

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
JANUARY 9, 2006 - 7:00 p.m.

1. ROLL CALL
2. MINUTES
  - A. November 7, 2005 Regular Meeting
  - B. December 5, 2005 Regular Meeting
3. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC) Report
  - B. Other Committee Reports
4. PLANNING COMMISSION CONSIDERATION
  - A. Toano Community Character Area Study Design Guidelines
  - B. Initiating Resolution – Zoning Ordinance Amendment Curb & Gutter
  - C. Initiating Resolution – Zoning Ordinance Amendment Athletic Field Lighting
5. PUBLIC HEARINGS
  - A. Z-13-05 Village at Toano
  - B. Z-12-05 Moss Creek Commerce Center (Toano Business Center)
  - 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. Z-10-04 112 Ingram Road
  - G. ZO-6-05 Zoning Ordinance Amendment – Retail Gardening Supplies
  - H. Z-7-05/MP-5-05 Jamestown Retreat
  - I. Z-17-05/MP-14-05 Greensprings MP Amendment
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 2<sup>nd</sup> 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 27<sup>th</sup> 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 on 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 these cases until December 5. 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 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 roads based on already approved development 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. Z-6-05/MP-4-05 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 and 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 high school 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, and stated that recreational facilities should be shared between the School Board and Parks and Recreation.

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 and that the amount of land was insufficient. 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 stated that core facilities like the cafeteria and library should be shared. 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 additional multi-purpose fields 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 and athletic facilities were 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 these areas.

Ms. Vaughan Rinner, 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. Rinner 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 active recreation areas, the size of the playground, amount of the cash proffers, and its fit with Toano's character.

Ms. Rinner said there would be outdoor 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 the applicant to consider 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, the buffer's adequacy, and the project's fit in the Toano community.

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 Toano 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 it provided a good transition. 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 believes 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 the attic space would not be occupied.

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 has denigrated wetlands on the site and how this proposal would further impact them.

Mr. Schmerfeld said that he did not know but felt that it should be reviewed by a hydrologist.

Mr. Kale asked Mr. Schmerfeld if he was concerned whether a typical BMP would 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 to abide by 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 and expressed concerns about buffer width, traffic and Powhatan Creek.

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 but stated that the current zoning was more consistent with the surround area. He said he preferred neighborhood commercial on the front and low density residential on the rear.

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 the intersection of Centerville and Longhill Roads. He said he has made aware of concern that the increased development in the area has increased the likelihood of an accident occurring.

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. He said that since it was provided by the County in response to an FOIA (Freedom of Information Act) for one of the Commissioners he would like for staff to make it available within the next 48 hours.

Mr. Kinsman said the document was lengthy and offered to make it available by other means.

Mr. Kinsman and Mr. Kale discussed different methods of delivering the document. Mr. Kale said it was imperative that all the members got a chance to exam every element of every page.

Mr. Kennedy talked about his reasons for requesting copies of the aforementioned emails. He said he asked a simple question pertaining to the Rural Lands and Toano Area Study. He stated that he had asked about the disbanding of the prior Rural Lands Committee that was appointed in 2000. He said he asked how the new committees were formed and that he was told was by staff that they would need to get back to him. He said he was content with that answer and waited a couple of weeks. Mr. Kennedy stated that although he appreciated and accepted Mr. Sowers' apology on TV and in a room full of people that he did not find his internal email as being playful. Mr. Kennedy said that an email dated September 2004 showed that the Rural Lands committee was being discussed. He said Mr. Davis was a recipient of an email from former Assistant County Attorney Mr. Michael Drewry which listed quite a few different people. He said he appreciated the efforts of staff to have a diverse group of people but that what he did not expect to find in the emails were some of the statements that were attached to them. Mr. Kennedy stated that he took great pride in what he does with the Planning Commission and in the fellow commissioners he serves with. He said he was very disappointed that there were comments made in the emails to keep Planning Commissioners off those committees and that those statements were made in July a full three months before he asked his question and that they were carbon copied to several of the people now in the room. He said that what concerned him with that was that it was a calculated effort for a matter of months. He stated that he was fine with the fact that the Supervisors and Board members who were involved with those emails may have made some choices but that he merely asked a question and had it been answered he would not have filed a FOIA (Freedom of Information Act) request. He said that he had not wanted to do one. Mr. Kennedy said he didn't appreciate comments in those emails about the Commission, the Board of Supervisors and citizens. He stated that he had devoted much of his time and resources to serving this community in the 20 years he's been here. He said that Planning Commissioners volunteer to better the community. He also said that what he didn't know in Mr. Sowers' apology whether staff was sorry for what was said or sorry they were caught. Mr. Kennedy went on to say that he did appreciate Mr. Davis' comment that there were no minorities appointed and that Mr. Davis was somewhat concerned. He said what concerned him was that no one took the time to reply back to Mr. Davis. Mr. Kennedy encouraged the Board of Supervisors to stop the proceedings on these two committees and re-evaluate them. He stated that he was not suggesting that they should replace good people but perhaps add a couple so that the committees are more reflective of the community through race, gender and other areas. Mr. Kennedy said that not all of the rural lands in this area are located in Toano and that there were many people who asked to serve on these committees repeatedly and were denied. He also said he felt personally insulted when he learned that the

Chairman of the Board of Supervisors and Planning Commissioners had been insulted. He stated that he hoped that both groups could work through this but that his first intention after reading those emails was to resign but that if he quit staff wins and he's never quit and he won't quit now.

Mr. Fraley said that work should be done to repair relationships between staff and Planning Commissioners and that it was not clear whether that was going to be a quick or easy task. He stated that he was very disappointed with senior staff and felt he was personally insulted as well as the Planning Commission as a whole. Mr. Fraley suggested that senior staff ask commissioners their opinion of how they perform their jobs. He said if asked he promised to do it in the open and to speak to them directly and not behind their backs.

Mr. Kale stated that what bothered him was the culture he believes pervades planning in the county. He said that if this had been the only incident he would say okay we have an apology, we've made our statements, let's go. He said that it is his fervent belief that this is the tip of the iceberg. He stated that he believes that senior planning staff has a culture in which they look down upon the Planning Commission and work with it only because they have to and if they had their druthers they would get rid of them. He said this was based on his experiences with staff and that there are citizens who have had similar experiences. He stated that he found it unconscionable that a project that was approved by the Commission and the Board took 17 months to get approval for construction. Mr. Kale stated that because staff had taken a position that was contrary to the Commission and the Board that staff would not allow the person get their permit. He said the person kept coming back month after month and that staff would add an item to it and when the applicant did what they were told another item would be added. Mr. Kale stated if staff can't lay out the seven objections they have and give a property owner a chance to comply then staff didn't know their job. He also said that he could cite four or five examples of that and that he thinks it's wrong. He said he has expressed that to Mr. Sowers before and thinks it's terrible the way some citizens are treated and that now he sees how they treat him. Mr. Kale responded to Mr. Kennedy's assertion that staff was disappointed that they got caught. He also stated that if staff didn't like him they should tell him. He said he didn't care how staff liked him and that he didn't care if they liked his colleagues but that he did care that they are doing the best job that they can for the community because that's the only reason he volunteered for this job. Mr. Kale said Planning Commissioners give an awful amount of time and that the satisfaction they get is what they generate among themselves. He said that extreme disappointment was his reaction when he saw the article on Saturday. He stated that he wasn't surprised but he was disappointed. He also stated that he might request that the Commission meet an hour earlier in December in a closed session to discuss personnel if upon reading all of the paperwork he feels any stronger. Mr. Kale said that work needs to be done in house to set a new atmosphere for the relationship between staff and the Commission and between staff and the supervisors.

7.                    ADJOURNMENT

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

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Donald Hunt, Chairman

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O. Marvin Sowers, Jr., Secretary

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF DECEMBER, 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.

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| 1. | <u>ROLL CALL</u><br>Jack Fraley<br>Don Hunt<br>Mary Jones<br>George Billups<br>Shereen Hughes<br>Wilford Kale | <u>ALSO PRESENT</u><br>Mr. John Horne, Development Manager<br>Marvin Sowers, Planning Director<br>Adam Kinsman, Assistant County Attorney<br>Matthew Arcieri, Senior Planner<br>Ellen Cook, Senior Planner<br>Joel Almquist, Planner<br>Toya Ricks, Administrative Services Coordinator |
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2. MINUTES

A. NOVEMBER 7, 2005 REGULAR MEETING

Mr. Kale stated that pages 14 and 15 of the minutes did not reflect all that was discussed relative to issues with staff. He motioned to defer action on the minutes until the January meeting to confer with staff on appropriate changes/corrections.

Mr. Fraley seconded the motion.

In a unanimous voice vote the minutes were deferred (6-0). (Kennedy Absent)

3. COMMITTEE AND COMMISSION REPORTS

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley presented the report. He requested the Planning Commission consider the report of November 30<sup>th</sup> meeting in two parts. The first part consisted of recommendations on five cases. A subdivision plan for Wellington Sections 6 and 7; a site plan for Warhill Stadium, a site plan amendment permitting two entrances at the Massey Materials storage area, and a setback modification request for Langley Federal Credit Union were recommended for approval subject to agency comments. The fifth case, a subdivision plan for Stonehouse Land Bay 31, was deferred at the applicants' request to resolve outstanding issues including consistency with the approved master plan.

Mr. Kale motioned to approve the first part of the DRC report.

Ms. Jones seconded the motion.

In a unanimous voice vote the report was approved (6-0). (Kennedy Absent)

Mr. Fraley stated that the second part of the report dealt with the Marywood subdivision. He confirmed with Mr. Hunt that Ms. Hughes wished to make a statement before the report was presented.

Ms. Hughes read a statement recusing herself from voting on the Marywood case. She stated her involvement as a community representative during the past year during meetings with James City County, Virginia Department of Environmental Quality, and U.S. Army Corps of Engineers in efforts to limit environmental impacts of the project as well as her plans to continue to do so as her reasons.

Mr. Fraley said that an alternative plan had been submitted for the Marywood subdivision. He summarized the differences between that plan and the one originally submitted and the status of each. Mr. Fraley said the committee voted 3 to 1 to recommend approval of the alternative plan pending agency comments.

Ms. Jones thanked the DRC for their diligent work on the project which she said resulted in a better project.

Mr. Kale thanked Mr. Greg Davis who represented the project's developer, Centex Homes, and Mr. Fraley for their efforts in improving the project. He said he still has concerns about traffic and the safety of pedestrians and cyclists, and felt the traffic study should have been expanded to include the interior streets of the existing communities.

Mr. Billups agreed with Ms. Jones and Mr. Kale on the work that had gone into improving the plan. However; he noted that most of the other homes are on 1 acre parcels and this project proposed ½ acre lots. He also said he would like to see a further reduction in the number of houses to reduce impacts on the environment including wetlands and traffic.

Mr. Fraley said that although not perfect the project exceeded all minimum standards. He said alternative access points were studied but none were thought to be practical. Mr. Fraley also said the project originally proposed lots of one-third of an acre. He said the committee requested the lots be widened to one-half of an acre, which is constant with the surrounding community, and the applicant agreed. Mr. Fraley also stated his concerns about traffic. He said he did not believe the process used in the County is modern. He also said that he thought the County needed an in-house traffic consultant because Virginia Department of Transportation (VDOT) only examined traffic considerations at major intersections and only responded to the traffic studies presented to them by developers and does not make any alternative suggestions. Mr. Fraley also stated his intent to pursue this issue next year as a Planning Commissioner in addition to working to strengthen the County ordinances particularly the residential sections.

Mr. Hunt thanked Mr. Fraley for the extraordinary time and effort he had invested in making the project better. He agreed with Mr. Fraley that it was not perfect but he felt it was just and fair.

Mr. Fraley motioned to approve the alternative Marywood subdivision report.

In a voice vote the Marywood report was approved 3-2. AYE (3): Fraley, Jones, Hunt; NAY (2): Kale, Billups. (Kennedy Absent; Hughes Abstained)

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-13-05/MP-10-04/SUP-31-05 Monticello at Powhatan North
- E. Z-16-05/MP-13-05 New Town Sec. 9 Settler's Market

Mr. Hunt stated that the applicants for cases 4A-4E requested deferral of those cases until the January meeting.

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. Mr. Poole said the proposed rezoning will increase housing density and that historical data shows that in James City County density increases do not provide any benefits to citizens. He said this was due to school over-crowding, over- taxing of police and fire services, stress on infrastructure, and traffic congestions. Mr. Poole urged the Commission to continue to look for ways to evaluate projects based on the cumulative impacts of previously approved cases. He said that population and housing estimates he found on the County's website were under-projected when compared to the number of building permits issued which he said results in a lack of adequate services.

Ms. Jones thanked Mr. Poole for his comments. She informed him that the Policy Committee met with Planning staff earlier that evening and requested that staff provide the Commission with cumulative data regarding schools, transportation, and water due to already approved developments.

Mr. Sowers said that the number Certificates of Occupancy (CO) issued provided a better assessment than building permits issued. He offered to meet with Mr. Poole to explain in more detail. Mr. Sowers also said that the County population estimates have varied from the U.S. Census by less than 1%.

Mr. Kale requested Staff provide the number of COs issued for 2001, 2002, and 2003 at the next meeting.

Hearing no other requests; the public hearings were continued.

F. AFD-1-89 Armistead 2006 Renewal

Mr. Matthew Arcieri presented the staff report. Last reviewed in 2002, the existing 311.83 acre Armistead Agricultural and Forestal District (AFD) must now be reviewed, according to State Code, prior to continuance of the AFD. The four-parcel District is generally located between Longhill Road and Centerville Road, bounded by the Forest Glen, Longhill Station, Adam's Hunt and Fox Ridge subdivisions. The properties are further identified as Parcel No. (1-1) on JCC Tax Map No. (31-4); Parcel No. (1-29) on JCC Tax Map No. (31-3); and Parcel Nos. (1-14) and (1-17) on JCC Tax Map No. (31-2). The district includes all the land on the above properties with the exception of all land within 25 feet of the road right-of-way of Centerville Rd. (Rt. 614) and all land within 45 feet of the road right-of-way of Longhill Rd. (Rt. 612) to allow for possible road improvements. The properties are zoned R-8, Rural Residential, and A-1, General Agricultural and designated Low Density Residential on the Comprehensive Plan Land Use Map. Staff recommended that the district be re-established for an additional 4 years and 10 months. The additional 10 months is a one-time addition in order to allow the County to synchronize the terms of all districts so that they all will expire in the same month in 2010. On November 29<sup>th</sup> the AFD Advisory Committee recommended renewal by a vote of 9-0.

Mr. Hunt opened the public hearing.

Hearing no requests; the public hearing was closed.

Mr. Fraley motioned to recommend approval.

Ms. Jones seconded the motion.

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

G. AFD-1-93 Williamsburg Farms 2006 Renewal

Mr. Matthew Arcieri presented the staff report. Last reviewed in 2002, the existing 219.30-acre Williamsburg Farms Agricultural and Forestal District (AFD) must now be reviewed, according to State Code, prior to continuance of the AFD. The two-parcel District is generally located east of Lake Powell Road, south of the Williamsburg-Jamestown Airport, and adjacent to The Vineyards at Jockey's Neck subdivision. The properties are further identified as Parcel Nos. (1-10) and (1-12) on JCC Tax Map No. (48-4). The district includes all the land on the above properties with the exception of all land within 25 feet of the road right-of-way of Lake Powell Rd. (Rt. 618) to allow for possible road improvements. The properties are zoned R-8, Rural Residential, and R-1, Limited Residential and designated Low Density Residential on the Comprehensive Plan Land Use Map. As part of the 2006 renewal staff worked with the Williamsburg Winery to re-draw 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. This revised district excludes Gabriel Archer Tavern and Wedmore Place Inn which are commercial uses. Staff recommended the district be renewed for an



additional 4 years and 10 months. The additional 10 months is a one-time addition in order to allow the County to synchronize the terms of all Districts so that they all will expire in the same month in 2010. On November 29<sup>th</sup> the AFD Advisory Committee recommended renewal by a vote of 9-0.

Mr. Hunt opened the public hearing.

Mr. Kale asked if the Winery was adding some of its own land to the AFD.

Mr. Arcieri said the Winery had previously withdrawn 75 acres, which is according to policy, but only used approximately 12 acres to establish 4 residential lots and are now returning the balance to the AFD.

Mr. Kale asked if the owner had forfeited any money in that trade off.

Mr. Arcieri said he would have to consult with the Commissioner of Revenue to find out.

Mr. Horne said that typical there is a rollback tax of the differential taxes for the previous 5 years. He assumed a rollback tax would have been paid at the time of the withdrawal.

Mr. Kale said the preference is that land not be withdrawn rather than have it withdrawn and then returned.

Mr. Arcieri explained that at that time the AFD Advisory Committee wanted to comply with the Board's policy with the understanding that the AFD was coming up for renewal.

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

Ms. Jones motioned to recommend approval.

Mr. Fraley seconded the motion.

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

H. ZO-9-05 Zoning Ordinance Amendment – Appeals for the Board of Zoning Appeals

Mr. Adam Kinsman presented the staff report on the 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, Sections 24-666, Petition for certiorari to review decision of board, to state that a petition to review a decision of the Board of Zoning Appeals must be filed within 30 days after the final decision of the Board. Staff recommended approval.

Mr. Hunt opened the public hearing.

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

Mr. Kale motioned to recommend approval of the amendment.

Mr. Jones seconded the motion.

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

I. ZO-6-05 Zoning Ordinance Amendment – Retail Gardening Supplies

Mr. Kale said the text outlining the proposed changes that were included in the Planning Commission packets was not legible. He asked to have the proposed language read out loud.

Mr. Joel Almquist read the proposed changes and presented the staff report to amend and reordain Chapter 24, Zoning, of the Code of the County of James City Virginia, by amending Article V, Districts, Division 2, General Agriculture District, A-1, Sections 24-212 or 24-213, Permitted uses and uses permitted by special use permit only, to allow facilities for the retail sales of gardening supplies in the General Agriculture Zoning District upon the issuance of a special use permit by the Board of Supervisors. Staff recommended approval.

Mr. Billups asked if the definition of gardening supplies conformed to what had been discussed last month. He also asked for an explanation of how this definition differed from those in other zoning districts.

Mr. Almquist said that currently only items grown on site can be sold. He explained that this amendment would also allow the sell of items grown off site.

Mr. Billups and Ms. Jones discussed their thoughts about the Policy Committee's intent. Ms. Jones stated that perhaps the initial intent had become too complicated.

Ms. Hughes said Commissioners asked staff to provide a definition of garden supply centers to make sure such centers wouldn't morph into something like Home Depot or Lowe's. She said the question was whether the definition was complimentary to the A-1 District and if it served the objective.

Ms. Jones said she wondered if the definition should have stopped with just plants.

Mr. Billups agreed with Ms. Jones saying the definition was too broad.

Ms. Jones suggested garden supply sales should be deleted.

Mr. Kale said that since the Policy Committee requested the definition that perhaps that committee should review it prior to it being considered by the full Commission.

Mr. Fraley said the proposal was initiated by a citizen's request. He said that request specifically asked for the allowance of plants and garden supplies. Mr. Fraley also agreed with Mr. Kale that a procedural error had been made.

Mr. Fraley motioned to refer the proposal to the Policy Committee for review.

Mr. Kale seconded the motion.

Mr. Billups said that a definition had been agreed to last week that was not as broad. He said the Policy Committee would accept the referral.

In a unanimous voice vote the proposal was referred back to the Policy Committee for review (6-0). (Kennedy Absent)

J. SUP-30-05. St. Olaf Catholic Church

Mr. Matthew Arcieri presented the staff report stating that Mr. Peter Margan has applied for a Special Use Permit for the parcel located at 104 Norge Lane, which is currently zoned R-8, Rural Residential, with Proffers in order to bring the existing church facility into conformance with the current zoning ordinance. The property is also known as parcel (1-16) on the JCC Tax Map (23-2). The Special Use Permit application is necessary to allow the church to complete minor expansions and renovations which are currently prohibited since the use is non-conforming. 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 housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits.

Mr. Kale noted that according to the staff report St. Olaf is in the process of relocating to a new site. He asked if the Special Use Permit (SUP) should be issued for a specified length of time.

Mr. Sowers stated that SUPs are usually issued for an indefinite period unless there is a reason to monitor for conditions that might have changed.

Mr. Kale asked if the SUP would transfer with future sales of the property until such time it was deemed that they were not conforming.

Mr. Sowers said it would run with the land until it is changed by the Board of Supervisors.

Ms. Hughes stated that the buffer area was mainly tall pine trees and that one can see pretty the area where the trailers would be located. She said she was also concerned with the idea that the SUP would convey if the property was sold particularly since it is located in a Community Character Corridor.

Mr. Arcieri stated that staff could propose adding a condition that put a time period on the placement of the trailers for three to five years. He said that in prior discussions the applicant indicated that this would be acceptable.

Ms. Jones asked if that would change upon the transfer of ownership.

Mr. Arcieri said the condition would allow the trailers for three years. He said after that the trailers would have to be removed regardless of plans for the site.

