Final architectural plans shall be consistent with the approved conceptual plans. The goal of this Proffer is to (i) insure the buildings constructed on the Property are of high quality and are compatible with (but not of the same design as) surrounding development and (ii) avoid the mass and unbroken building lines that may occur in certain standard commercial building designs. It is not the intent of this Proffer to require any particular architectural style. Completed buildings shall be consistent with the approved plans. No building on the Property shall exceed thirty-five (35) feet in height.

3. Owners Association. There shall be organized an

owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, open space areas, private streets, sidewalks, and all other common areas under the jurisdiction of each Association, and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

4. Entrances/Turn Lanes. (a) The main entrance to the Property shall be from Old Stage Road in the approximate location shown on the Master Plan. Right and left turn lanes

shall be constructed at the main entrance.

(b) Owner may install a second entrance to the Property from Fieldstone Parkway in the approximate location shown on the Master Plan. If and when this second entrance is installed, a left turn lane from Fieldstone Parkway into the second entrance shall be constructed.

(C) If Owner does not install the second entrance to the Property from Fieldstone Parkway, Owner shall install a traffic signal at the main entrance when and if Virginia Department of Transportation ("VDOT") traffic signal warrants are met. Owner shall conduct a traffic signal warrant study within six months of the issuance of certificates of occupancy for the bank and convenience store shown on the Master Plan and submit the study to the Director of Planning and VDOT for review and approval.

(d) The turn lanes at the main entrance into the Property proffered hereby shall be constructed in accordance with VDOT standards and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any building permit for buildings on the Property. The left turn lane from Fieldstone Parkway into the second entrance into the Property proffered hereby shall be constructed in accordance with VDOT standards and shall be completed or its completion

bonded in form satisfactory to the County Attorney at the time of construction of the second entrance.

5. Lighting. All street light poles on the Property shall not exceed 20 feet in height. All building or canopy mounted external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Director of Planning. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with this Proffer prior to final site plan approval.

6. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall

be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

7. Perimeter Buffer. A combination of preservation of

existing trees, enhanced landscaping (defined as 125% of ordinance requirements, with at least 50% of the trees and shrubs being evergreen) and a low berm shall be provided in the perimeter buffer between the Property and Tax Parcel 0440100001 to create when the landscaping matures an effective buffer between the properties in accordance with a landscaping plan approved by the Director of Planning. The balance of the perimeter buffers shall contain enhanced landscaping in accordance with a landscaping plan approved by the Director of Planning. The buffers shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located on the Property.

8. Environmental Protections. Owner shall submit to the County a master stormwater management plan as a part of the site plan submittal for the Property, including the stormwater management facility generally as shown on the Master Plan and low impact design measures where feasible and appropriate, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the

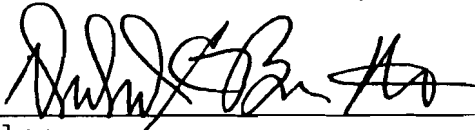
Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

9. Reserved Right of Way. Owner shall reserve the areas shown on the Master Plan as "Reserved Right of Way" for a possible future road connections to the adjacent parcel shown on the Master Plan as Stonehouse at Williamsburg, LLC, Stonehouse Land Bay 1.

10. Paths. If approved by the Development Review Committee as an alternative to construction of sidewalks in accordance with Section 24 - 35(c) of the Zoning Ordinance, Owner shall install a hard surface path along the Fieldstone Parkway frontage of the Property generally in the location shown on the Master Plan and a mulch trail along the Route 30 frontage of the Property in the location of the Stage Road Trace shown on the Master Plan.

WITNESS the following signature.

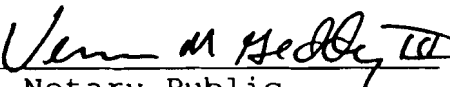
TOANO BUSINESS CENTER, LLC

By: 
Title: _____

STATE OF VIRGINIA

CITY/COUNTY OF JAMES CITY

The foregoing instrument was acknowledged before me this
28th day of ~~August~~ October, 2005, by Michael C. Brown as
Of Toano Business Center, LLC on behalf of the company.


Notary Public

My commission expires: 12/31/09

Exhibit A

Page 11 of 11

PLANNING DIRECTOR'S REPORT

December 2005

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

- Rural Lands Study. The Rural Lands Committee held two committee meetings and its first public workshop. At the November 2nd committee meeting, consultants from Renaissance Planning Group, Paradigm Design, and Herd Planning and Design presented Scenario 2 – Rural Cluster Development and non-clustered development from other localities in Virginia. Information relating to sewer and water options was also presented.

The Rural Lands Committee's first public workshop took place on November 17th at Toano Middle School; approximately 70 citizens attended. The consultants presented information on Scenario 1 and 2 (by-right and rural residential clustering) of the study. Citizens were given an opportunity to voice their opinions and several citizen volunteers presented the information gathered during the breakout sessions to the workshop at-large.

The Rural Lands Committee met on November 30th. Planning Commissioner George Billups was appointed by the Board of Supervisors to serve as a replacement for Ginny Hartmann. The committee reviewed public comments made at the first public workshop, and discussed more in depth various non-cluster development options in preparation for its second public workshop and strategies for gathering public input at the January 12th workshop.

The Rural Lands committee will hold its next committee meeting on December 14th at the James City County Library at 4 p.m., and its second and public workshop on January 12, 2006 at Toano Middle School at 6:30 p.m.

- Historic Triangle Corridor Enhancement Committee. The Committee received a total of 10 enhancement grant applications from businesses and homeowners associations along Jamestown Road. Seven have been approved and staff is working with grant recipients to implement their improvements.
- Toano Subarea Study. The final public input session was held on Wed. Nov 16th at Toano Middle School (approximately 40 people attended). The final steering committee meeting was pushed back from the original November 18th date based primarily on the amount and high quality of public input provided at the November 16th public input session. In order to allow adequate time for the consultant to assemble and review all of the information, the final steering committee meeting has now been scheduled for Wednesday, December 14th at 2 pm in the EOC building. The committee will be presented with a draft of the design guidelines and principals for consideration before advancing them to the January Planning Commission meeting.
- Signal Request. Staff have conveyed the Planning Commission's November 7th, 2005 request to VDOT to evaluate whether a signal is warranted for the Centerville

Road/Longhill Road intersection. Staff will inform the Planning Commission when VDOT's reply is received.

- Adequate Public Facilities Tests/Traffic Studies. In response to several requests made by Planning Commission members at the Commission's November 7th regularly scheduled meeting regarding evaluation of cumulative development impacts on schools, water and roads, staff proposes going to the Commission's Policy Committee in January with a discussion/action session wherein we talk about existing policies and practices, identify challenges and deficiencies, and develop an action plan for consideration by the full Planning Commission. Staff intends to introduce this proposal at the December Commission meeting.
- Training Staff recently attended two meetings coordinated by the local chapter of the Urban Land Institute. On October 26th select staff heard Portsmouth City Manager (and former James City County County Manager) Jim Oliver talk about a vision for the future of Hampton Roads and on December 1st staff attended a session entitled Eminent Domain: The Legal, Political, and Economic Development Variables.

Staff will be requesting a meeting with the Planning Commission Leadership in January to discuss designing a teambuilding strategy which includes Planning Commission members and planning staff. We hope to conduct the teambuilding session(s) early next year.

O. Marvin Sowers, Jr.