Mr. Kale said that it seemed to be appropriate to add a time limit and that if St. Olaf had not made their transaction by then that they could renew the SUP. He said the area is a Community Character Corridor and in the transformation process. Mr. Kale also said he had problems with trailers being located there but he wants to help the church solve their problem.

Mr. Sowers said it would not be unusual to place a time limit on trailers specifically and not prevent the building addition.

Mr. Hunt asked if St. Olaf has indicated how they will dispose of the property once they have relocated.

Mr. Arcieri said they had not indicated the ultimate use of the property.

Mr. Fraley stated that he was in favor of placing a time restriction on the SUP. He also asked for comments on initiatives for properly buffering the site.

Mr. Arcieri said that since the trailers were semi-permanent structures, staff could look into landscaping. He stated that staff does not typically recommend substantial landscaping for a trailer but that it could be looked into for this situation.

Ms. Hughes stated that a condition to improve the buffer would be in everyone's best interest.

Mr. Arcieri said that the intention of the original conditions were to preserve the existing buffer. He stated they were looking to keep the trailers out of site. He also said that staff was working with the applicant to prepare the site plan and would work to make sure the trailers were not visible.

Ms. Hughes asked if the site was elevated above Richmond Road.

Mr. Arcieri answered no.

Ms. Hughes said she could clearly see between the church and the office.

Mr. Fraley stated that the intent was to have the trailers outside the buffer. He asked what type of review the site plan would require.

Mr. Arcieri said it would require administrative review.

Mr. Fraley recommended a condition to ensure that the trailers are out of sight or adequately buffered or landscaped.

Mr. Sowers said that a condition requiring DRC approval could be added.

Mr. Fraley recommended a three year time limit on the trailers.

Ms. Jones stated her agreement with the three year limit.

Mr. Hunt opened the public hearing.

Mr. Peter Margan, Chairman of the St. Olaf Building Committee, stated that the intention was to have this as a short term set-up since they were looking to relocate to another property in James City County. He also stated their intention to add a greenery border of Leander or Cypress to block the trailer from the road and to use them temporarily. Mr. Margan said they would meet any obligations the Board requests.

Mr. Kale asked if the applicant was comfortable with the amended conditions.

Mr. Margan said they were going to improve the landscape buffer anyway.

Mr. Hunt commended the applicant on their success.

Hearing no other requests; the public hearing was closed.

Ms. Jones motioned to approve the proposal with amended conditions.

Mr. Billups seconded the motion.

Mr. Fraley asked for a reading of the amended conditions.

Mr. Arcieri said it would be a standard condition for a three year time limit and appropriate screening for the trailers.

Mr. Fraley motioned to accept the proposed language as well.

Ms. Jones seconded the motion.

In a unanimous roll call vote the proposal and amended conditions were recommended for approval (6-0) AYE: Billups, Kale, Hughes, Fraley, Jones, Hunt; NAY: (0). (Kennedy absent)

K. Moss Creek Commerce Center (Toano Business Center)

Ms. Ellen Cook presented the staff report stating that Mr. Vernon Geddy has submitted an application to rezone 21.23 acres of land from A-1, General Agricultural to MU, Mixed Use, with proffers. The applicant proposes 3,575 square feet of bank; 4,725 square feet of convenience store with fueling; 34,630 square feet of retail; 54,000 square feet of office/warehouse space; and a mini-storage facility. The property is located at 9686 and 9690 Old Stage Road, and is further

identified as parcels (1-4), and (1-34) on the JCC Real Estate Tax Map (4-4). The property is designated Low Density Residential and Mixed Use on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential includes single family homes, duplexes, cluster housing, and very limited commercial establishments with a gross density of up to 4 units per acre in developments that offer particular public benefits. Recommended uses on property designated for Mixed Use in the Stonehouse mixed use area include light industrial and office/business park, with commercial uses clearly secondary in nature. VDOT comments on the initial traffic study stated that the agency did not concur with a number of technical items in the study as well as the proposed roadway configuration. Staff recommended deferral of the proposal to allow VDOT to review a recently submitted revised traffic study and resolution of other outstanding issues.

Mr. Hunt opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant. He gave a powerpoint presentation outlining the vision for the project. He said the goal was to provide goods and services to citizens living and working in the Stonehouse area. Mr. Geddy said the applicant was not seeking a decision at this time but requested feedback from Commissioners to facilitate being able to present the case at the next meeting.

Mr. Hunt asked if the applicant saw any impediments to being able to connect to Fieldstone Parkway.

Mr. Geddy said the location was really the only potential access to that land bay of the Stonehouse development. He said that although they could not force the other property owners to allow a connection he thought it would be easy to work out.

Mr. Kale asked about the location of the Stonehouse western boundary.

Mr. Geddy showed the area on the master plan.

Mr. Kale asked whose permission was needed to allow a connection to Fieldstone Parkway.

Mr. Geddy said it would be the owner of the Stonehouse Planned Development.

Mr. Kale asked how much of the vegetation shown in Mr. Geddy's 1<sup>st</sup> photograph would be maintained.

Mr. Geddy said it would all be retained and that a large portion of it is in the VDOT right-of-way.

Mr. Hunt said the prior owner of the parcel in question said that VDOT had purchased the right-of-way some time ago.

Mr. Kale said the buffer would be cut in half should VDOT chose to install a four lanes roadway.

Mr. Geddy agreed that the width would be cut down but said that a minimum 50 foot buffer with enhanced landscaping would be maintained.

Mr. Kale referred to the last page of the staff report identifying staff concerns. He stated that he would like to see responses to those concerns in addition to VDOT comments if a deferral was granted. Mr. Kale also asked for an explanation of the last sentence of the last item regarding an exemption to the commercial special use provision.

Mr. Geddy explained that a project zoned to mixed use with a binding master plan would be exempt from the commercial special use permit ordinance since the entire project would have already gone through the entire process.

Ms. Hughes asked what the height of the buildings would be.

Mr. Geddy said there is a proffered height limit of 35 feet.

Ms. Hughes asked if it was possible to provide architectural renderings with the re-submittal since the project would change the character of the road in that area.

Mr. Geddy said that architectural renderings would be difficult to supply because the buildings had not been designed but that the applicant had proffered that any building fronting on Fieldstone Parkway or Route 30 would present a front façade on those roads.

Ms. Jones stated that she would like to see more flow through the site and more neighborhood commercial and small business and less office/warehouse.

Mr. Fraley said he was concerned that approving a small project within a very large area that would eventually be developed would result in a patchwork effect. He also stated concerns about the flow, the eclectic mix of uses, and his desire for the applicant to share in the cost for road improvements.

Mr. Kale said the mini-storage facility should not be visible from the road or any residences. He also stated his agreement with Ms. Jones' concerns relative to warehouses and the project being in harmony with its surroundings, including providing a healthy, strong buffer and attractive entryway.

Mr. Geddy said the applicant was committed to a high quality development. He said they agreed with the Commission's concerns about the mini-storage facility and said its location within the site had been chosen for those reasons.

Mr. Kale said the buffer at the Busch Corporate Center on Route 60 in front of McLaws Circle provided a better feel in comparison to Kingsmill Shoppes across the street from it where there is no buffer. He also asked Mr. Sowers if the project would require DRC approval during the site plan phase.

Mr. Sowers answered yes.

Mr. Hunt asked Mr. Kale if he thought the Busch Corporate Center buffer was acceptable.

Mr. Kale said it was a more enjoyable setting than having no buffer at all.

Mr. Geddy clarified that there would not be any large scale warehousing but rather small warehouses with offices in front.

Mr. Billups asked if the applicant had received any community input.

Mr. Geddy said the applicant meet with the Board of Director's of the Stonehouse Homeowner's Association.

Mr. Michael Brown, the applicant, said residents wanted to know when construction would start. He said there had been concerns about the architecture that had been addressed. He said he had the same devotion to the architecture of this project as he did with his Jamestown Retreat project.

Mr. Kale asked if the architecture of this project would be as up-scale as Jamestown Retreat.

Mr. Brown answered yes and added that he plans a more low-impact architecture utilizing natural materials and colors such as timber frame, stone and brick. He said he would try to provide renderings at the next meeting.

Mr. Kale said architectural renderings would be helpful to ensure a good fit with the community. He said it would also be helpful to be reminded of what is planned for the adjacent properties.

Hearing no other requests to speak the public hearing was continued.

## 6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the report. He said a worksession with the Board of Supervisors' had been tentatively planned for March. He talked about the Division's up-coming work program including the mid-year budget process. He also said that in response to discussions at last month's meeting about staff relationships with Commissioners that staff suggested holding some type of team building strategy meetings with Planning staff. He said that beginning in January senior staff could meet with members of the Planning Commission perhaps with a third-party facilitator.

Mr. Kale said that before a team building strategy was implemented that Commissioners needed to express their concerns about staff in private. He suggested that the Chairman and/or Vice-Chairman meet over the next 4-6 weeks with individual members to discuss their concerns, then met with Planning leadership to convey those concerns and decide when and if a team



building strategy was appropriate. Mr. Kale also said January was not appropriate since there could possibly be new appointments to the Commission at the end of that month whose opinions should also be included.

Mr. Hunt said he had no objections to taking the approach Mr. Kale suggested.

Mr. Fraley said he would volunteer to meet with members, compile their concerns and then submit that compilation back to members for final review and approval prior to meeting with and submitting them to senior planning staff. Mr. Fraley also asked senior staff do the same thing and submit their concerns to the Commission.

Mr. Kale said he felt this was a serious matter and thanked Mr. Fraley for volunteering his time.

Mr. Billups informed the Commission that the Policy Committee met earlier that evening. He said one of the key items discussed was coordinating the Committee's work sessions with the Capital Improvements Program meetings. Mr. Billups also agreed with Mr. Fraley's suggestion that the mediation process with staff be two-way. He also reminded everyone that the goal was to do what was in the best interest of the County.

7. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 9:00 p.m.

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Donald Hunt, Chairman

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O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY  
DEVELOPMENT REVIEW COMMITTEE REPORT**

**FROM: 12/1/2005 THROUGH: 12/31/2005**

**I. SITE PLANS**

**A. PENDING PRELIMINARY APPROVAL**

SP-067-04	Treyburn Drive Courtesy Review
SP-077-04	George Nice Adjacent Lot SP Amend.
SP-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-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-106-05	New Town Block 5 Dumpster Relocation
SP-107-05	Warhill - Eastern Pond Dam Renovations
SP-108-05	Settlement at Powhatan Creek (Hiden)
SP-112-05	College Creek Water Main
SP-115-05	Farm Fresh Fuel Express
SP-121-05	Shops at Norge Crossing
SP-131-05	Ironbound Square Road Improvements Ph. 1
SP-133-05	Prime Outlets Ph. 6
SP-134-05	Windsor Hall 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-144-05	Jolly Pond Vet Hospital SP Amend.
SP-145-05	New Town, Langley Federal Credit Union
SP-147-05	Warhill - TNCC Site Improvements
SP-148-05	Noland Commercial Site
SP-149-05	Liberty Crossing
SP-150-05	New Town, Block 11 Residential
SP-151-05	Pottery Tower Co-location
SP-153-05	Ironbound Village Parking
SP-154-05	Tewning Road Bio-Diesel Fuel Tank

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SP-155-05	Captain George's Lighting Amendment
SP-156-05	Chickahominy Baptist Building Expansion
SP-157-05	Park Inn Porte Cochere
SP-158-05	New Town, Block 10, Parcel B (McMurrin Bldg)
SP-159-05	New Town Community Building Block 9 Parcel B
SP-160-05	Stonehouse Elementary
SP-161-05	New Town, Block 3, Parcel E (Bldg 900)
SP-162-05	Eaglescliffe Condos
SP-163-05	Busch Gardens Equipment Carport
SP-164-05	Busch Gardens Cold Frame

#### **B. PENDING FINAL APPROVAL**

#### **EXPIRE DATE**

SP-063-03	Warhill Sports Complex, Parking Lot Expansion	7 /12/2006
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-103-05	Colonial Heritage Ph. 4	11/7 /2006
SP-104-05	Powhatan Plantation Maintenance Building	12/21/2006
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-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-135-05	Massie Material Storage SP Amend.	12/5 /2006
SP-142-05	Busch Gardens Market Bldg	12/7 /2006

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

#### **DATE**

SP-093-04	Powhatan Plantation Ph. 9	12/1 /2005
SP-110-04	Christian Life Center Expansion Ph. 1	12/2 /2005

SP-066-05	Warhill Sports Complex Basketball Facility	12/19/2005
SP-105-05	New Town, Block 10, Parcel C	12/9 /2005
SP-124-05	New Town, Block 10 Amend.	12/19/2005
SP-127-05	Wythe-Will Rear Parking Striping Plan	12/2 /2005
SP-130-05	4451 Longhill Road Tower	12/19/2005
SP-132-05	4311 John Tyler Tower Co-location	12/12/2005
SP-146-05	Riverside Medical Canopy Addition	12/6 /2005
SP-152-05	4903 Abbotsford Building Addition	12/13/2005
<b>D. EXPIRED</b>		<b>EXPIRE DATE</b>

## **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-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-059-05	Peleg's Point, Sec. 6
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-083-05	Curry Revocable Trust
S-090-05	Powhatan Secondary Ph. 7C
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-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-113-05	6425 & 6428 Conservancy BLA
S-115-05	5021 John Tyler BLA & BLE
S-117-05	Liberty Ridge
S-120-05	Lakeview Estates Ph. 1

S-121-05 Lakeview Estates Ph. 2

**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 Powhatan Creek (Hidden Tract)	3 /1 /2006
S-037-04	Michelle Point	10/3 /2006
S-059-04	Greensprings West Ph. 6	9 /13/2006
S-075-04	Pocahontas Square	9 /16/2006
S-091-04	Marywood Subdivision	12/5 /2006
S-111-04	Colonial Heritage Ph. 3, Sec. 1	2 /7 /2006
S-112-04	Wellington Sec. 6 & 7	12/5 /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-063-05	John Barry Davidson BLE	7 /6 /2006
S-064-05	Stonehouse Commerce Park, Sec. D, Parcels A & B	7 /21/2006
S-065-05	Argo Subdivision	12/23/2006
S-066-05	8739 Richmond Rd Subdivision	12/23/2006
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-082-05	Fernandez BLA	9 /6 /2006
S-085-05	Haven Landing Ph. 1	12/21/2006
S-086-05	Haven Landing Ph. 2	12/21/2006
S-091-05	Windmill Meadows	10/3 /2006
S-114-05	Colonial Heritage Ph. 1 Sec. 5 Lots 1-30	12/15/2006

**C. FINAL APPROVAL**

**DATE**

S-115-04	Brandon Woods Parkway ROW	12/7 /2005
S-054-05	Williamsburg Landing/Waltrip BLA	12/19/2005
S-057-05	8942 Croaker Road Subdivision Lots 1-2	12/6 /2005
S-103-05	106 Jackson St	12/9 /2005
S-109-05	ROW Conveyance- Zion Baptist Church	12/21/2005
S-110-05	Zion Baptist Church BLE & BLA	12/22/2005
S-112-05	8942 Croaker Road Subdivision, Lots 3-4	12/9 /2005
S-116-05	The Retreat BLE Lots 14 and 15	12/1 /2005
S-118-05	New Town, Block 9, Parcel B Amend.	12/19/2005
S-119-05	Wmbg Winery/Vineyards Lot 78 BLE	12/22/2005
S-122-05	JCC Landfill BLA	12/28/2005

**D. EXPIRED**

**EXPIRE DATE**

## **DEVELOPMENT REVIEW COMMITTEE ACTIONS REPORT MEETING OF JANUARY 4, 2005**

### **Case No. S-105-05      Stonehouse Land Bay 31**

James Brawley of LandMark Design Group has applied on behalf of Fairmont Investments, LLC, for an exception to Section 19-52 of the James City County Subdivision Ordinance to allow cul-de-sac street lengths greater than one thousand feet. Specifically, the applicant proposes a street that is 2,130 feet in length and ends in a cul-de-sac. The property is located at 9600 & 9750 Six Mount Zion Road and can be further identified as parcels (1-1) & (1-3) on James City County tax map (6-3). DRC action is necessary on any ordinance exception and to evaluate consistency with the Stonehouse Master Plan.

**DRC Action:** The DRC deferred the Land Bay 31 cul-de-sac waiver and master plan consistency determination until the February 1, 2006 DRC meeting pending resolution of issues surrounding the storm water master plan.

### **Case No. C-147-05      New Town Shared Parking**

Mr. Larry Salzman of New Town Associates submitted a conceptual plan detailing updates to shared and off-site parking for a DRC quarterly review. The sites under review are identified as sections 2 & 4, blocks 2, 3, 4, 5, 6, 7, 8 and 10 in New Town, further identified as parcel (1-50) on James City County tax map (38-4).

**DRC Action:** The DRC unanimously recommended approval of the January 2006 quarterly update for shared parking in New Town, Section 2&4, Blocks 2,3,5,6,7,8,9&10 as well as continuation of quarterly parking update presentations to the DRC.

### **Case No. SP-141-05      Building Setback Modifications**

Mr. Matthew Smolnik presented a request for building setback modifications to New Town, Section 2 & 4, Blocks 10 & 11 and the Section 3 & 6, Block 14 Design Center. The specific request calls for structural encroachment at these locations into the 50 foot setback required under section 24-527(a) of the James City County Zoning Ordinance. The sites under review can be further identified as parcels (1-50) and (1-57) on respective James City County tax maps (38-4) and (39-1). DRC action is necessary for the setback modification to the 50 foot setback requirement in the mixed use district.

**DRC Action:** The DRC unanimously approved the setback waiver.

### **Case No. SP-150-05      New Town, Block 11 Residential**

Mr. Bob Cosby applied on behalf of AES Consulting Engineers for approval of 43 residential town homes in New Town, Block 11. The site can be further identified as parcel (24-17) on James City County tax map (38-2). DRC action is necessary for any building or group of buildings that exceeds 30,000 square feet.

**DRC Action:** The DRC unanimously granted preliminary approval subject to agency comments.



## MEMORANDUM

**Date:** January 3, 2005  
**To:** The Planning Commission  
**From:** Jason Purse, Planner  
Jose Ribeiro, Planner  
**Subject:** Design Guidelines for the Toano Community Character Area Study

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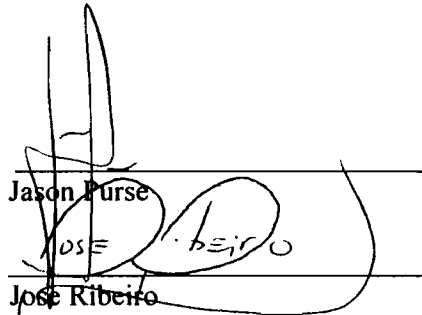
On July 26, 2005, the James City County Board of Supervisors decided to commence the Toano Community Character Area Study to conduct a comprehensive study of the area and develop a set of guiding principles for future development. Subsequently, on September 13, 2005 and October 11, 2005, the James City County Board of Supervisors nominated and appointed the following five citizens to serve as members for the Toano Community Character Area Study Steering Committee:

Fred Boelt  
Gail Hardinge  
Barry Bryant  
Donnah Joyce  
Patricia Rowe

The committee held five meetings, all of which were open to the public. Included were two public workshops that were dedicated to gathering public input while the committee meetings had public comment periods held at the beginning and end of each meeting. At its final meeting on December 14, 2005 the committee unanimously adopted the attached design guidelines for the Toano Community Character Area.

After adoption these guidelines will serve as an amendment to the 2003 Comprehensive Plan and will be fully incorporated into the document in 2008. The guidelines will also be included into a new Toano section of the updated Community Appearance Guide. This framework will be used to evaluate future development within the study area. The principle means of implementing the guidelines will be through the rezoning and special use permit processes rather than through adoption of new County regulations.

Staff recommends the Planning Commission recommend adoption of the attached guidelines to the Board of Supervisors.

  
Jason Purse  
Jose Ribeiro

**Attachments:**

1. Design Guidelines (under separate cover)

# KAUFMAN & CANOLES

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

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

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fax: 757 / 259-3838

*Mailing Address:*  
P.O. Box 6000  
Williamsburg, VA 23188  
  
4801 Courthouse Street  
Suite 300  
Williamsburg, VA 23188

September 29, 2005

## VIA HAND DELIVERY

O. Marvin Sowers, Jr.  
Planning Director  
James City County  
101-A Mounts Bay Rd.  
Williamsburg, VA 23187



**Re: Villa Development, LLC  
Villas at Five Forks  
Proposed Zoning Ordinance Amendment  
Our Matter Number 0084455**

Dear Mr. Sowers:

I am writing to request that the James City County Zoning Ordinance be amended to eliminate the curb and gutter requirement from the Residential Cluster Development overlay district.

In order for a residential cluster development such as the recently approved Villas at Five Forks project to achieve a density of three dwelling units per acre, the developer must provide assurances to the County that the development will adhere to the adopted density standards outlined in Section 24-549 of the Zoning Ordinance. Included in the density standards is a requirement to construct curb and gutter design on all streets within the development. The curb and gutter requirement was included in the SUP conditions adopted by the Board of Supervisors for the Villas at Five Forks project; however, the condition contained a provision that would allow for the condition to be waived if the Zoning Ordinance was amended at a future date to remove the curb and gutter requirement.

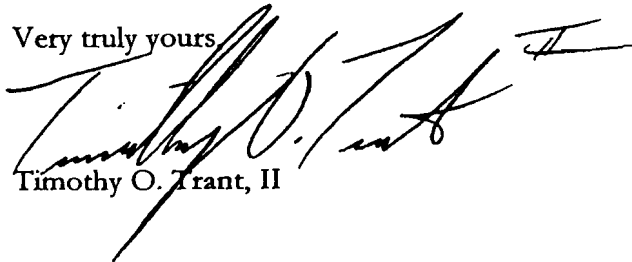
During the public hearings for the Villas at Five Forks rezoning and Special Use Permit applications, members of the Planning Commission and representatives from the citizen groups such as Friends of the Powhatan Creek Watershed and Historic Route 5 Association requested

O. Marvin Sowers, Jr.  
September 29, 2005  
Page 2

that the applicant consider removing curb and gutter design from the project in order to capture stormwater runoff on the site using Low Impact Design measures through infiltration. Villa Development is willing to remove the curb and gutter design in order to allow for a more environmentally conscious development practice on the site. Accordingly, Villa Development requests that the zoning ordinance be amended to eliminate the curb and gutter requirement. This would not preclude the County in the future from recommending curb and gutter design as a condition to Special Use Permits for development proposals when circumstances dictate that such design is appropriate.

Thank you for your review of this request. I look forward to receiving questions and comments from your staff.

Very truly yours

A handwritten signature in black ink, appearing to read "Timothy O. Trant, II", written over the typed name.

Timothy O. Trant, II

TOT/dsg

cc: Cowles M. Spencer (via U.S. mail)  
Sheila Byers (via U.S. mail)  
Gregory R. Davis, Esq. (via hand delivery)  
Christopher M. Johnson (via hand delivery)  
John T. P. Horne (via U.S. mail)  
✓ Allen J. Murphy, Jr. (via U.S. mail)

#6079254 v1

## MEMORANDUM

DATE: January 9, 2005  
TO: The Planning Commission  
FROM: Ellen Cook, Planning  
SUBJECT: Residential Cluster Zoning Ordinance Amendment- Initiating Resolution

---

Staff has received a request to amend the Residential Cluster Zoning District to permit for the inclusion of certain alternatives and/or additional provisions for waiver or modification of the curb and gutter requirements. Staff recommends the Planning Commission adopt the attached resolution to initiate the consideration of amending the zoning ordinance and refer this to the Policy Committee.

---

Ellen Cook

Attachments:

- Initiating Resolution
- Request Letter

## **RESOLUTION**

### **INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE**

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 24-549 [(a)(3)(b) and (b)(1)(e)] of the Zoning Ordinance for the consideration of including certain alternatives and/or additional provisions for waiver or modification of the curb and gutter requirements. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

---

Jack Fraley  
Vice-Chair, Planning Commission

ATTEST:

---

O. Marvin Sowers, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 9<sup>th</sup> Day of January, 2006.

## MEMORANDUM

DATE: January 9, 2006

TO: The Planning Commission

FROM: Matthew Arcieri, Senior Planner

SUBJECT: Athletic Field Lights Zoning Ordinance Amendment- Initiating Resolution

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As part of the Community Sports Stadium project, staff has received a request from James City County Parks and Recreation to amend the Zoning Ordinance to permit athletic field lights with an approved height waiver from the Board of Supervisors. Staff recommends the Planning Commission adopt the attached resolution to initiate the consideration of amending the zoning ordinance for all districts and refer this to the Policy Committee.

---

Matthew Arcieri

Attachments:

- Initiating Resolution

## **RESOLUTION**

### **INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE**

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Sections 24-218, 24-240, 24-261, 24-293, 24-314(j), 24-335, 24-354, 24-375, 24-397, 24-419, 24-444, 24-473, 24-496 and 24-525 of the Zoning Ordinance for the consideration of permitting athletic field lights with an approved height waiver from the Board of Supervisors. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

---

Jack Fraley  
Vice-Chair, Planning Commission

ATTEST:

---

O. Marvin Sowers, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 9<sup>th</sup> Day of January, 2006.

## **REZONING Z-13-05, Village at Toano**

### **Staff Report for January 9, 2006 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)

November 7, 2005 (deferred)

December 5, 2005 (applicant deferral)

January 9, 2006

7:00 p.m.

Board of Supervisors:

March 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  
FAX: (757) 229-5342**

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

**ANDREW M. FRANCK  
RICHARD H. RIZK**

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

**email: vgeddy@ghfhlaw.com**

November 29, 2005

Mr. Jason Purse  
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.

A handwritten signature in dark ink, appearing to read 'Vernon'.

Vernon M. Geddy, III

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

**REZONING 12-05. Moss Creek Commerce Center (Toano Business Center)**  
**Staff Report for the January 9, 2006, Board of Supervisors Public Hearing**

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

---

**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 (deferred)

January 9, 2006

Board of Supervisors:

February 14, 2006 (tentative) 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Mr. Vernon Geddy

Land Owner:

Toano Business Center, L.L.C.

Proposal:

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

Location:

9686 and 9690 Old Stage Road

Tax Map/Parcel Nos.:

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

Parcel Size:

21.23 acres

Existing Zoning:

A-1, General Agricultural District

Proposed Zoning:

MU, Mixed Use, with Proffers

Comprehensive Plan:

Mixed Use and Low Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

The applicant has requested a one month deferral of this case to allow time to address outstanding issues. Staff concurs with the request.

Staff Contact: Ellen Cook

Phone: 253-6685

---

Ellen Cook



## **REZONING 15-05/MASTER PLAN 12-05. Stonehouse Planned Community Amendment Staff Report for the January 9, 2006, 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 (deferred)

January 9, 2006

Board of Supervisors:

February 14, 2006 (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

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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

January 4, 2006

**Via U.S. Mail & Email**

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

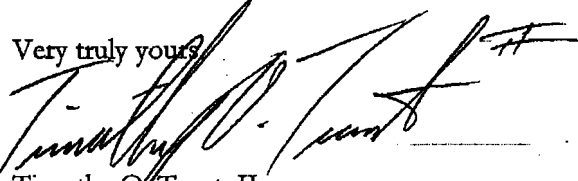
**Re: *Stonehouse Planned Unit Development  
Proposed Land Use Modifications  
James City County Case Numbers Z-11-03 and MP-11-03  
Our Matter No. 100281***

Dear Ellen:

The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on January 9, 2006. The applicant has responded to the various comments received from the James City County Department of Development Management ("Staff"). Given the detailed nature of the Applicant's resubmission, Staff is not likely to have reviewed the materials in time for Staff to present the application at the January 9, 2006 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 January 9, 2006 public hearing. In order to allow Staff more time to consider the application, the applicant does not object to further continuance of the public hearing to the next Planning Commission meeting. Therefore the applicant will not make a presentation nor appear at 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

Ellen Cook  
January 4, 2006  
Page 2

c: Kenneth G. McDermott (via U.S. mail)  
Alvin P. Anderson, Esq. (via hand delivery)  
Gregory R. Davis, Esq. (via hand delivery)  
Christopher M. Johnson (via hand delivery)  
Ronnie Orsborne (via U.S. mail)  
William J. Cashman (via U.S. mail)  
Donald J. Messmer (via U.S. mail)  
Rhea Woloszynski (via hand delivery & U.S. mail)

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**REZONING Z-13-04, Monticello at Powhatan North**  
**Staff Report for January 9, 2006 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.*

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**PUBLIC HEARINGS**

Planning Commission:

**Building F Board Room; County Government Center**

November 7, 2005 (applicant deferral)

December 5, 2005 (applicant deferral)

January 9, 2006

7:00 pm

Board of Supervisors:

February 14, 2006 (tentative)

7:00 pm

**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 February 6, 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

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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

January 3, 2006

## Via U.S. Mail & Email

Joel Almquist  
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 January 9, 2006. 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 January 9, 2006 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 January 9, 2006 meeting. Therefore, the applicant requests that any action on the case by the Planning Commission be deferred until the February 6, 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 January 9, 2006 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:	November 7, 2005	7:00 p.m. (applicant deferral)
Planning Commission:	December 5, 2005	7:00 p.m. (applicant deferral)
Planning Commission:	January 9, 2006	7:00 p.m.
Board of Supervisors:	February 14, 2006	7:00 p.m. (tentative)

**Building F Board Room; County Government Complex**

**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 58.0 acres to MU, Mixed Use, with proffers. If approved, proposed construction includes approximately 401,945 to 426,342 square feet of office and commercial space and approximately 215 to 279 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: 58.0 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

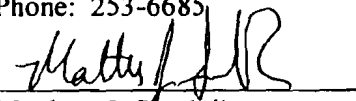
Primary Service Area: Inside

**STAFF RECOMMENDATION**

The applicant has requested that this case be deferred until the February 6, 2006 Planning Commission meeting to continue working on revising 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****TELEPHONE: (757) 220-6500****FAX: (757) 229-5342****VERNON M. GEDDY, JR.  
STEPHEN D. HARRIS  
SHELDON M. FRANCK  
VERNON M. GEDDY, III  
SUSANNA B. HICKMAN****ANDREW M. FRANCK  
RICHARD H. RIZK****MAILING ADDRESS:  
POST OFFICE BOX 379  
WILLIAMSBURG, VIRGINIA 23187-0379****email: [vgeddy@ghflaw.com](mailto:vgeddy@ghflaw.com)****January 3, 2006****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 February 2006 Planning Commission meeting. Thanks for your help.

**Very truly yours,****GEDDY, HARRIS, FRANCK & HICKMAN, LLP****Vernon M. Geddy, III****VMG/ch  
Cc: Mr. John Abernathy**

**REZONING -10-04. 112 Ingram Road**  
**Staff Report for the January 9, 2006, Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:	October 4, 2004	7:00 p.m. (applicant deferral)
Planning Commission:	November 1, 2004	7:00 p.m. (applicant deferral)
Planning Commission:	December 6, 2004	7:00 p.m. (indefinite deferral)
Planning Commission:	January 9, 2006	7:00 p.m.
Board of Supervisors:	February 14, 2006	7:00 p.m. (tentative)

**Building F Board Room; County Government Complex**

**SUMMARY FACTS**

Applicant:	Mr. Scott Evans, Scott Evans Contracting, LLC
Land Owner:	Ms. Marjorie Gray, et al
Proposal:	To rezone 0.37 acres from R-8, Rural Residential, to B-1, General Business, with proffers, for the construction of an approximately 3,900-square foot, four-unit office building.
Location:	112 Ingram Road
Tax Map/Parcel	Parcel (1-23) on tax map (47-1).
Parcel Size	0.37 acres
Proposed Zoning:	B-1, General Business, with proffers
Existing Zoning:	R-8, Rural Residential
Comprehensive Plan:	Mixed Use
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

The applicant has requested that this case be deferred until the February 6, 2006 Planning Commission meeting in order to resolve issues associated with the property ownership. Staff concurs with this request.

Staff Contact: Jose L. Ribeiro

Phone: 253-6685

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Jose L. Ribeiro

**ATTACHMENTS:**

1. Deferral letter from applicant





# Scott Evans Contracting, Inc.

Industrial • Commercial • Residential

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January 3, 2006

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

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

Dear Mr. Ribeiro:

I would like to request a deferral on the submission of our rezoning application until the property closing, or until we receive all signatures on the proffers by the current owner. I hope we will have the issues resolved in the next 60 days.

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

Sincerely,

Scott Evans  
President

## MEMORANDUM

DATE: January 9, 2006

TO: The Planning Commission

FROM: Joel Almquist, Planner

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

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Upon a 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.” *Stores which shall sell a combination of materials used in the process of creating, 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, woodchips, 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.*

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 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 in the A-1 District. 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.



At the December 5, 2005 Planning Commission meeting, staff brought the revised ordinance and definition before the Commission seeking a recommendation of approval of the ordinance amendment to the Board of Supervisors. The Planning Commission referred the matter back to the Policy Committee for further review.

The Planning Commission Policy Committee met on December 29, 2005 to further review the definition of plant and garden supply sales. After reviewing the definition and discussing it with staff, the Policy Committee voted unanimously to recommend approval of the definition of plant and garden supplies and to accept retail plant and garden supply stores as a specially permitted use in the A-1 Zoning District.

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.

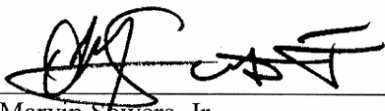
Staff believes that retail sales of plant and garden supplies are appropriate for inclusion in the A-1, General Agriculture, District. If properly designed, these establishments can complement the agricultural character of the land by providing plant and gardening supplies to consumers, while maintaining 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 recommend approval the attached ordinance amendments.

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Joel Almquist

CONCUR:



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O. Marvin Sowers, Jr.

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:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**REZONING-07-05. Jamestown Retreat**  
**MASTER PLAN-05-05. Jamestown Retreat**  
**HEIGHT WAIVER-03-05. Jamestown Retreat**  
**Staff Report for the January 9, 2006 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**

May 2, 2005, 7:00 p.m. (Applicant deferral)

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

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

August 1, 2005, 7:00 p.m. (Applicant deferral)

September 12, 2005, 7:00 p.m. (Applicant deferral)

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

November 7, 2005, 7:00 p.m. (Denied 7-0)

January 9, 2006, 7:00 p.m.

**Board of Supervisors:**

December 13, 2005, 7:00 p.m. (Remanded back to Planning Commission)

February 14, 2006, 7:00 p.m. (Tentative)

**SUMMARY FACTS**

**Applicant:**

Mr. Vernon Geddy, III on behalf of Michael C. Brown Ltd

**Land Owner:**

Edward T. and Mamie Nixon, and Hazel Richardson

**Proposal:**

The applicant has proposed to rezone three parcels of land to R-5, Multi-Family Residential and to construct four 3-story buildings and two 2-story buildings containing a total of 66 age restricted condominium units at a density of 4.0 dwelling units per acre.

**Location:**

1676 & 1678 Jamestown Road and 180 Red Oak Landing

**Tax Map/Parcel Nos.:**

(47-3) (1-36), (47-3) (1-37) and (47-3) (1-39)

**Parcel Size:**

16.5 acres

**Existing Zoning:**

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

**Proposed Zoning:**

R-5, Multi-Family Residential

**Comprehensive Plan:**

Low Density Residential and Conservation Area

**Primary Service Area:**

Inside

### **STAFF RECOMMENDATION**

Staff believes this proposal will negatively impact the surrounding properties. Staff believes the proposed densities do not meet the intention of the Comprehensive Plan with respect to offering particular public benefits (such as affordable housing and retaining natural vegetative buffers around water bodies or wetlands) to achieve a density of 4.0 dwelling units per acre. Based on this information, staff recommends that the Planning Commission recommend denial of this application to the James City County Board of Supervisors.

### **PLANNING COMMISSION RECOMMENDATION**

On November 7, 2005 the Planning Commission voted 7-0 to deny this application.

### **BOARD OF SUPERVISORS RECOMMENDATION**

On December 13, 2005 the Board of Supervisors voted 5-0 to remand this case back to the Planning Commission due to changes made to the Master Plan and proffers after the November 7, 2005 Planning Commission public hearing.

### **Proposed Changes Made After November 7, 2005 Planning Commission Public Hearing**

1. The applicant has increased the proffered buffer along Jamestown Road from 100 feet to 150 feet.
2. The two buildings on the northern end of the property have been relocated closer to the entrance road to increase the distance between the buildings and the wetlands on the east side of the property.
3. One additional Low Impact Development (LID) location has been identified on the Master Plan.
4. The building on the southern end of the property and the Stormwater Management area have been relocated approximately 20 feet to the east to increase the utility of the potential recreation space.

Staff Contact: Matthew J. Smolnik

Phone: 253-6685

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

Cash Proffer Summary (See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$796.00 per lot
<b>Total Amount (2005 dollars)</b>	<b>\$52,536.00</b>

### **PROJECT DESCRIPTION**

Mr. Vernon Geddy, III has applied on behalf of Mr. Michael C. Brown Ltd. to rezone approximately 16.5 acres located at 1676 & 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential to R-5, Multifamily Residential with proffers. If approved, the developer will redevelop the property with four 3-story buildings and two 2-story buildings containing a total of 66 age restricted condominium units for sale, with fourteen three car garages and recreation amenities that will be managed by a community association. There are three properties being consolidated for the proposed rezoning. The two parcels nearest Jamestown Road are currently zoned LB, Limited Business and on these parcels there are currently several occupied mobile homes, a vacant retail store, and a frame house (circa 1933) with several outbuildings. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential and is currently undeveloped. If approved the developer would remove all structures from the property and construct the above mentioned multi-family dwelling units.

In the Community Impact Statement, the applicant has indicated a density for this project of 4.4 dwelling units per acre. This figure was derived from the R-5 section of the Zoning Ordinance, which states that gross density is calculated by dividing the total number of units by the sum of the total developable acreage plus 35 % of the total acreage. However, the Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 4.0 units per acre. This figure of 4.0 is used to compare the density of this development against the low density residential standards of the Comprehensive Plan.

In the Community Impact Statement there is also a brief comparative analysis between the current plans and the Cluster Overlay standards to illustrate how the applicant believes the proposed density has been earned. The applicant is proposing to rezone to R-5, Multifamily Residential without the Cluster Overlay, so the comparison to the Cluster Overlay District is for informational purposes only. Additionally, the Community Impact Statement evaluates the proposed development per the Moderate density residential standards in Section 24-259 (b), which states “Residential cluster developments of four units per acre but less than nine units per acre may be permitted in areas designated moderate density residential on the comprehensive plan land use map...” The standards established by this section of the Zoning Ordinance are not intended for areas designated low density residential on the comprehensive plan land use map and should not be used for analysis.

## **PUBLIC IMPACTS**

### **Archaeology**

The County archeological policy is proffered.

### **Environmental**

**Watershed:** Powhatan Creek

**Proffers:**

- The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement, and enforce the program, which will apply to both private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
- Development of a master stormwater management plan is proffered with the use of low-impact development techniques utilized where applicable, in accordance with the Powhatan Creek Watershed Management (PCWM) Plan.
- The applicant has proffered to remove the existing underground storage tanks on the property in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

**Environmental Staff Comments:** Initially, the Environmental Division had significant comment on the project and did not support approval of the rezoning based on their initial comments dated September 22, 2005. Significant issues were mainly related to discrepancies found within the Community Impact Statement, demonstration of commitment to goals and priorities of the approved Powhatan Creek Watershed Management Plan and inconsistencies with the preliminary environmental inventory as initially presented for the concept plan. Since that time, the applicant and plan preparer have coordinated with Environmental Division staff to attempt to address, resolve and provide clarification on many of the major outstanding issues. Proposed revisions as indicated in the current Community Impact Statement (dated October 27, 2005), the revised proffers and revised master plan/concept drawings collectively have resulted in the Environmental Division having no further comment on the rezoning application in it's current format. The project will need to demonstrate compliance with the County's 10-point system for stormwater compliance (through use of a master stormwater plan in advance or concurrently with submittal of the plan of development for the project), show proper evidence of wetland permits through the Virginia DEQ and US Army Corp of Engineers,

submit a Water Quality Impact Assessment (WQIA) and exception request for any disturbance to RPA or RPA buffer and also submit a request for an exception to disturb steep slopes prior to issuance of any land-disturbing permits for the project.

### **Fiscal**

The developer anticipates that the 66 condominiums will be built over a two year period and fully occupied in year 3. The applicant states that once fully developed and occupied, the development will incur costs for County services of approximately \$115,100 per year. The total annual County revenues at buildout will be approximately \$232,300 leading to an annual net positive fiscal impact at buildout of approximately \$117,200.

#### **Proffers:**

- A cash contribution of \$796.00 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.

**Staff Comments:** Financial and Management Services has reviewed the Fiscal Impact Statement and agrees with the results.

### **Housing**

#### **Proffers:**

- The applicant has proffered that all dwelling units on the property will be age restricted to persons fifty-five years of age and older.

**Staff Comments:** The applicant has indicated that the initial selling price for the condominium units will range from \$235,000 to \$285,000. Affordable housing has not been proffered with the proposal. No provisions are offered to mitigate the impacts of the occupants of the mobile homes on the site.

### **Public Utilities**

#### **Proffers:**

- A cash contribution of \$796.00 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- Appropriate water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

**Staff Comments:** This site is served by public water and sewer.

### **Parks and Recreation**

#### **Proffers:**

- The applicant has proffered to provide a recreational area shown on the Master Plan along with other recreational facilities on the property that meet the standards in the County's Recreational Master Plan. In lieu of such recreational facilities, the applicant has proffered to make cash contributions to the County in an amount determined pursuant to the County's Recreational Master Plan. All cash contributions for this proffer shall be used by the County for recreational capital improvements.

### **Transportation**

A traffic impact study was not required because the proposed project would not generate more than 100 peak hour trips. However a trip comparison was prepared for Michael C. Brown Ltd. by DRW Consultants. According to the trip generation rates, the proposed condominiums will generate approximately 5 AM peak hour vehicle trips, approximately 7 PM peak hour vehicle trips and approximately 230 daily trips. Projected peak hour and daily vehicle trips for by right and a special use permit developments are provided as an attachment and may be used for traffic comparisons for this property. The proposed uses would create less daily traffic than the alternative developments for this property including by-right developments.

**2005 Traffic Counts:** Approximately 9,297 vehicles per day in this area of Jamestown Road.

**2026 Volume Projected:** 10,000 vehicles per day on a two lane road.

**Road Improvements:** A left-turn lane and right-turn taper will likely be required on Route 31 based on existing volumes and anticipated site trip generation.

**Proffers:**

- There will be one entrance into the property to and from Jamestown Road with a westbound 200 foot left turn lane with a 200 foot taper and 600 foot transition and an eastbound 200 foot right turn taper on Jamestown Road. The turn lanes will be constructed in accordance with VDOT standards and shall be completed prior to the issuance of the first certificate of occupancy.

**VDOT Comments:** VDOT agreed on the technical merits of the study and the general conclusions after reviewing the Master Plan and the traffic impact analysis. Turn lane warrant analyses will be required during the initial site plan review to verify the appropriate turn lane treatments that are justified for access to the proposed site. Through a preliminary field inspection, it was determined that the widening of Route 31 for a left-turn lane and appropriate transitions will result in only minor earthwork, little to no clearing, and the possible relocation of the existing sidewalk.

**Staff Comments:** Jamestown Road currently has sufficient capacity to accommodate the development west of Neck O'Land Road, with volumes ranging from 7,072 to 10,100 vehicles per day. However the section east of Neck O'Land Road is in the "watch" category due to projected volumes above the road's capacity. The Comprehensive Plan states that, "Residential or commercial developments that add significant traffic along this corridor beyond that currently planned is strongly discouraged" in recognition that more intensive development will negatively impact all of Jamestown Road. Despite the site's LB and R-2 zoning, it was deliberately designated for low density residential use in the Comprehensive Plan due to traffic concerns. In comparison with other approved age-restricted communities within the County, this proposal does not provide the same level of on-site recreational amenities. Staff believes that the lack of similar on-site recreational amenities and pedestrian accessible community facilities may lead to additional traffic on Jamestown Road, beyond the trip generations forecasted by the Institute of Transportation Engineers manual, as the residents will likely travel to off-site areas for extensive recreational activities.

Comparison to other possible development scenarios is purely speculative. No such developments have been proposed. If they are, they may be subject to special use permit or rezoning review.

## **COMPREHENSIVE PLAN**

### **Land Use Map Designation**

The James City County Comprehensive Plan Land Use Map designates these properties for Low Density Residential development and Conservation Area. Examples of acceptable land uses within the Low Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments. Examples of preferred land uses within the Conservation Area designation include fish and game preserves, parks and other open space that complement the natural environment.

The Comprehensive Plan identifies the land across from the Grace Covenant Baptist Church as an area which has inconsistencies between their Zoning and Land Use Map designations. These parcels include the site (partially zoned LB, Limited Business) and TK Oriental (zoned LB, Limited Business). The zoning was determined prior to or without recognition of the County's Land Use Map. Unlike the zoning for these parcels, the Comprehensive Plan designation for these parcels was deliberate. It recognizes adjacent land uses, traffic conditions, zoning and a variety of other considerations. Given the traffic concerns and the fact that this area is predominantly residential in character, the low density residential designation is appropriate for this area and should remain unchanged.



## **Other Considerations**

**Community Character:** The Comprehensive Plan designates Jamestown Road as a Community Character Corridor, which are roads that promote the rural, natural or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of the area and believes these roads warrant a high level of protection. This section of Jamestown Road is considered a Suburban Community Character Corridor. The objective of this type of Community Character Corridor is to ensure that the County retains a unique character and does not become simply another example of standard development. The predominant visual character of the Suburban Community Character Corridor should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general and an emphasis on innovative design solutions. The scale and placement of buildings in relation to each other, the street and parking areas should be compatible. In these areas the Community Character Corridor designation suggests enhanced landscaping, preservation of specimen trees and shrubs, berming and other desirable design elements which complement and enhance the visual quality of the corridor.

**Staff Comments:** According to the 2003 Comprehensive Plan, low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development and the degree to which the development is consistent with the Comprehensive Plan. The Comprehensive Plan states, "In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community... Depending on the extent of the benefits, developments up to four units per acre will be considered for a special use permit". The R-1, Limited Residential, R-2, General Residential and the Residential Cluster Development Overlay districts of the Zoning Ordinance specially permit developments with densities greater than one dwelling unit per acre. They are also the only zoning districts that specifically mention the benefits that must be provided in order to achieve densities up to four units per acre. Staff does not believe that the proposed master plan with an overall 4.0 dwelling units per acre offers sufficient public benefits to warrant a density substantially greater than one unit per acre. While the project will address some of the current appearance issues and potential environmental issues with the site (billboards, vacant structures, underground storage tanks, etc.) it does not provide the public benefits listed in the Comprehensive Plan (mixed cost or affordable housing or retaining natural vegetative buffers around bodies of water or wetlands, just some of the benefits referenced in the Comprehensive Plan to go beyond one unit per acre.

Recent rezoning applications approved by the Board of Supervisors, such as The Villages of Whitehall and the Villas at Five Forks, may be used to illustrate how staff believes a density of 4.0 dwelling units per acre has not been earned with the Jamestown Retreat application. The rezoning and master plan for The Villages of Whitehall and the Villas at Five Forks were approved by the Board of Supervisors at a density of 3.0 units per acre. Both of these applications met the requirements of the Cluster Overlay District of the Zoning Ordinance to achieve their respective densities. The Villages of Whitehall proffered numerous public benefits including affordable housing, an unprecedented 300 foot buffer along the Community Character Corridor exhibiting significant preservation of developable open space, and substantial buffers and sensitive site design to protect two historic properties. The Villas at Five Forks also proffered additional public benefits including 10 low impact design areas for a 30 acre site as compared to 3 low impact design areas for this 16 acre site. Staff does not believe that the Jamestown Retreat proposal offers significant public benefits to earn the proposed density. In comparison to The Villages of Whitehall, Jamestown Retreat does not proffer affordable housing and staff does not believe that the environmental protections proffered are unusual due to the fact that the same or more items were proffered in

developments achieving a much lower density. Additionally, staff does not believe that Jamestown Retreat displays unusually significant preservation of open space with the provided buffer along Jamestown Road, which is the minimum buffer recommended by the Comprehensive Plan.

In summary, staff does not believe Jamestown Retreat meets the criteria of the Cluster Overlay District to achieve the requested densities. To achieve a density of three dwelling units per acre, the developer shall provide pedestrian and/or bicycle trails throughout the development, which Jamestown Retreat has not provided. To go above three dwelling units per acre, but not to exceed four dwelling units per acre in areas designated Low Density Residential on the Comprehensive Plan, the Board of Supervisors may award density bonuses if the developer provides the following (*with staff comments in bold italics*):

1. An additional 0.5 units per acre may be awarded for every 10 percent of the total number of dwelling units dedicated to affordable housing. ***No affordable units have been proffered; therefore, no credit should be given for this density bonus.***
2. An additional 0.5 units per acre for superior layout and quality design that incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas, protection of wildlife habitat corridors, the creation of buffer areas around RMA wetlands, and sustainable building practices, as referenced in The Sustainable Building Sourcebook from the City of Austin's Green Building Program or the Sustainable Building Technical Manual by the United States Department of Energy. ***There is substantial preservation of open space adjacent to Powhatan Creek; however staff does not believe that the environmentally sensitive wetlands on the west side of the property are sufficiently protected; therefore no credit should be given for this density bonus .***
3. An additional 0.5 units per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit. ***The developer has not provided interconnecting streets, multiple entrances/exits to the development or shared parking; therefore no credit should be given for this density bonus.***

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

A portion of this property is also designated as Conservation Area by the Comprehensive Plan because the property is directly adjacent to the main tidal segment of Powhatan Creek. Conservation areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands surrounding or adjacent to conservation areas can also be sensitive, and development of these lands should consider negative impacts and methods to mitigate or eliminate these impacts. One of the public benefits referenced in the Comprehensive Plan to go above one dwelling unit per acre is to retain natural vegetative buffers around water bodies or wetlands. The master plan and proffers for the Jamestown Retreat proposal do not retain natural vegetative buffers around the wetlands or an intermittent stream located on the northwest part of the property. Staff believes that the location of the parking lot and the two northwest buildings may negatively impact the stream and wetlands with the absence of the natural vegetative buffer recommended by the Comprehensive Plan.

#### **HEIGHT WAIVER**

Section 24-314 (j) of the James City County Zoning Ordinance states that structures in excess of 35 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding that:

1. Such structure will not obstruct light from adjacent property;

*Staff comment:* Given the distance to the property line, staff finds that the proposed residential units will not obstruct light from adjacent properties.

2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

*Staff comment:* There are no immediate nearby historic sites or structures. To reduce impact on Jamestown Road, an entry way to historic Jamestown, the 3-story structures would be located behind 2-story structures along Jamestown Road.

3. Such structure will not impair property values in the surrounding area;

*Staff comment:* According to Real Estate Assessments, there is no prior indication that the construction of the residential units on this site will have a detrimental effect on surrounding properties.

4. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

*Staff comment:* The project is subject to full County review processes. Staff feels confident this will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from Fire Station #3 with back up from the other James City County fire stations.

5. Such structure will not be contrary to the public health, safety and general welfare.

*Staff comment:* Based on the current proposal and information submitted by the applicant staff believes the development will not adversely effect the public health, safety or general welfare.

With the submitted material, staff believes that the height of the proposed structures will not negatively affect the surrounding property and recommends approval of the height waiver application should the rezoning application be approved.

#### **STAFF RECOMMENDATION**

Staff believes this proposal will negatively impact the surrounding properties. Staff believes the proposed densities do not meet the intention of the Comprehensive Plan with respect to offering particular public benefits (such as affordable housing and retaining natural vegetative buffers around water bodies or wetlands) to achieve a density of 4.0 dwelling units per acre. Based on this information, staff recommends that the Planning Commission recommend denial of this application to the James City County Board of Supervisors.

  
Matthew J. Smolnik

ATTACHMENTS:

1. Planning Commission Meeting minutes from November 7, 2005
2. Location map
3. Master Plan (provided under separate cover by the applicant)
4. Community Impact Study
5. National Wetlands Inventory Map of the Nixon Tract
6. Executive Summary of Fiscal Impact Study
7. Addendum to Fiscal Impact Study
8. Trip Generation Comparison from DRW Consultants
9. Building Elevations
10. Conceptual Landscape Plan
11. Conceptual Utility Plan
12. Open Space Exhibit
13. Proffers
14. Letter from Settlers Mill Homeowners Association (May 3, 2005)
15. Letter from Sue Welch from Raleigh Square Townhouses
16. Letter from John and Kathleen Hornung
17. Postcard from Joel and Marilyn Kirschbaum
18. Letter from Raleigh Square Homeowners Association
19. Letter from Kensett and Michael Teller of TK Arts, Inc. and TK Oriental Antiques, Inc.
20. Letter from Lakewood Homeowners Association
21. Letter from The Friends of Powhatan Creek Watershed
22. Letter from Reed Weir
23. Letter from Settlers Mill Homeowners Association (November 1, 2005)
24. Letter from Ann Hewitt
25. Email from Kathy Hornung dated December 20, 2005

**UNAPPROVED MINUTES OF THE NOVEMBER 7, 2005 MEETING  
OF THE PLANNING COMMISSION**

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.

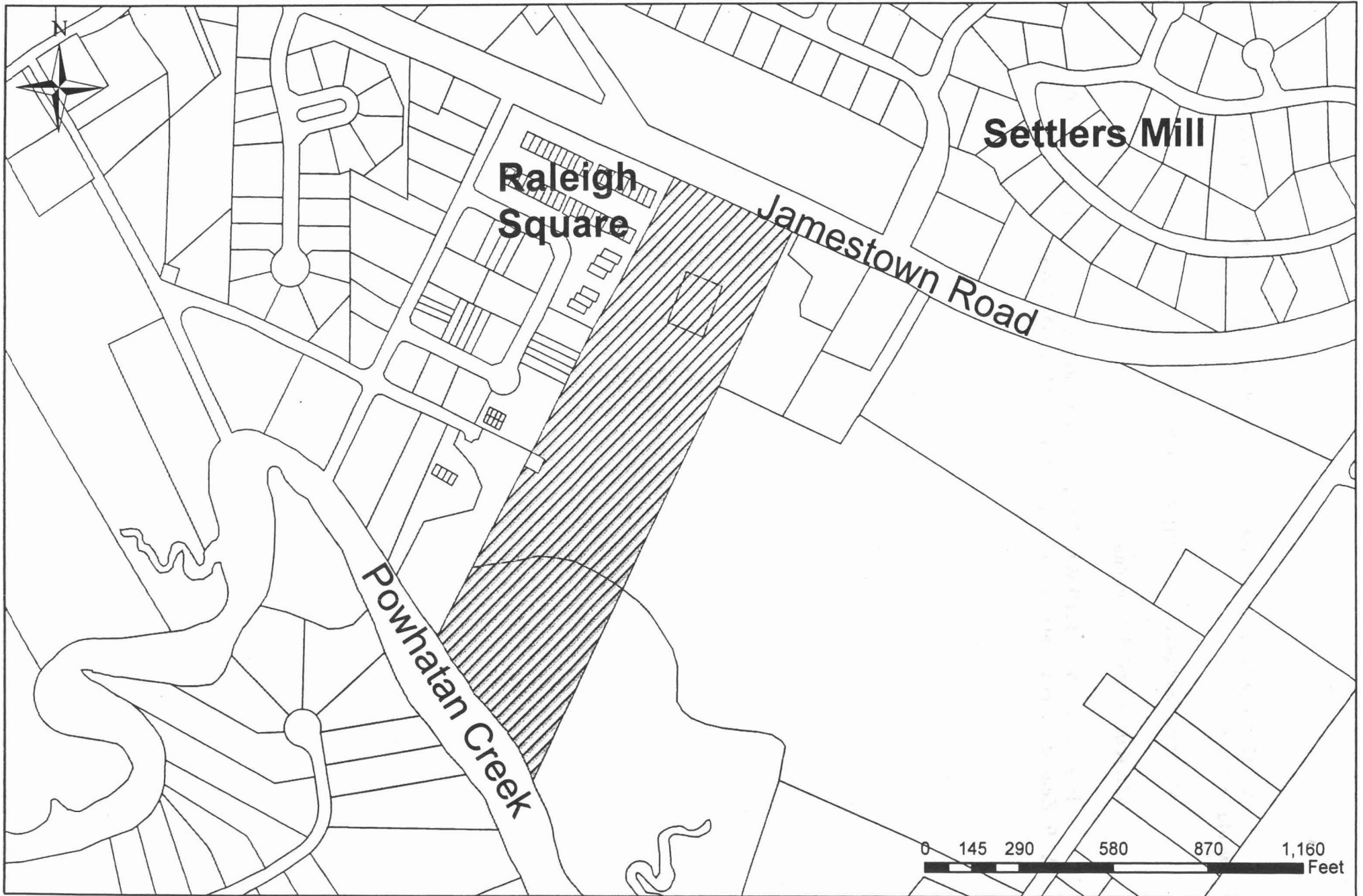
Mr. Kale seconded the motion.

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).





# Jamestown Retreat





# **Community Impact Statement**

**For the**

## **Master Plan**

Prepared For

Michael C. Brown Ltd.

## **Jamestown Retreat**

Michael C. Brown Ltd.

P.O. Box 188

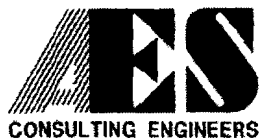
Toano, VA 23168-0188

February 22, 2005

Revised: October 27, 2005

AES Project Number: 9462-00

Prepared by:



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## **I. INTRODUCTION**

Michael C. Brown, Ltd is proposing to rezone approximately 16.5 acres in James City County from LB & R-2 zoning to R-5 zoning. The property is located on Jamestown Road just west of Ironbound Road. The current Comprehensive Plan designates this area as Low Density Residential. The TK Oriental and Battery Store area was identified during the Comprehensive Plan update as having zoning and Comprehensive Plan inconsistencies. A careful reading of this section of the Comprehensive Plan underscores concerns with maintaining the primarily residential character of the area and controlling the levels of traffic that unrestricted commercial development would generate. The Comprehensive Plan elected to show the Low Density designation as best vehicle to "steer future uses towards the most appropriate land uses." This rezoning application and Comprehensive Plan change request seeks to accomplish the same goals as the Comprehensive Plan Update – those of maintaining the predominantly residential character of the area and limiting commercial development and its accompanying traffic concerns while at the same time proposing a Moderate Density designation that suits its location and provides a transition between Raleigh Square and TK Oriental Arts and the church on the south-side of Jamestown Road. The proposed project will eliminate all commercial uses on the site, replacing them with high quality architecture and age-restricted condominiums at a density of 4.4 units per acre. The developer is making this project age restricted to in part, respond to existing market conditions and to reduce any concerns with additional residential development overburdening James City County schools.

This property is within the area covered by the Powhatan Creek Watershed Management Plan adopted in February 2002 by the Board of Supervisors. The developer proposes to meet and/or exceed the goals and objectives of the PCWM Plan through a combination of stormwater management measures and the employment of creative, low impact design measures to further treat and clean runoff from the site.

There are three properties being consolidated for this development. The site currently has several trailer homes, is anchored by a battery retail store, a frame house (circa 1933), and outbuildings. There are also existing underground fuel tanks that will require removal and remediation. Jamestown Retreat is proposing to remove all existing structures and redevelop this property with four, three story buildings and two, two story buildings for a total of 66 condominium units. The remainder of this report will summarize and organize the planning efforts of the project team into a cohesive package for Staff review addressing all pertinent planning issues, the requirements of the R-5 zoning district, and elements of the Powhatan Creek Management Plan that pertain to this site.

## **THE PROJECT TEAM**

The organizations that participated in the preparation of the information provided in this impact study are as follows:

- Developer - Michael C. Brown, Ltd.
- Civil Engineering - AES Consulting Engineers
- Environmental - Bay Environmental, Inc.
- Traffic - DRW Consultants
- Fiscal - The Wessex Group, Ltd.
- Land Planning/LA - AES Consulting Engineers
- Legal - Geddy, Harris, Franck and Hickman

Key components of this Community Impact Study are:

- Analysis of Impacts to Public Facilities and Services
- Traffic Impacts
- Fiscal Impact Study
- Wetlands and perennial streams study

### **III. PROJECT DESCRIPTION**

Jamestown Retreat is proposing to develop a residential community of up to 66 condominium units. The on-site structures will include six multi-family residential buildings, fourteen, three car garages and open space managed by a community association.

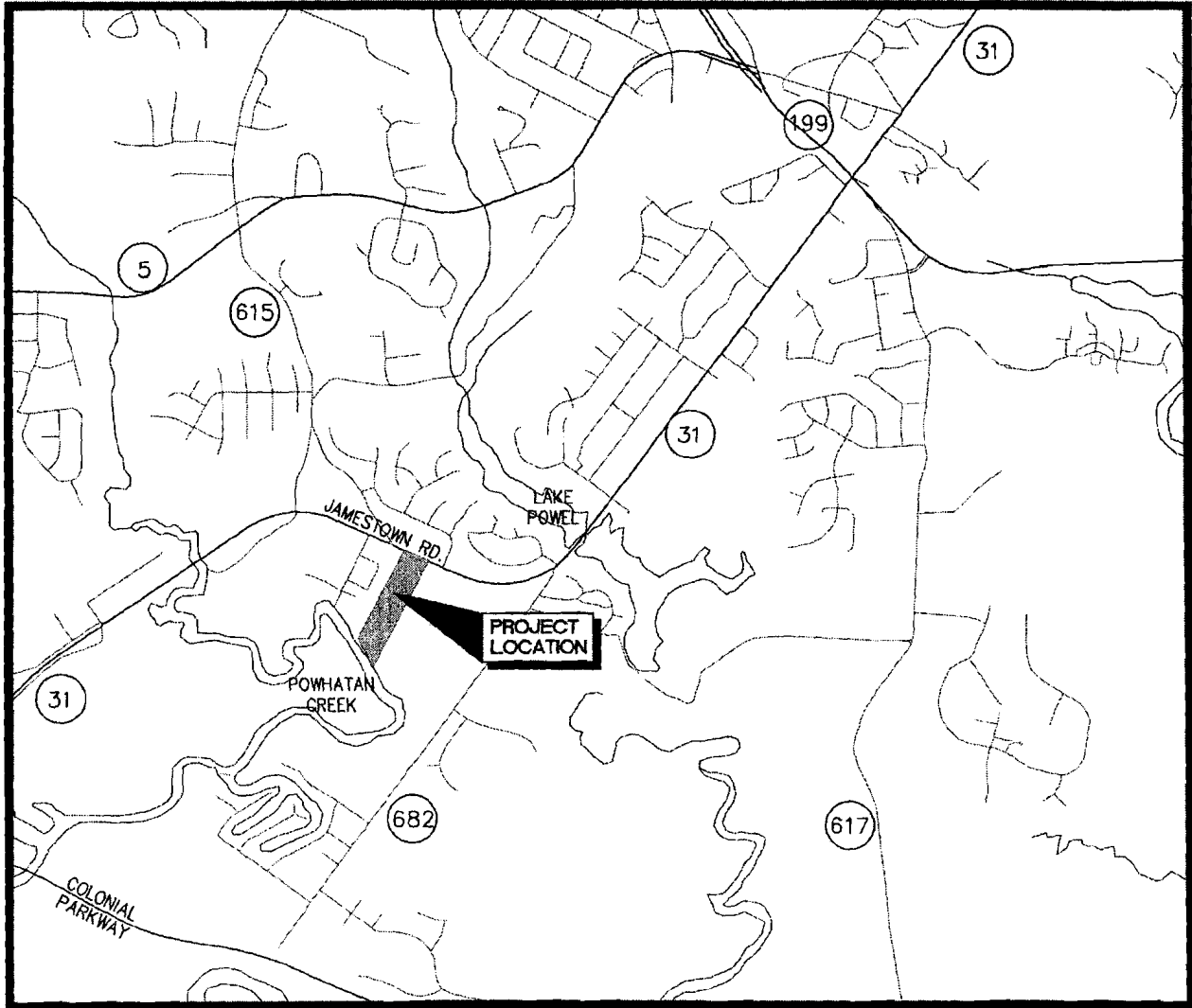
The site is comprised of the following elements:

Wetland:	7.0 acres (1.7 ac outside the 100 year flood)
100 year flood and stream areas:	5.3 acres (included within wetland total)
Areas of 25% or greater slope:	0.4 acres
Subtotal of non-developable acreage:	7.4 acres
Developable lands	9.1 acres
Total acreage:	16.5 acres

The non-developable 7.4 acres is approximately 44.8% of the total parcel acreage. The density has been calculated based on the developable area plus 35% of the total acreage per 24-312 of the zoning ordinance. See the Environmental Inventory drawing identifying areas of non-developable and net developable acreages.

The project location is shown on the following exhibit:

**Exhibit 1**



**(Not to Scale)**

## **A. Planning Considerations**

A review of the Comprehensive Plan of James City County shows this area designated as "Low Density Residential" and directly adjacent to "Moderate Density Residential." Under Low Density Residential, minimum densities of one dwelling unit per acre and up to four dwelling units per acre are allowed. The Jamestown Retreat proposes a density of 4.4 units per acre and the R-5 zoning designation was deemed the best vehicle for the use proposed. The Jamestown Retreat exceeds the ceiling of 4 units per acre recommended by the low density classification however, the proposed use, density and design has similar characteristics to and compliments surrounding land uses. The R-5 zoning promotes "a harmonious and orderly relationship between multifamily residential uses (Raleigh Square to the west) and lower density or nonresidential uses" (TK Arts to the east), (Section 24-304 of the James City County Zoning Ordinance). The front six acres of Raleigh Square adjacent to the Retreat has a density of 8.2 dwelling units per acre and contains 47 attached units and 2 single family detached units.

While this proposal has been designed per R-5 zoning standards, a brief comparative analysis between the current plans and the Cluster Overlay standards illustrates how the density of 4.4 units per acre has been earned. If the plans were being evaluated per the Low Density standards outlined in Section 24-549 (a) paragraphs (1)- (4), a density of four units per acre could be earned by providing 40% of the net developable acres as open space as well as the following: implementation of the Streetscape Guidelines Policy, implementation of the county's Archeological Policy, provision of sidewalks on one side of internal streets, provision of recreation facilities as recommended in the county's Comprehensive Recreation Master Plan, implementation of the county's Natural Resources Policy, provision of sidewalks on both sides of internal streets, the use of curb and gutter construction on all internal streets, superior layout and quality design per paragraphs (4)b and c.

This development contains open space within developable areas totaling 5.8 acres or 64% of the net developable acres and also provides the following:

- Streetscape plantings per the Streetscape Guidelines Policy.
- Conformance with the James City County Archaeological Policy (proffered).
- Sidewalks on both sides of all internal streets and drive aisles, including the entrance road.
- Recreation facilities as recommended in James City County's Comprehensive Parks and Recreation Master Recreation Plan (proffered).
- Curb and Gutter construction.



- Conformance with the James City County Natural Resource Policy (proffered).

Clearly, this application earns more than the base density of 1 unit per acre under the Low Density designation and more than the base of 4 units per acre when evaluated per the Moderate density residential standards defined in Section 24-549 paragraph (b). Although the plan is not designed to R-5 residential cluster overlay standards, it exceeds the overlay net developable open space standards by 2.6 acres.

#### **IV. ANALYSIS OF IMPACTS TO PUBLIC FACILITIES AND SERVICES**

The subject property for rezoning is located within the Primary Service Area of James City County. Parcels and subsequent land development activities within the Primary Service Area are required to connect to public water and sanitary sewer service provided by the James City Service Authority (JCSA).

##### **A. Public Water Facilities**

The subject property will be served with public water by the existing JCSA water distribution system in the area. A 12-inch water main exists along Jamestown Road and an 8-inch water line service is available to the site along the western boundary. JCSA has different scenarios for connecting the proposed water line in this development to the adjacent properties. This development will work with the JCSA in those efforts. It should also be noted; that the new Desalination facility will be online in the Spring of 2005 prior to the construction of this residential community.

A preliminary water model will be completed and submitted prior to or with the final site plan. The model will examine volume and pressures throughout the immediate water system area. The water model will likely account for all multifamily residential buildings having a sprinkler fire suppression system meeting NFP-13R.

##### **B. Public Sewer Facilities**

A 16-inch force main currently runs down Jamestown Road. There is also an existing 8-inch line servicing the site from the adjoining western property. The subject property will be served by extensions of this sewer into the site. The sanitary sewer extension will be through a gravity sewer connection to the existing Powhatan Creek Collector which flows into existing Lift Station 4-8. Based on preliminary discussions with JCSA staff the current capacity of Lift Station 4-8 will be able to handle the proposed development of Jamestown Retreat.

Table 1

Development	Units	(GPD/Unit)	Flow (GPD)	(hrs)	(GPM)	Peak Flow
RESIDENTIAL						
Multi-family condo	66	250	16,500	24	11.5	28.6

Table 1 above shows the proposed flows that will be generated by this new development. The flows from this development will not have an adverse impact on the existing system.

##### **C. Public Schools**

Jamestown Retreat will be age-restricted and will not add school aged children to James City County public schools.

#### **D. Fire Protection and Emergency Services**

There are currently five fire stations providing fire protection and Emergency Medical Services (EMS) services to James City County. The closest fire station to the subject site is station number 3 located at 5077 John Tyler Avenue, east of this project. From this station, an estimated response time would be less than four minutes.

The next closest fire station to the subject site is station number 5 at 3201 Monticello Avenue. Although more distant than the John Tyler station, response time to the site is still within appropriate limits if an emergency event occurs requiring additional fire and life safety support. These two fire stations, and the emergency medical staff available at these stations, will provide a more than adequate response to potential emergencies.

#### **E. Solid Waste**

The proposed development on the subject property will generate solid wastes that will require collection and disposal to promote a safe and healthy environment. Reputable, private contractors, hired by the community management or homeowners' association, will handle the collection of solid waste. Both household trash and recyclable material will be removed from this site to a solid waste transfer station.

#### **F. Utility Service Providers**

Virginia Natural Gas, Dominion Virginia Power, Cox Communications, and Verizon Communications provide, respectively, natural gas, electricity, cable TV service, and telephone service to this area. The current policy of these utility service providers is to extend service to the development at no cost to the developer when positive revenue is identified plus with new land development these utility service providers are required to place all new utility service underground.

## **V. ANALYSIS OF ENVIRONMENTAL IMPACTS**

### **A. Preliminary Wetland Determination**

Investigations were conducted by Bay Environmental, Inc. in the fall of 2004 for the entire property. The North Carolina stream evaluation method was applied in order to map perennial streams and the site was examined to determine wetland areas that would fall under the jurisdiction of Section 404 of the Clean Water Act. The extent of wetland features are shown on the Environmental Inventory plan for this development.

Based on the investigation by Bay Environmental, Inc. approximately 7.0 acres of wetlands are present on the property, associated directly with a drainage-way of the Powhatan Creek that runs through the site. There may be some temporary disturbances associated with gravity sewer connections and the grading associated with constructing the storm water/best management ponds and potential permanent impacts associated with the placement of two buildings and a small parking area at the northwest corner of the site at the uppermost part of Reach 1 B as described in the Perennial Stream Determination. Surveyed verification of wetlands and topography will confirm the extent or lack of these impacts and the appropriate state and federal permitting will be acquired as necessary prior to obtaining James City County land disturbing permits. Following a meeting with James City County staff, the plans were further revised to minimize the impacts of several buildings on a wetland stem and associated steep slopes along the western edge of the property.

### **B. Resource Protection Areas**

A Resource Protection Area (RPA) currently exists on the property. The RPA and Wetland limits have been determined by Bay Environmental, Inc. in their Perennial Stream Determination analysis, which is included in this report. A stormwater management facility is the only planned facility adjacent to the RPA. The proffered Master Stormwater Management Plan will seek to minimize encroachment into the RPA by this proposed facility. As currently planned only a required outfall would encroach into the RPA buffer.

### **C. Powhatan Creek Watershed**

In a report prepared for James City County by the Center for Watershed Protection "*Powhatan Creek Watershed Management Plan*", dated November 2001, and adopted by the Board of Supervisors in February 2002, it was noted that rapid development has occurred within the Powhatan Creek watershed, posing a threat to natural habitats and the water quality benefits of this tributary. In 2001, the Center for Watershed Protection made recommendations for various sub-watersheds of Powhatan Creek to maintain the quality of this stream habitat. This site is located along the Tidal Mainstem of Powhatan Creek. The recommendations for this watershed are as follows:

### Watershed Education

- Fecal coliform problem and source education—septics, pets, natural sources.
- The importance of natural buffers for wetlands and other aquatic resources.

### Aquatic Buffers

- Establishment of a program to assist landowners in the creation of buffer zones
- Preservation of a larger existing natural buffer to protect important marsh transition zones
- Increased forest buffer on the Paleochannel wetlands on the south side of Mainland Farm.

### Better Site Design

- Cluster type development to allow for the preservation of the marsh buffers.

### Stormwater Management

- Stormwater management with an added focus on fecal coliform removal.

The development of this site supports the recommendations to maintain the quality of Powhatan Creek through the following:

1. Low Impact Development (LID) will be utilized within the developed areas of the project. Use of LID will process/manage stormwater runoff quality and will foster groundwater infiltration to maintain Powhatan Creek base flows. LID features including landscaped bio-retention basins, grass swales and where practicable, the reduction of curb and gutter will be included in the Stormwater Management Plans for the Retreat.
2. The development will also incorporate standard stormwater management facility(s) / best management practice design(s) to meet James City County's stormwater management goals, maintain high stream quality and address the fecal coliform issue. Along with A Master Stormwater Management Plan, a Turf Management Plan is also proffered.
3. The development will avoid impacting existing wetlands except for project utility connections, JCSA utility interconnections, and limited potential impacts associated with construction along Reach 1B as described in the Perennial Stream Determination prepared by Bay Environmental, Inc. These activities should not permanently alter the wetland areas associated with the Powhatan Creek downstream of the 100' buffer. An ample area remains at the rear of the site for a stormwater management facility outside of the RPA buffer with a required outfall being the only encroachment. If any encroachment required for the construction of this facility requires a Chesapeake Bay waiver or exception through the Chesapeake Bay Board Process, such waiver will be identified and pursued as part of the proffered Stormwater management Plan.

4. The Powhatan Creek Watershed Management Plan stresses the possibility of the presence of rare, threatened and endangered species along the tidal mainstem. In recognition of this fact, a proffer is provided which shall require that a study be conducted to verify the presence or not of rare, threatened or endangered species on site even if no state or federal permitting process is triggered which would require such a study.
5. Clustering allows a wide range of densities with the provision of larger areas of open space. In the case of the Retreat, condominium units are contained within buildings and do not occupy private lots thereby increasing the plan's ability to preserve open space. This results in the increased preservation of the mainstem contiguous forest without further reducing the number of units currently proposed by the developer.
6. The development will provide approximately 14.1 acres of open space including 6.6 acres located in developable areas (73% of the developable area). These developable areas include perimeter buffers, setbacks, streetscape areas, recreation and other open space. Much of this open space is located adjacent to the 100' RPA buffer, providing additional protection to this important feature. According to section 24-552(a), moderate density developments are required to provide 35% open space within net developable areas. Within this development, 3.2 acres would be required per that Section. The Retreat will provide approximately 5.8 acres (64%) of developable open space or 2.6 acres of additional open space. 0.8 acres of additional open space is located within the site's perimeter buffers, but is not included in the 5.8 acres per paragraph (a) regarding the amount of perimeter buffer used to satisfy the open space requirement.
7. Although not specifically referenced in the recommendations of the Powhatan Creek Watershed Study this proposed development will provide for the removal of the existing underground fuel tanks located on-site which will significantly improve this particular sites' contribution to a cleaner watershed.

The characteristics of this design, outlined above, illustrate how the Retreat at Jamestown shall meet the overall goals of the Powhatan Creek Watershed Study.

#### **D. Soils and Vegetation**

##### **Soils**

The *Soil Survey of James City and York Counties and the City of Williamsburg, Virginia* (USDA 1985) maps several soil types within the property boundary. This property is predominantly situated on well-drained soils of Emporia, Levy, Craven-Uchee, Johnston, and Slagle. The hydrologic classifications of these soil types are

within group C. The mapping can be seen on the attached Environmental Inventory Drawing.

Vegetation and Perennial Stream Determination (See Appendix I).

## **VI. ANALYSIS OF STORMWATER MANAGEMENT/BMP**

A brief needs-analysis for stormwater management, meeting the general criteria of the Commonwealth of Virginia and James City County's stormwater requirements, was completed as a component of the planning for the proposed Master Plan of the subject property.

The goal of the stormwater management plan is to adhere to local and state stormwater requirements using Best Management Practices (BMP's) that provide the maximum coverage while minimizing environmental impacts. This proposed development will also be subject to James City County's Special Stormwater Criteria (SSC). In evaluating preliminary stormwater management solutions of the proposed development on the subject site, the unique site characteristics are identified through site observations and mapping and considered in the design of the stormwater management system:

- Non-tidal wetlands of Powhatan Creek watershed exist in one onsite swale
- Stormwater management for this site seeks to manage the quality and quantity of the stormwater runoff. In James City County, the Environmental division requires a 3-step, 10-point Best Management Practice (BMP) method to demonstrate compliance with the County's Chesapeake Bay Preservation Ordinance (CBPO). The methodology allocates open space credit for land that is not developed and provides credit for all segments of the site that drain and are controlled by an adequately sized structural BMP. BMP credits can also be accumulated for providing stormwater quality improvement for off-site development and parcels within the watershed of the proposed stormwater management / best management practice facility (SWM / BMP). Structural BMP's are assigned from 4 to 10 points depending on particular design and storage volume. Highly efficient wet ponds, infiltration basins, and marsh BMPs receive 9 or 10 points of credit. The total point value for the site is obtained by taking the fraction of the site served by a structural BMP or open space credit and multiplying it by its assigned point value and then summing the values. A total of ten points for the site is necessary to demonstrate satisfactory compliance.

In preliminary analysis of the subject property, stormwater management and improvement in stormwater quality may be achieved with the construction of a SWM / BMP facility located on adequate acreage and appropriate conditions to handle the watershed. When combined with the quality benefits provided by the naturally occurring tidal and non-tidal wetlands, the proposed development will have minimal impacts to the surrounding environment.

Specifically, one SWM / BMP is envisioned for Jamestown Retreat. The southern section of Jamestown Retreat will contain a SWM / BMP facility as shown on the Master Plan. To address the added focus of fecal coliform removal stressed in the Powhatan Creek Watershed Management Plan, infiltration and/or bioretention of



stormwater runoff shall be implemented as a minimum to meet the county's special stormwater criteria, and as feasible other design criteria as outlined in the Powhatan Creek Watershed Stormwater master plan shall be considered. The SWM / BMP facilities proposed for the Jamestown Retreat and proffered LID components will incorporate these concepts. To achieve the remaining points required by the Environmental Division, Open Space Conservation Easements will be placed over undeveloped areas of the parcel including those adjacent to Powhatan Creek and the associated Resource Protection Area (RPA) Buffer. To further address water quality a Turf Management Plan has also been proffered.

This conceptual solution to stormwater management and water quality minimizes the impacts of the proposed development on the environment and the proffered stormwater management Plan will assure compliance with state and local requirements for stormwater management and water quality.

## **VII. ANALYSIS OF IMPACTS TO TRAFFIC**

A Traffic Study was not warranted however, turn lane warrants may result in a left turn lane and a right turn taper or radius. These items are illustrated on the Master Plan. Warrants for turn lanes will be addressed at the site plan stage. A Trip Generation Comparison has been prepared by DRW Consultants, LLC (please see attached Appendix).

## **VIII. ANALYSIS OF FISCAL IMPACTS**

A Fiscal Impact Study has been prepared by the Wessex Group. A revised copy of the findings in consideration of an age restricted status has been provided and an addendum addressing the impact of a reduction in the total number of units is provided with this submittal.

## **IX. CONCLUSION**

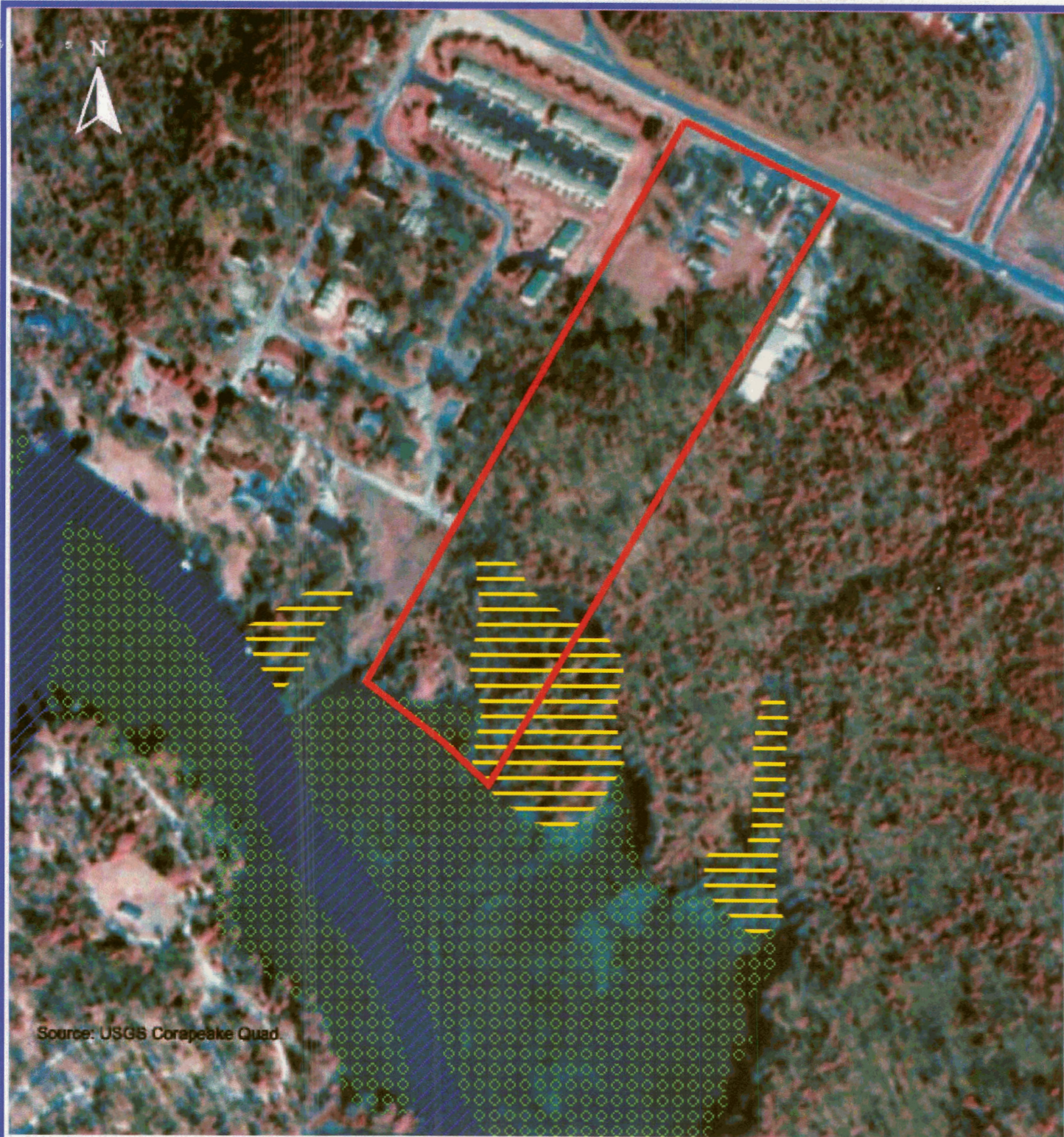
In summary, this proposed development is the consolidation of three parcels. The properties are in decline. Rezoning and redeveloping the site to R-5 will lead to a clean-up of the site while providing extensive buffers and green areas. The redevelopment of this site will eliminate a major eyesore along Jamestown Road that serves as an entrance corridor for those visitors entering James City County from the Scotland Ferry. This corridor will also be utilized by many visitors during the 2007 celebration for the Jamestown Settlement. This Community Impact study concludes the following:

- Adequate public facilities (water and sewer, fire), and utility services (gas, electric cable TV, telephone), are available for development.
- An R-5 development is proposed with this rezoning, which is similar in land use to the adjacent Moderate Density Residential property at Raleigh Square.
- Storm water runoff from this site will be addressed through a proffered Master Stormwater Management Plan.
- A proper balance is achieved with this rezoning to support the goals of the *Powhatan Creek Watershed Management Plan*, insure orderly development, and Preserve the primarily residential character of the area per the Comprehensive Plan of *James City County*.
- The property will serve as a transition between an existing moderate density community and an existing commercial retail establishment.
- Rezoning the site to R-5 represents a significant opportunity for improvement to existing site conditions and represents the highest and best use for this property.

## APPENDICES

- Bay Environmental, Inc. – Wetland and Perennial Stream Determination
- Wessex Group Williamsburg – Fiscal Impact Study
- DRW Consultants, LLC - Traffic Memorandum
- DRW Consultants, LLC - Trip Generation Comparison
- Conceptual Utility Plan





Scale: 1" = 300'  
 Bay #: 04-XXX-01  
 Date: 5/11/05  
 Drawn By: BSE

 Approximate Site Boundary  
 NWI Wetlands  
 PEM1R  
 PFO1R  
 R1UBV

# National Wetlands Inventory Map Nixon Tract James City County, Virginia





**Jamestown Retreat**  
**An Age-Restricted Condominium Development**  
**Fiscal Impact in James City County, Virginia**

**EXECUTIVE SUMMARY**

As part of a rezoning application submitted to James City County by **AES Consulting Engineers**, this report from **The Wessex Group, Ltd.** (TWG) presents estimates of the fiscal impact of building a community called Jamestown Retreat. This development would consist of 16.5 acres located in James City County on Jamestown Road. Development plans include 84 age-restricted residential condominium units, comprised of 21 two-bedroom units, 42 three-bedroom units and 21 four-bedroom units. All residential units will be for sale. Also included are approximately \$50,000 of community amenities, such as walking and biking trails and a swimming pool.

**Development Schedule and Construction Investment:** The developer anticipates that the 84 condominiums in Jamestown Retreat will be built over a two year period and fully occupied in Year 3. The cumulative residential population is estimated at 143 persons. Total construction investment is estimated at almost \$16.0 million. Square footage and construction costs for the units are as follows:

- 21 two-bedroom units averaging 1,200 square feet, construction cost \$152,300 per unit
- 42 three-bedroom units averaging 1,500 square feet, construction cost \$188,300 per unit
- 21 four-bedroom units averaging 1,800 square feet, construction cost \$224,300 per unit.

**County Revenues, Expenditures and Net Fiscal Impact:** Residential developments in James City County generate several types of revenues, including real estate tax, personal property tax, and retail sales tax. At buildout, the Jamestown Retreat will provide an estimated \$316,000 annually in new revenues for the county. In turn, the services that the county will provide to this community include police protection and fire protection. Once fully developed and occupied, the Jamestown Retreat will incur costs for county services of approximately \$146,000 per year. At buildout, the **net** fiscal impact is estimated at more than \$169,000 annually, as shown in Table A below. All dollar figures contained in this report are expressed in 2005 dollars. No attribution for economic inflation has been made.

**Table A**  
**Jamestown Retreat - Net Fiscal Impact**

	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Buildout</b></u>
<b>Total Annual County Revenues</b>	<b>\$177,300</b>	<b>\$346,500</b>	<b>\$315,600</b>
<b>Total Annual County Expenditures</b>	<b>\$13,400</b>	<b>\$86,800</b>	<b>\$146,400</b>
<b>Annual Net Fiscal Impact (Revenues Less Expenditures)</b>	<b>\$163,900</b>	<b>\$259,700</b>	<b>\$169,200</b>
<b>Cumulative Net Present Value (Years 1 – Buildout)</b>			<b>\$537,800</b>

## The Wessex Group, Ltd.

479 McLaws Circle, Suite 1

Williamsburg, VA 23185

Tel: 757-253-5606

Fax: 757-253-2565

E-mail: [stephanie@wessexgroup.com](mailto:stephanie@wessexgroup.com)

Web site: [www.wessexgroup.com](http://www.wessexgroup.com)



# Memo

To: Matt Smolnik, Planner

From: Stephanie Harper, *The Wessex Group, Ltd.*

CC: Michael Brown, Michael Brown, Ltd.; James Peters, AES Consulting Engineers

Date: October 24, 2005

Re: Jamestown Retreat: An Age-Restricted Condominium Development Revised Fiscal Impact Study October 2005

The purpose of this memorandum is to present the fiscal results of reducing the number of condominium units from 84 to 66 for the proposed age-restricted development referred to as **Jamestown Retreat**. The previous analysis for this development was conducted by *The Wessex Group* and submitted to the county in August of 2005 titled *Jamestown Retreat, An Age-Restricted Condominium Development, Fiscal Impact in James City County, Virginia*. All expenditure and revenue data presented in this memo are based on the James City County 2005-06 Adopted Budget.

As can be seen in Table 1 below, the development schedule includes the construction of 66 condominium units and community amenities. The development is assumed to be built over a two-year period with buildout occurring in year three. The cumulative residential population is estimated at 112 persons (a reduction of 31 residents). Total construction investment is estimated at more than \$12.6 million including \$50,000 in amenities such as a walking and biking trails and a swimming pool. In the August study, the cumulative construction investment was estimated at \$16.0 million.

Table 1  
Development Schedule and Construction Investment

Residential Development	Year 1	Year 2	Buildout
Two bedroom units	10	6	0
Three bedroom units	20	13	0
Four bedroom units	10	7	0
<b>Total Annual Units Developed</b>	<b>40</b>	<b>26</b>	<b>0</b>
<b>Cumulative Residential Units</b>	<b>40</b>	<b>66</b>	<b>66</b>
<b>Unit Occupancy Schedule</b>			
Annual Units Occupied	0	40	26
Cumulative Units Occupied	0	40	66
Incremental Residential Population	0	68	44
Cumulative Residential Population	0	68	112
<b>Construction Investment (\$Millions)</b>			
Residential	\$7.7	\$4.9	\$0.0
<b>Total Annual Construction Investment</b>	<b>\$7.7</b>	<b>\$4.9</b>	<b>\$0.0</b>
<b>Cumulative Construction Investment</b>	<b>\$7.7</b>	<b>\$12.6</b>	<b>\$12.6</b>

Provided below in Table 2 are the estimated revenues, expenditures and net fiscal impact created by this development. In both this analysis and the previous, an estimated 1.7 persons per household has been assumed for this age-restricted community. The current real estate tax rate of \$0.785/\$100 of assessed value has been used to calculate the expected real estates taxes. By buildout, Jamestown Retreat is expected to create more than \$232,000 in new revenues for the county. In turn, the county can expect an estimated \$115,000 in new annual expenditures providing services to the residents. Once construction ends and all units are assumed occupied, it is estimated that this community will create a net fiscal impact to the county of approximately \$117,000 per year. In contrast, the net fiscal impact estimated in the previous study was estimated at \$169,000 at buildout and beyond.

**Table 2**  
**Net Fiscal Impact**

<b>Cash Inflow and Outflow</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Buildout</b>
<b>Annual Revenues</b>	\$157,300	\$262,300	\$232,300
<b>Annual Expenditures</b>	11,800	77,200	115,100
<b>Net Fiscal Impact</b>	\$145,500	\$185,100	\$117,200
<b>Net Present Value</b>			\$1,460,600

To illustrate the net fiscal benefit of this development, *The Wessex Group* has calculated the net present value (NPV) based only on the ongoing revenues and expenditures starting at buildout. Using this approach, the NPV of Jamestown Retreat carried over a twenty-year period is nearly \$1.5 million when discounted at 5%.

rate/eq.	LAND USE	LAND USE CODE	SQ.FT., OTHER UNITS	WEEKDAY TRIP GENERATION						
				AM PEAK HOUR			PM PEAK HOUR			DAILY
				Enter	Exit	Total	Enter	Exit	Total	

**TABLE 1A - Existing Zoning (LB, R-2) Alternative 1 - LOW Side Trip Generation**

avg. rate	Gen. Office Building	710	20,000 sq. ft.	27	4	31	5	25	30	220
avg. rate	Single-Family	210	7 units	1	4	5	4	3	7	67
			TOTAL:	28	8	36	9	28	37	287

**TABLE 1B - Existing Zoning (LB, R-2) Alternative 1 - HIGH Side Trip Generation**

equation	Gen. Office Building	710	20,000 sq. ft.	46	6	52	17	84	101	386
equation	Single-Family	210	7 units	4	10	14	6	4	10	90
			TOTAL:	50	16	66	23	88	111	476

**TABLE 2A - Existing Zoning (LB, R-2) Alternative 2 - LOW Side Trip Generation**

avg. rate	Gen. Office Building	710	4,499 sq. ft.	6	1	7	1	6	7	50
avg. rate	Spec. Retail Center	814	5,500 sq. ft.				7	8	15	244
avg. rate	Condo/Townhouse	230	30 units	2	11	13	11	5	16	176
			TOTAL:	8	12	20	19	19	38	470

**TABLE 2B - Existing Zoning (LB, R-2) Alternative 2 - HIGH Side Trip Generation**

equation	Gen. Office Building	710	4,499 sq. ft.	14	2	16	14	70	84	122
equation	Spec. Retail Center	814	5,500 sq. ft.				15	20	35	273
equation	Condo/Townhouse	230	30 units	3	17	20	15	7	22	231
			TOTAL:	17	19	36	44	97	141	626

**TABLE 3 - Proposed Use**

avg. rate	Sr. Adult Attached	252	66 units	2	3	5	4	3	7	230
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**TABLE 4 - Trip Generation Various Values**

equation	Spec. Retail Center	814	5,500 sq. ft.				15	20	35	273
avg. rate	Spec. Retail Center	814	5,500 sq. ft.				7	8	15	244
equation	Shopping Center	820	5,500 sq. ft.	16	11	27	44	48	92	1031
avg. rate	Shopping Center	820	5,500 sq. ft.	4	2	6	10	11	21	236

Trip generation rates from Trip Generation, 7th Edition (TG7) by  
the Institute of Transportation Engineers (ITE)

JAMESTOWN RETREAT PROPERTY  
TRIP GENERATION COMPARISON  
NOVEMBER 17, 2005

DRW Consultants, LLC  
804-794-7312

Exhibit 1



		LAND USE CODE	SQ.FT., OTHER UNITS	WEEKDAY TRIP GENERATION						
				AM PEAK HOUR			PM PEAK HOUR			DAILY
TRACT	LAND USE			Enter	Exit	Total	Enter	Exit	Total	

**TABLE 1 - Retail Values**

cq.-adj. st.	Shopping Center	820	1,275 sq. ft.	7	4	11	17	18	35	399
avg. rate-adj. st.	Shopping Center	820	1,275 sq. ft.	1	0	1	2	3	5	55
cq.-adj. st.	Spec. Retail Center	814	1,275 sq. ft.				11	14	25	92
avg. rate-adj. st.	Spec. Retail Center	814	1,275 sq. ft.				1	2	3	57
avg. rate-adj. st.	Conv. Market (24 hr.)	851	1,275 sq. ft.	43	42	85	34	33	67	941
cq.-adj. st.	Conv. Market (16 hr.)	852	1,275 sq. ft.	-145	-145	-290	-66	-69	-135	
avg. rate-adj. st.	Conv. Market (16 hr.)	852	1,275 sq. ft.	20	20	40	22	22	44	

**TABLE 2 - Scenario 1 - No Convenience**

cq.-adj. st.	Spec. Retail Center	814	1,275 sq. ft.				11	14	25	92
avg. rate-adj. st.	Single-Family	210	18 units	4	10	14	11	7	18	172
			BUILDING TOTAL:	4	10	14	22	21	43	264

**TABLE 3 - Scenario 1 - Convenience**

avg. rate-adj. st.	Conv. Market (24 hr.)	851	1,275 sq. ft.	43	42	85	34	33	67	941
avg. rate-adj. st.	Single-Family	210	18 units	4	10	14	11	7	18	172
			BUILDING TOTAL:	47	52	99	45	40	85	1113

**TABLE 4 - Scenario 2 - No Convenience**

cq.-adj. st.	Spec. Retail Center	814	9,999 sq. ft.				20	25	45	465
avg. rate-adj. st.	Single-Family	210	14 units	3	8	11	9	5	14	134
			BUILDING TOTAL:	3	8	11	29	30	59	599

**TABLE 5 - Proposed Use**

avg. rate-adj. st.	Sr. Adult Attached	252	66 units	2	3	5	4	3	7	230
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Trip generation rates from Trip Generation, 7th Edition (TG7) by  
the Institute of Transportation Engineers (ITE)

JAMESTOWN RETREAT PROPERTY  
TRIP GENERATION COMPARISON  
OCTOBER 29, 2005

DRW Consultants, LLC  
804-794-7312

Exhibit 1



Entrance

# FRONT ELEVATION

SCALE: 1/8" = 1'-0"



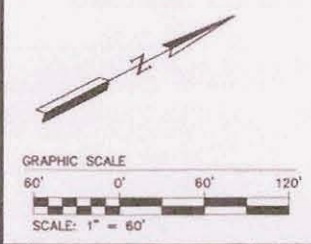
REAR ELEVATION

SCALE:  $1/8" = 1'-0"$



PERSPECTIVE VIEW





NO.	DATE	REVISION / COMMENT / NOTE	DESIGNED BY	DATE
1	9/21/05	DESIGNED	AES	9/21/05
2	9/21/05	FOR JAMES CITY COUNTY COMMENTS	GRR	9/21/05
3	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
4	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
5	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
6	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
7	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
8	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
9	9/21/05	FOR JAMES CITY COUNTY COMMENTS		
10	9/21/05	FOR JAMES CITY COUNTY COMMENTS		

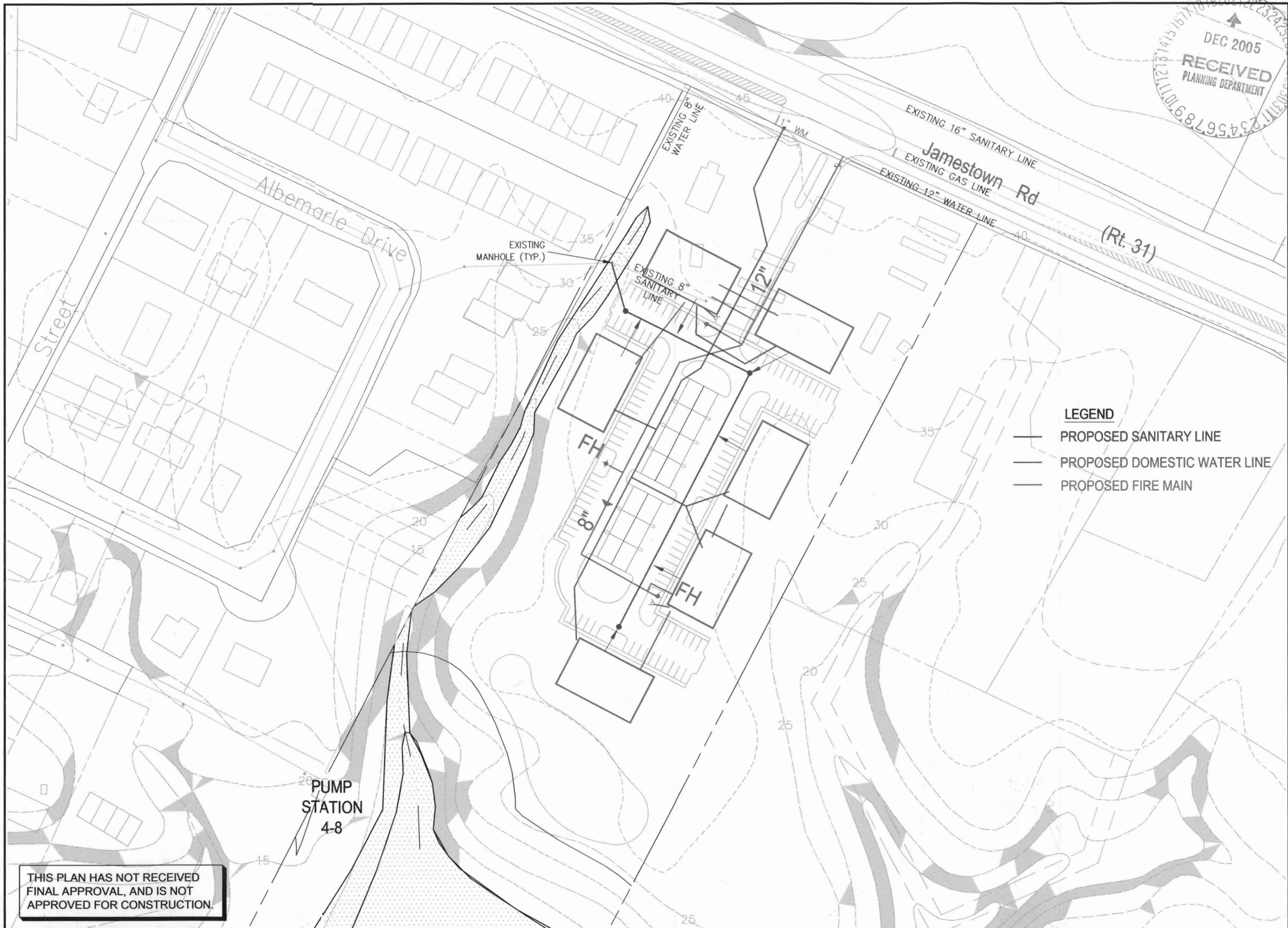
**ES**  
CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND • GLOUCESTER

5248 Olde Towne Road, Suite 1  
Williamsburg, Virginia 23188  
Ph: (757) 253-0040  
Fax: (757) 220-8994  
www.aesva.com

CONCEPTUAL LANDSCAPE PLAN  
**JAMESTOWN RETREAT**  
NIXON PROPERTY  
for  
MIKE BROWN  
JAMESTOWN DISTRICT JAMES CITY COUNTY VIRGINIA

Designed AES	Drawn GRR
Scale 1"=60'	Date 9/21/05
Project No. 9462-00	Drawing No. 1 OF 1





- LEGEND**
- PROPOSED SANITARY LINE
  - PROPOSED DOMESTIC WATER LINE
  - PROPOSED FIRE MAIN

REVISED PER CLIENT REVISIONS	REVISED PER JCC COMMENTS	REVISION / COMMENT / NOTE	DATE	BY
2	11/16/05			JSP
1	10/31/05			KSU

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



CONCEPTUAL UTILITY PLAN  
NIXON PROPERTY  
JAMESTOWN RETREAT

Designed TWD	Drawn GRR
Scale 1"=100'	Date 5/11/05
Project No. 9462-00	
Drawing No.	

THIS PLAN HAS NOT RECEIVED  
FINAL APPROVAL, AND IS NOT  
APPROVED FOR CONSTRUCTION.



**OPEN SPACE EXHIBIT**

**LEGEND**



IMPERVIOUS AREA (2.5± AC)



PERVIOUS AREA  
DEVELOPABLE (6.6± AC)



NON-DEVELOPABLE (7.4± AC)



O.S. ADJACENT TO 100' BUFFER AND  
RESOURCE PROTECTION AREA (1.8± AC)



R.O.W. BUFFER (1.6± AC)

TOTAL SITE AREA 16.5 AC.

## PROFFERS

THESE PROFFERS are made this 22nd day of November, 2005 by HAZEL RICHARDSON, EDWARD T. NIXON AND MAMIE NIXON (together with their successors and assigns, the "Owner") and MICHAEL C. BROWN, LTD., a Virginia corporation ("Buyer").

## RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 1676 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100036, the second with an address of 1678 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100037, and the third with an address of 180 Red Oak Landing Road, Williamsburg, Virginia and being Tax Parcel 4730100039, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned L-B and a portion is now zoned R-2.

B. Buyer has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from L-B and R-2 to R-5, Multi-Family Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Jamestown Retreat"



prepared by AES Consulting Engineers dated February 22, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

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

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

#### CONDITION

1. Master Plan. The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 66 residential dwelling units on the Property. All residential dwelling units on the Property shall be offered for sale by the developer thereof.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with

Virginia law in which all unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, shall require each initial purchaser of a unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the unit (but no less than \$100.00) 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 the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

3. Water Conservation. (a) Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the site plan or subdivision submittal for

development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by JCSA prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

4. Cash Contributions for Community Impacts. For each dwelling unit on the Property the one time cash contributions set forth in this Section 4 shall be made.

(a) A contribution of \$796.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

(b) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the Property at or prior to the final approval of the site plan or subdivision plat for such unit.

(c) The per unit contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be

the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

5. **Jamestown Road Buffer.** There shall be a minimum 150 foot buffer along the Jamestown Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. The entrance as shown generally on the Master Plan, landscaping and berms, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, lighting, entrance features and signs shall be permitted in the buffer. Dead, diseased and dying trees or shrubbery, and

invasive or poisonous plants may be removed from the buffer area. A combination of preservation of existing trees, enhanced landscaping (defined as 125% of ordinance requirements) and berms shall be provided within the 150 foot buffer in accordance with a landscaping plan approved by the Director of Planning which shall, when the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Jamestown Road. The perimeter buffers between the sides/back of buildings and the adjacent properties 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.

6. Entrances/Turn Lanes. There shall be one entrance into the Property to and from Jamestown Road as generally shown on the Master Plan. A westbound left turn lane with a taper and transition and an eastbound right turn taper on Jamestown Road shall be constructed at the entrance to the Property. The turn lanes proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed prior to the issuance of the first certificate of occupancy.

7. Recreation. Owner shall provide the recreational area shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 42 dwelling units on the Property. There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan as determined by the Director of Planning or in lieu of such additional facilities Owner shall make cash contributions to the County in an amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(d)) or some combination thereof. All cash contributions proffered by this Proffer 7 shall be used by the County for recreation capital improvements. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

8. Private Drives. All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property shall be private and shall be constructed in

accordance with applicable County private street standards. Private roads shall be maintained by the Association. Owner shall deposit into a maintenance reserve fund to be managed by the Association an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a public street of the same length as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

9. Environmental Protections. (a) 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, in accordance with the Powhatan Creek Watershed Management Plan, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater



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

(b) The owner of the Property shall cause a survey to be conducted of the Property for rare, threatened and endangered species. The location of any rare, threatened and endangered species located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of any rare, threatened and endangered species identified, if any on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning.

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

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

11. **Architectural Review.** Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural elevations dated June 20, 2005, made by James Pociluyko, AIA, submitted with the rezoning application. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans.

12. **Preservation of Specimen Trees.** Owner shall submit a tree survey of the Property with the site plan for development of the Property and shall use its best efforts to preserve trees identified on the survey as specimen trees to be preserved.

13. **Removal of Existing Structures.** Within 90 days of the approval of the rezoning, Owner shall remove all existing structures from the Property, including billboards, trailers, houses and other buildings. Owner shall be entitled to reasonable extensions of the 90 day deadline from the Director

of Planning if any existing tenant on the Property fails and refuses to vacate the Property in a timely and orderly manner so long as Owner is diligently pursuing its remedies for such refusal.

**14. Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential units in adjacent structures.

**15. Turf Management Plan.** The Association shall be responsible for developing and implementing a turf management plan ("Turf Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into Powhatan Creek and its tributaries. The Turf Management Plan shall include measures necessary to manage yearly nutrient application rates to turf such that the

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

**16. Sidewalks.** There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall either (i) install a sidewalk along the Jamestown Road frontage of the Property or (ii) in lieu thereof, make a payment to the County for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

**17. Age Restriction.** All dwelling units on the Property shall be age restricted to persons fifty-five (55) years of age or older ("Restricted Units") in accordance with the following parameters:

(i) It is the intent of the parties that Restricted Units shall be occupied by persons fifty-five (55) years of age or older and that no Restricted Units shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen (18) shall be entitled to occupy Restricted Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph (ii) below.

(ii) Each Restricted Unit within the Property shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. §3601 et seq. and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. §3601 et seq.; the Virginia Fair Housing Law Va. Code §36-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of

same shall be set forth in a declaration of restrictive covenants and property owners' association documents applicable to the Restricted Units.

18. Underground Storage Tanks. The existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

19. Curb and Gutter. Streets within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

WITNESS the following signature.

Edward T. Nixon  
Edward T. Nixon

Mamie Nixon  
Mamie Nixon

Hazel Richardson

Michael C. Brown, Ltd.  
By: [Signature]  
Title: President

South Carolina  
STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Blenheim, to-wit:

The foregoing instrument was acknowledged this 23rd  
day of November, 2005, by Edward T. Nixon  
and Mamie Nixon.

Pat Freeman  
NOTARY PUBLIC

My commission expires: January 12, 2010

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2005, by \_\_\_\_\_.



WITNESS the following signature.

\_\_\_\_\_  
Edward T. Nixon

\_\_\_\_\_  
Mamie Nixon

Hazel Richardson  
Hazel Richardson

Michael C. Brown, Ltd.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

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

The foregoing instrument was acknowledged this 29<sup>th</sup>  
day of NOVEMBER, 2005, by HAZEL RICHARDSON.

Margaret A. Seymour  
NOTARY PUBLIC

My commission expires: Feb. 29, 2008.

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2005, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_.

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2005, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_.

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 5th  
day of December, 2005, by Michael C Brown, as President  
of Michael C. Brown, Ltd. on behalf of the corporation.

Vern M Seddy III  
NOTARY PUBLIC

My commission expires: 12/31/09.



May 3, 2005

Settlers Mill Association  
P.O. Box 1295  
Williamsburg, VA 23185

Matthew J. Smolnik  
Development Management  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187

Dear Mr. Smolnik,

On behalf of the residents (192 households) of Settler's Mill, the Board of Directors of the Settlers Mill Association is writing to express our opposition to the zoning change for Case No. 2-07-05/MP-05-05, Jamestown Retreat.

Mr. Tom Derrickson has applied to rezone these 16.5 acres from LB & R2 to R5. There are a number of reasons why Settlers Mill Association is opposed to this change.

First, the property is designated Low Density Residential on the 2003 Comprehensive Plan. This designation allows for up to one dwelling unit per acre. The proposed plan allows for 5.6 dwelling units per acre, which is inconsistent with the Comprehensive Plan.

Second, the proposed development is along Jamestown Road, which has been designated a Community Character Corridor. This section of Jamestown Road has been selected as the demonstration project for the community corridor enhancement program. Settlers Mill Association is pleased with the enhancement adjacent to our entrance, and supports similar efforts along Jamestown Road. The proposed development is inconsistent with efforts made toward corridor enhancement.

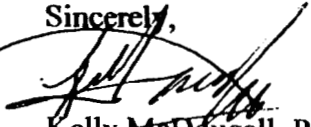
Additionally, the classification of rental units in the proposed development is inconsistent with the character of property ownership of adjacent properties.

The Settlers Mill Association is also concerned about the impact of the proposed development on traffic. Higher density dwellings along Jamestown Road create safety and congestion concerns.

In addition, the Settlers Mill Association is concerned about the environmental impact of the proposed development on the Powhatan Creek Watershed. It is in the interest of the community to maintain the maximum green space along this corridor.

The Settlers Mill Association requests that the Planning Commission consider our concerns before moving ahead with the proposed zoning change request for this development.

Sincerely,



Kelly McDougall, President Settlers Mill Association

**Jamestown Retreat  
Case Z-7-05/MP-5-05**



Comments and questions from Sue Welch, Raleigh Square Townhouses  
(adjacent neighborhood to proposed neighborhood)

What is a "rental condo?" In all documents, these are called rentals. Are these all to be sold to investors?

Who is the target resident? Singles, families, or students? I predict, if these are rentals, that within 3-5 years there will be a number of students. The property will be advertised as "close to the College." I'm surprised at having 4 bedrooms. These will also attract students. I'm not against students – I've had students live with me. But, there will be more cars. In our units that have 3 young people, there are normally 5-6 cars associated with the unit, from frequent visitors, virtual "live-ins," etc. In a recent College "Flat Hat" advertisement, James Square Townhouses off of Jamestown Road were advertised as the "best off campus student housing." So, anything on Jamestown Road will be attractive to students who prefer to live off campus. William and Mary is under pressure from the state to accept more students, and I believe they will have to increase their student population gradually to at least 200 more students.

**Density concerns:**

The planning document says that the density will be less than Raleigh Square. That is not really true. Raleigh Square consists of 43 townhouses. One family lives in each unit, or [in some cases] 3 students or young professionals. Raleigh Square is legally a townhouse association, governed by the Property Owners Association Act, not the Condominium Act. Jamestown Retreat will have different families or rental groups on each of 3 floors, a much higher "actual" density.

This proposed development sounds more like a Governor's Square or the condos at 199 and Jamestown Road, which are primarily rentals on two to three levels. A lower density development would be more desirable on this amount of developable land, and a lower "actual" density was first proposed, to my knowledge.

It appears that the developer is using certain potential enhancements, such as recreational amenities or "design enhancements" to permit a higher actual density through bonuses. The actual density per acre will be higher than 5.6 units per acre. If you have 12 units in one building, that is not "actually" 5.6 units per acre. What does a phrase like "gross density" mean? I do understand that the county is pushing the cluster concept, to save open space. This plan does address that desire.

The Grace Presbyterian Church, TK Oriental Arts, and Holly Ridge, as well as Settlers' Mill, have all enhanced the Jamestown Road corridor. I believe that some of the commercial centers, such as the office complex, 7-11, Cooke's Nursery, the Tandem Nursing Home, and Carrot Tree, have also been developed in such a way to maintain an interesting and attractive mix. That is what we all want.

**Traffic concerns:**

The traffic summary in the impact statement is unrealistic. I do predict 2.5 vehicles per unit, or more, with 2, 3 and 4 bedroom units. That is a minimum of 250 vehicles and probably up to 300 vehicles. What parking is planned? What realistic visitor parking is planned? I can tell you from experience at Raleigh Square, parking is one of our biggest problems. Students, even when only 3 non-related individuals are named on a lease, have constant friends, sleepovers, virtual live-ins. With families, there are normally two vehicles, because most women also work outside the home. Additionally, a number of families in our neighborhood have a third vehicle – a truck, used for business or recreation, or a young person over age 16. Our neighborhood was built in 1985/86, and each unit has 2 deeded parking spaces. We have only 4 visitor spaces!

It is difficult to turn left out of Raleigh Square now. It is difficult to turn left out of Settler's Mill now. It is also dangerous at times to turn left on to Raleigh Street from Jamestown Road. Individuals driving closer to 55 mph and on a cell phone don't realize until nearly too late that a vehicle has its breaks on and a left turn signal. An additional 210-300 vehicles won't help traffic. The prediction that only 32 vehicles will make turns on to Jamestown Road during morning rush hour is totally unrealistic. With 84 units, and a more realistic 2.5 cars per unit, I predict closer to 250 vehicles making turns on to Jamestown Road. At morning rush hour now, it's not uncommon to wait 10 minutes to turn left out of Raleigh Street.

**Environmental concerns:**

The Impact statement provides various measurements concerning the Watershed. I do know that right now there is ALWAYS water in the area behind our 6 Albemarle units. It is not "intermittent." I have lived at Raleigh Square since June 1985, and I'm an avid bird watcher, so I walk around a lot. The area designated as "Reach 1 B" has always been wet, even during dry years. I know that the environmental impact section relied on an examination by experts, but I question some of the information that relied so heavily on the North Carolina

measurement criteria to define "intermittent" versus "perennial" stream. All of us are very concerned about preserving the environment, the watershed, and Powhatan Creek. We have owls at the rear of the property, a family of foxes, and numerous other wildlife species. Why can't the County be more concerned about preserving some open spaces, creating more trails or pocket parks?

What kind of "pond" is the developer talking about? Who is going to "maintain" such a pond? La Fontaine condos, off of Route 5, do an excellent job of maintaining their drainage pond. It has a fountain to keep the water moving, and something is put in the water to keep the scum from forming. It is an asset. At Holly Ridge, a nearby residential neighborhood, the drainage pond is all dried up. Bamboo is growing fast. Most neighborhood associations don't know the true cost of maintaining these drainage ponds. Many neighborhoods apparently believe these ponds are maintained by the County, which is not the case.

Trash pickup:

I have not seen any architectural plans, and of course the proposed neighborhood will be managed by an association. Plans for trash pickup are not in place at this time. They should be an early consideration, however. Other rental neighborhoods behind Raleigh Square use trash dumpsters – they are unsightly; people just toss their garbage over the top of the dumpster and there is a big mess everywhere that attracts animals. At Raleigh Square, we have our trash picked up twice weekly from behind the units – this costs more, but we find it really helps keep our neighborhood more attractive. I'm sure that an association of renters won't want to pay the cost differential for trash pickup behind units. However, neither do I want to see a bunch of loose trash bags or dumpsters adjacent to our neighborhood. Even when dumpsters in such areas have a wooden fence around them, loose trash remains. A good example now is at the end of Albemarle Drive. And again, more students will always mean more trash! [speaking from experience]

Thank you for reviewing these questions and concerns. I hope they will be addressed by the Planning Commission and the Board of Supervisors. These comments are my own and do not necessarily reflect the opinion of the Raleigh Square Board of Directors.

Sue Welch  
19 Bromley Dr.  
229-0083

John and Kathleen Hornung  
108 Wood Pond Circle  
Williamsburg, Virginia 23185-3118



June 18, 2005

Mr. Matthew J. Smolnik  
Development Management  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187

RE: Case No. Z-07-05 & MP-05-05: Jamestown Retreat.

Dear Mr. Smolnik:

We are writing to express our opposition to the proposed zoning change for the above case, Jamestown Retreat. We are concerned from a number of aspects: deviation from the 2003 Comprehensive Plan, traffic, road safety, wetlands protection, negative fiscal impact on the County government which our taxes fund, disregard of Jamestown Road as a Character Corridor, etc. The rezoning request from LB & R2 to R5 ignores the Comprehensive Plan. The Comprehensive plan was an intensive, thoughtful process that reflects the will of the citizens of James City County. To quote:

"Hence, the James City County government considers that it has a mandate to control residential growth while preserving the County's natural beauty, improving education, and maintaining public services and a healthy economy. The Comprehensive Plan is written with these goals and objectives in mind."

The change that a rental complex with effective density of 9.23 units/acre (when the actual buildable area is considered) will be devastating to one of the more important Character Corridors in James City County. Again to quote from the Comprehensive Plan:

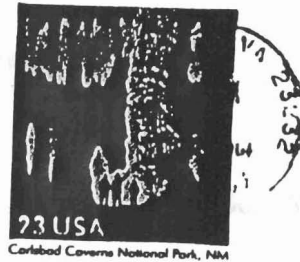
"The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of an area and feels these roads warrant a high level of protection."

Please consider our concerns and the high level of protection Jamestown Road deserves before moving ahead with this rezoning and development request.

Sincerely,



Joel & Marilyn Kirschbaum  
133 Hearthside Ln  
Williamsburg, VA 23185-3182



Matthew J. Smolnik  
Development Management  
Box A Mounts Bay Road  
Williamsburg, VA 23187



Dear Mr. Smolnik

Regarding "Jamestown Battery", either the  
developers should buy 68 more acres or build  
68 fewer apartments in this sensitive area.

Please oppose downgrading going along  
Jamestown Road.

Thank you for your help.

258-8529

Yours truly  
Joel & Marilyn Kirschbaum

2 Bromley Drive  
Williamsburg, VA 23185  
June 27, 2005



Mr. Matthew J. Smolnik  
Development Management  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187

Dear Mr. Smolnik:

On behalf of Raleigh Square Homeowners Association, I am writing to voice our objections to the plan for a Condominium development on Jamestown Road. The plan as presently designed does not buffer the wetland that extends beside Raleigh Square Homeowners. The said wetland is wet most of the year except during a very dry period. There is supposed to be a one hundred (100) yard buffer around the wetland and the purposed plan does not protect it.

The density is too high for the James City County development plan. It will be far higher than Raleigh Square if built as proposed. The higher density will result in an increase in the traffic on Jamestown Road. At times, people from the developments already along the road have difficulty getting onto it.

This property is presently zoned for a light business and should remain that way. The remaining land could be developed as townhouses, protecting the wetlands. The county should consider a waterside park for part of this area for the benefit of the people living along Jamestown Road.

Therefore, we strongly urge the plan for condominiums be turned down as being inappropriate for this area.

Sincerely yours,

*Merle Kimball*

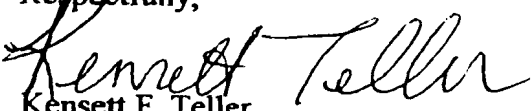
Merle Kimball, President  
Raleigh Square Homeowners Association

These are all potentially major problems which would certainly cause us all discomfort and possibly very hazardous driving conditions. But, in addition to these concerns, which we share with our neighbors, there are two items that we feel more strongly about and could have even a greater impact on our community.


- 1.) ENVIRONMENTAL: (a) This project/development would have a environmental impact on the trees/greenspace, wild animals, and especially the wetlands. There are three natural streams that carry rain and storm drainage into Powhatan Creek. The disruption or closing of these natural drainage streams would corrupt the natural run-off. (b) Reach 1B could be a wetland area. The developers consultants have stated that it is "borderline" and not perennial. It is our understanding that James City County Environmental has not done their own report on the issue. We would request that they conduct their own research on Reach 1B and the entire property. (c) We are very concerned that the developer has not provided a maintenance agreement for the PROPOSED storm water management facilities. Also, if a storm water management facility is not used, how the project intends to handle storm run-off?
- 2.) The Comprehensive Plan provides for "a harmonious and orderly relationship between multifamily residential and lower density COMMERCIAL use". At our location we greatly value this provision in the Comprehensive Plan. We appreciate the quiet and non-congested atmosphere that this existing plan provides. The proposed plan would allow 85 dwellings to be crunched into an area where our Comprehensive Plan calls for 1 dwelling per acre. This means that instead of 9 dwellings in nine acres we would be squeezing an additional 76 units in the same 9 acre space. Certainly this congestion and high density of buildings, people, cars/buses would not be "harmonious" to anything except the developer's pocketbook.

We ask the county and Board of Supervisors to please deny the developers request for this project. We also ask that the county and Board of Supervisors adhere to the good judgment of the existing 2003 Comprehensive Plan when considering any future development for this property.

Respectfully,

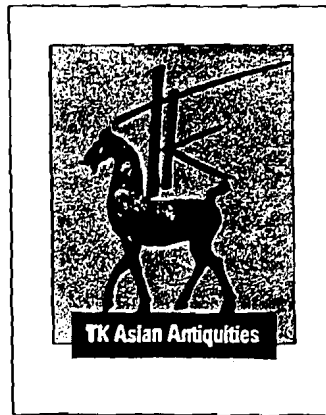
  
Kensett F. Teller  
President  
TK Arts, Inc.

and

  
Michael C. Teller  
President  
TK Oriental Antiques, Inc.

July 7, 2005

Mr. Mathew J. Smolnik  
Development Management  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, Virginia 23187



Dear Mr. Smolnik,

As owners of the property adjacent to the proposed Jamestown Retreat (Case No.02-07-05/Mp-05-05) we would like to express our opposition to the zoning change to this property and to the project as it now proposed. Along with our neighbors in Raleigh Square and Settlers Mill we are very concerned about the following:

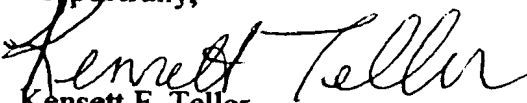
- 1.) **TRAFFIC:** (a) The number of residences in this proposed development would create an intense amount of traffic on our already burdened Jamestown Road. We are already experiencing traffic flow problems because of traffic from disembarking ferries, tourist buses and turning traffic trying to enter or exit Jamestown Rd. (b) This proposed development is located in a central area of Jamestown Road where if the traffic does not continue to flow, it could create lengthy back-ups over Lake Powell in one direction and Jamestown Settlement in the other direction. (c) In addition to the increase car traffic we could have as many as 3 school buses stopping twice a day to load and unload students. These 6 bus stops per day alone would have a MAJOR impact on traffic flow.
- 2.) **COST TO TAYPAYERS:** This project would NOT be income producing. This project will not relieve the county OR the taxpayers by adding revenue, instead it will actually COST the county and taxpayers an additional \$110,000.00 PER YEAR. Please note this information is provided by the developers own financial report from The Wessex Group, Ltd.
- 3.) **THE 2003 COMPHREHENSIVE PLAN:** This project is NOT in compliance with our recently written and current Comprehensive Plan. The Comprehensive Plan calls for ONE dwelling per acre, not a cluster development and certainly NOT A DENSE APARTMENT COMPLEX of 7 three story buildings with 16 garage buildings to house 48 cars. According to the Comprehensive Plan "greater than one unit per acre may be considered only if it offers particular public benefits to the community". After studying the project, please explain to us "the particular public benefits to the community" that this project offers?

These are all potentially major problems which would certainly cause us all discomfort and possibly very hazardous driving conditions. But, in addition to these concerns, which we share with our neighbors, there are two items that we feel more strongly about and could have even a greater impact on our community.


- 1.) ENVIRONMENTAL: (a) This project/development would have a environmental impact on the trees/greenspace, wild animals, and especially the wetlands. There are three natural streams that carry rain and storm drainage into Powhatan Creek. The disruption or closing of these natural drainage streams would corrupt the natural run-off. (b) Reach 1B could be a wetland area. The developers consultants have stated that it is "borderline" and not perennial. It is our understanding that James City County Environmental has not done their own report on the issue. We would request that they conduct their own research on Reach 1B and the entire property. (c) We are very concerned that the developer has not provided a maintenance agreement for the PROPOSED storm water management facilities. Also, if a storm water management facility is not used, how the project intends to handle storm run-off?
- 2.) The Comprehensive Plan provides for "a harmonious and orderly relationship between multifamily residential and lower density COMMERCIAL use". At our location we greatly value this provision in the Comprehensive Plan. We appreciate the quiet and non-congested atmosphere that this existing plan provides. The proposed plan would allow 85 dwellings to be crunched into an area where our Comprehensive Plan calls for 1 dwelling per acre. This means that instead of 9 dwellings in nine acres we would be squeezing an additional 76 units in the same 9 acre space. Certainly this congestion and high density of buildings, people, cars/buses would not be "harmonious" to anything except the developer's pocketbook.

We ask the county and Board of Supervisors to please deny the developers request for this project. We also ask that the county and Board of Supervisors adhere to the good judgment of the existing 2003 Comprehensive Plan when considering any future development for this property.

Respectfully,

  
Kensett F. Teller  
President  
TK Arts, Inc.

and

  
Michael C. Teller  
President  
TK Oriental Antiques, Inc.

**122 Ware Road  
Williamsburg, VA 23185**

**July 28, 2005**



Mr. Matthew J. Smolnik  
Development Management  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23185

Dear Mr. Smolnik,

I write in my position as President of the Lakewood Homeowners Association on behalf of our residents to oppose the zoning change of property on Jamestown Road for construction of the proposed Jamestown Retreat (Case No. 02-07-05/Mp-05-05).

The following are reasons for opposing the rezoning:

1. Failure to comply with the 2003 Comprehensive Plan

Currently, the property is designated Low Density Residential in the 2003 Comprehensive Plan. This designation allows for up to one dwelling per acre. The project would require rezoning of the property from its current designation as Low Density Residential to R-5, a designation for Moderate Density Residential which would provide "a harmonious and orderly relationship between multifamily residential uses and multifamily residential uses" (Section 24-304 of the James City County Zoning Ordinance.). The tract has a total of 16.5 acres, of which only 9.1 acres are usable. Using this number, the density is much higher—9.23 units per acre—than 5.6 units as in the developer's proposal. The classification of rental units in the development is inconsistent with the character of property ownership of adjacent properties.

2. Increased traffic on Jamestown Road

Although Lakewood is farther away from the property proposed for rezoning than other communities or businesses, we would be affected as much or more than any other by an increase in traffic. We have at present a challenging and, at most times, a dangerous access to Jamestown Road, and the idea of increasing the volume of traffic which would use the road on a daily basis is unthinkable and, in my opinion, irresponsible. The developer is vague about the volume of traffic, which is calculated from the nature of the condominium units, but however it is figured, must increase traffic on Jamestown Road.

July 28, 2005

3. Environmental impact

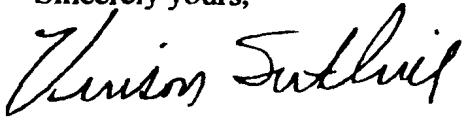
Of great concern also is the impact of the proposed development on the Powhatan Creek Watershed. The proposal does not proffer a maintenance agreement for the proposed storm water management or best management facilities. The project does not require the protection of the Chesapeake Bay Act. The Powhatan Creek residents feel that James City County should inspect the property and make their own decision, rather than rely on the developer's report.

4. Cost to James City County

According to the developer's own calculations, the "Annual Net Fiscal Impact" (or cost) to James City County will be \$110,000.

For these, and for reasons which doubtlessly have been addressed by other concerned parties, we oppose rezoning of the property and approval of the construction project.

Sincerely yours,



Vinson Sutlive, President  
Lakewood Homeowners Association



P.O Box 5112  
Williamsburg, VA 23188  
September 19, 2005



Subject: Case # Z-07-0S/MP-OS-OS, Jamestown Retreat

Dear Chairman Hunt and Members of the Planning Commission:

The Friends of the Powhatan Creek Watershed (FOPCW) would like to take this opportunity to congratulate the Planning Commission for incorporating award-winning citizen input into the visions outlined within the 2003 Comprehensive Plan. The FOPCW strongly believe that rezoning applications stringently adhere to these policies.

That said, the FOPCW respectfully request that the rezoning proposal, Case # z07-05/MP-05-05, Jamestown Retreat, be denied on the grounds that the project is grossly inconsistent with the current, accepted policies in the Comprehensive Plan which says: *(There is to be full adherence to the County's Community Character Coordinator Policy and Land Use Development Standards along the entire frontage of the Jamestown Road.)* Specifically:

- . The Comprehensive Plan identifies this parcel as "Neighborhood Commercial/Limited Business" and "Low Density Residential" The applicant is requesting a rezoning to "Moderate Density Residential" with a substantial increase in density. Let's stick with the Plan.
- . The FOPCW believe that, based upon an alternative assessment of nondevelopable acreage, densities could actually be much greater than those reported by the applicant, perhaps as high as 8 or more units/acre;
- . The FOPCW have significant concerns regarding structure and BMP construction encroachment and protection of setbacks from steep slopes, Resource Protection Areas, wetlands, and perennial stream(s). These theoretical master plan representations have direct bearing upon site densities and are subject to change if the Parcel is rezoned;

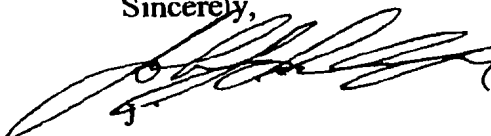


- . The FOPCW strongly question the accuracy of the determination that the tributary that flows along the west edge of the property is intermittent. James City County has been in a minor drought condition (-2.5 Palmer scale) for the past 2-3 months. The tributary has had consistent flow through August and September, which is strongly indicative of perennality. It is obvious that the scoring methodology (only one site visit in November of 2004), or the application thereof, (James City County Perennial Stream Protocol) is/was insufficiently robust, in this instance, to adequately assess and protect this stream;
- . The FOPCW request an independent stream evaluation using more sensitive measures. The FOPCW fully expect that all perennial streams and wetlands will be protected with 100-foot buffers in accordance with the Powhatan Creek Watershed Management Plan and the Chesapeake Bay Act; and

Finally, the FOPCW will defer specific comments on myriad environmental issues associated with the master plan proposal until a more appropriate time, but close wondering why we (JCC, FOPCW, residents) should be content with a project that proposes implementation of the weakest protection standards. Folks probably deserve better.

Since 1999 the FOPCW have sought "win-win" solutions by working with developers to seek ways of designing the impacts out of a project in order for it to go forward. There are some projects which are so poorly conceived and so fatally flawed that the impacts simply cannot be designed away. Jamestown Retreat is one of those projects. Stopping this project and maintaining the current zoning of this parcel is the only reasonable option.

Sincerely,



John Schmerfeld  
Vice President  
128 Jordans Journey  
Williamsburg, VA 23185  
757/258-1956

**Matthew J. Smolnik**

**From:** Reed Weir [ReedW@pva.org]  
**Sent:** Tuesday, September 27, 2005 2:47 PM  
**To:** Matthew J. Smolnik  
**Subject:** Jamestown Retreat



**Dear Mr. Smolnik:**

**If you will please distribute this among the Commission members I would appreciate it greatly.**

**Thanks,**

**Reed Weir**

**Dear Members of the James City County Planning Commission:**

**As you know, I am one of the property owners with land adjacent to the piece under consideration for re-zoning to high density residential and known as Jamestown Retreat. I have owned this vacant lot for over ten years now, I have invested many thousands of dollars into environmental studies, core samples and methane testing. This is a buildable lot and I have been saving towards and planning for it's use as my retirement home for many years.**

**I had made preliminary inquisitions to county officials years ago and was told it would be highly questionable that my land would receive re-zoning to any sort of multi-family use if I were to pursue that course. I am flanked on all sides except one by properties owned, I think, by Jamestown Condominiums and which contain brick buildings housing eight separate units each. The one saving grace for my land is the one side that is up for the proposed re-zoning. I feel my land will lose significant value as a single-family lot, as well as losing it's unique secluded footprint. I will not want to spend my retirement years in dwelling completely surrounded by condominiums. I oppose the granting of the re-zoning request for the above reasons.**

**There is one condition that would remove my visible objections. If I am able to realize a potential gain financially through an increase in the value of my land by including it in the same re-zoning, I could replace it elsewhere with a similar piece at today's prices. I should note that I recently gave the county over a tenth of an acre to improve the roadway and drainage system. I feel it would be extremely inconsistent for the county to approve re-zoning on the one piece and not the other.**

**These are my thoughts and feelings Ladies and Gentlemen of the Commission. I ask that you act in a manner that will help to equally protect my rights by**

nying the proposed rezoning or extending it to include my adjacent property well.

ncerely,

Reed Weir  
2-416-7687

# Settlers Mill Association

P.O. Box 1295

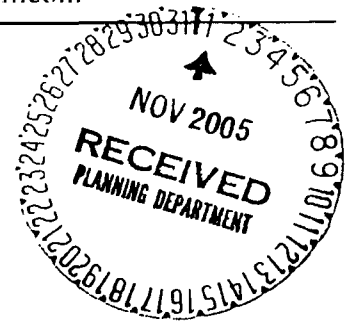
Williamsburg, VA 23187

www.settlersmill.com

November 1, 2005

Mr. Matt Smolnik  
James City County Planning Department  
101-A Mounts Bay  
Williamsburg, Virginia 23187

Re: Jamestown Retreat



Dear Mr. Smolnik:

On behalf of the residents (192 households) of Settlers Mill, the Board of Directors of Settlers Mill Association is submitting this second letter expressing our opposition to the zoning change for the proposed Jamestown Retreat. This second letter reflects our review of the most recent submission of the developer, Michael Brown.

It is our position that, while this recent submission is moving closer to the Comprehensive Plan guidelines, the submission is still not in compliance with the Comprehensive Plan for James City County. Specifically, the density is higher than allowed; the setback from Jamestown Road is less than allowed; there remain to be issues with the height restrictions on four of the six buildings; and, very importantly, there are still potential environmental issues concerning drainage. We feel the proposed development remains inconsistent with the significant efforts being made to enhance this designated Character Corridor.

Our previously stated concerns about traffic and safety remain in light of the proposed density being higher than the Comprehensive Plan allows.

The Settlers Mill Association appreciates your consideration of our concerns before approving this zoning change.

Very truly yours,

Settlers Mill Association



## **JAMESTOWN RETREAT**

147 Raleigh Street  
Williamsburg, VA 23185  
November 4, 2005

JCC Planning Commission  
Mounts Bay Road  
Williamsburg, VA

Dear Chairman Hunt and Members of the Planning Commission:

As a citizen who has lived on Powhatan Creek for 16 years just three blocks from the land in question, I am writing to respectfully request that you deny the re-zoning request Case Z-7-05/MP-5-05 Jamestown Retreat. Although developers have met with citizens twice and submitted three different plans, they still have failed to meet the minimum standards set in the 2003 Comprehensive Plan, the Powhatan Creek Watershed Management Plan, and the Chesapeake Bay Ordinance. Following is a list of the most serious concerns for all of us.

➤ **Questionable Wetlands and Stream Delineation**

The entire south boundary of this site borders the main tidal segment of Powhatan Creek for hundreds of feet. The applicant has steadfastly ignored citizen pleas and County suggestions to ascertain current and accurate data of environmental impacts on this very sensitive parcel. Instead of seeking independent verification of current wetland delineations and stream designation, the applicant has based the entire application on one field visit by his own consultant. Although the JCC Watershed Planner, Michael Woolson, did submit a stream designation confirmation letter in the early months of this process, he realized after citizens expressed doubt that he may have been mistaken. (See attached photos and attached letter.) You can see from the photos that on September 27 the stream in question had water in it. The National Weather Service recorded September as the driest in 100 years. By all accounts this is a perennial stream and must have a 100 feet of Resource Protection Area along its entire length. Instead, the applicant plans to trench and fill it for water and sewer lines and dredge the ravine at its mouth for a huge drainage pond which incidentally, is acknowledged Resource Protection Area. Secondly, these wetlands fall under the jurisdiction of Section 404 of the Clean Water Act, and any detailed wetland delineation and stream evaluation must be completed using the US Corps of Engineers Wetland Delineation Manual and not the North Carolina stream evaluation method which the applicant used. This noncompliance cannot be ignored. The applicant has just "blown off" citizen and Staff requests at every turn. Instead the applicant says: *"The proposed disturbance for utility connections may require a wetland permitting through the Virginia Department of Environmental Quality."* This application should not be before you. I respectfully request an independent review for wetlands, streams, resource protection area, and flood plain delineations before considering any application.

➤ **Destruction of View on a National Scenic Byway**

This month the Colonial Parkway has been designated a National Scenic Byway by the Federal Highway Administration. In addition Powhatan Creek has been designated a National Blue-way by the NPS. This parcel sits on a hill that can be clearly seen from the Parkway Bridge at the Jamestown Settlement entrance. The applicant's drawings show what appears to be green space on the shore of Powhatan Creek. It is green, but it is

marsh with no trees. Since the applicant is seeking a height waiver to build the rear four buildings 45 feet high (8 feet higher than ordinance allows) on an existing hill and since the plan calls for cutting down trees adjacent to the marsh for a large, drainage pond, these structures will not have the current old forest buffer to protect this historic viewshed. These buildings will be the first thing visitors see when they drive across or canoe down the creek. They will loom skywards and at night their lights will reflect down creek. Even with all the current development along the creek, there is no destruction of shoreline vista save the Jamestown Yacht Basin. Is this the view we want our guests and citizens to see for 2007 and always? Surely, citizens deserve better.

➤ **No demonstrated need for a Special Use Permit**

The Villas and Governors Grove are approved for close to 300 town homes just a mile down the road. Why do we need more at the expense of our neighborhood?

➤ **Only lip service to implementation of Low Impact Design methods.**

In November 2004 as a member of JCC Local Site Planning Roundtable Mr. Michael Brown, the applicant was one of forty committee members who endorsed the 24 Model Development Principles published in Recommended Model Development Principles for James City County, Virginia. How many of these 24 principles are included in this plan? We have worked since August and have three if my count is correct. If a developer on the Roundtable won't even offer a reasonable site plan, are we to believe that he will even implement the ones on this conceptual plan?

In summary, let me say that rarely have I seen so much disregard for policy and for the impact that this plan could have on the quality of so many neighborhoods. It should be noted, however, that we are in favor of any development that adheres to the current Land Use designations and Community Character Corridor designations in the 2003 Comprehensive Plan. We are in favor of keeping Jamestown Road at its current width. We are in favor of keeping traffic off a road that will soon carry tens of thousands of vehicles. We are in favor of Neighborhood Commercial development on the front parcel that will increase county revenues while providing convenient services for neighbors and 2007 guests. We are in favor of homes built to site on the rear Low Density Residential section that "maintain natural views" and "promote the unique character of the area". Let's stick with the Comp Plan.

Thank you.

Sincerely,  
Ann J. Hewitt

Matthew J. Smolnik

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From: John and Kathy H [jkjamestown@verizon.net]  
 Sent: Tuesday, December 20, 2005 4:01 PM  
 To: Matthew J. Smolnik  
 Subject: Re: Jamestown Retreat - reasons for recommendation of denial

tt, I have read the complete Staff Report for the December 13, 2005 Board of Supervisor's meeting. It  
 ed some concerns in my mind. I almost get the impression that a proffer to add Affordable Housing to the  
 y and something to add to open space will allow this request to get approval. I really have a problem with  
 . I think we all recognize that the cost of real estate in JCC is very high and that more affordable housing  
 needed. But as I sit here in Settlers Mill, I see a high density of affordable housing in the area from the  
 nmmunities along Jamestown Rd (Albemarle Condominiums, Gordon Berryman Subdivision Duplexes,  
 eigh Square, and Cardinal Acres to name but a few ); Ironbound Rd between Jamestown Road and John  
 er Highway, Hickory Signpost Rd, etc. The assessments for these areas, listed on the JCC Property  
 ormation Site support this. A significant percentage of these properties have become rentals, are poorly  
 intained and an eye sore for the community. In my work as a member of the Jamestown Road  
 mmittee as part of the Historic Triangle Corridor Enhancement, I was in contact with residents of a  
 mber of the Jamestown Rd communities. Our efforts were focused on working with these areas to  
 nance their exposures on Jamestown Road in preparation for 2007 and beyond. What we found were a  
 ge percentage of properties used as investment rentals with little concern for maintenance, landscaping,  
 . I think the County has a serious responsibility to take special care with any new development along this  
 aracter Corridor. If the developer of Jamestown Retreat has requirements to "force fit" his development  
 o the area, he will be forced to move further away from a "quality development" in order to maintain his  
 urn on investment. The lower the quality and the lower the cost, the more likely Jamestown Retreat will  
 come just another investment Mecca, poorly maintained and destined to deteriorate over time. If the  
 velopment is wrong for the site from density, environmental impact, traffic volume, Character Corridor  
 autification and maintenance perspectives, then it is WRONG for the site and should be denied. The  
 nsistent addition of proffers to make it acceptable to the county does not make it acceptable to  
 communities who live around it, who protect Powhatan Creek, and who try to enhance Jamestown Road.  
 ce portions of Jamestown Road are already in a "watch" state for any increase in traffic volumes and  
 cause of the significant environmental concerns and high percentage of undevelopable land in this  
 eage, it would seem that this property would be a candidate for the County to stand firm on its zoning and  
 perhaps consider for permanent green space.

ase share this letter with the Planning Commission.

ank you.

hy Hornung

**REZONING CASE NO. Z-17-05 & MASTER PLAN NO. MP-14-05. Greensprings  
Staff Report for the January 9, 2005, Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:

**Building F Board Room; County Government Complex**

December 5, 2005

Deferred

January 9, 2005

7:00 p.m.

Board of Supervisors:

February 13, 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 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 1397 acre project; this proposal would bring the new total to 1535 units in the 1397 acre project.

Location:

4200 Longview Landing

Tax Map/Parcel Nos.:

(36-3) (1-24)

Parcel Size:

1397 acres overall/35 acres in Phase VII

Existing Zoning:

R-4, Residential Planned Community, with proffers

Proposed Zoning:

R-4, Residential Planned Community, with amended proffers

Comprehensive Plan:

The entire planned community is located in an area that is partially Rural Lands and partially 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**

With the submitted proffers, staff believes that this proposal will not negatively impact surrounding property. Staff finds the proposal generally consistent in character with the previously approved Master Plan and has determined that the additional units proposed will not have an appreciable impact. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors.

**Staff Contact:** Kathryn Sipes

Phone: 253-6685



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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b><u>Use</u></b>	<b><u>Amount</u></b>
Water-JCSA	\$1,061.00 per additional single family detached DU
Sewer-JCSA	\$2,700.00 per grinder pump needed above previously approved number of 21
CIP projects – emergency services, off-site road improvements, library uses, and public use sites	\$1,400.00 per additional single family detached DU
CIP projects – school use	\$4,011.00 per additional single family detached DU
Community Cash - Friends of Greensprings	\$1,000.00* per additional single family detached DU
Community Cash – Housing Partnerships	\$1,000.00* per additional single family detached DU
HOA Contribution	\$1,000.00 per additional single family detached DU
*incentive language provides opportunity to match organizations’ fundraising	*Possible additional \$666.66 to each organization, or \$1,333.33 total per additional single family detached DU
<b>Total Amount (2005 dollars)</b>	<b>\$194,160 (excludes sewer, community cash, HOA, and incentive contributions)</b>
<b>Total Per Lot</b>	<b>\$6,472</b>

### **PROJECT DESCRIPTION**

Mr. Christopher Basic has applied on behalf of Jamestown, LLC to amend the Greensprings Master Plan and Proffer Agreement. The amendments include increasing the number of single family detached dwelling units in the proposed Phase VII of the Greensprings West subdivision. This section is within land bay S-1, previously approved for a total of 368 single-family units; of these, 351 have been approved or are currently under review, leaving 17 lots available to the developer. The applicant is proposing an additional 30 units, making Phase VII 47 lots and bringing the total in land bay S-1 to 398. The total dwelling units in the master plan area would increase from 1505 to 1535, taking gross residential density from 1.07 dwelling units/acre to 1.10 dwelling units/acre.

### **PROJECT HISTORY**

Greensprings Plantation was rezoned from A-1, General Agricultural, and A-2, Limited Agricultural, to R-4, Residential Planned Community, with a master plan and proffers in 1989. Subsequent master plan amendments were approved in 1992, 1993, 1997, 1998, 1999, and 2002. The master plan amendments consisted of the following changes: adding two 18-hole golf courses, permitting timeshare development within the multifamily section, permitting a life-care retirement community and nursing home facility (Patriot’s Colony), reconfiguring the multifamily land bays and multifamily recreational facilities, and enhancing the appearance of the buffers. In 1998, single-family land bays S-1, S-2, and S-4 were consolidated into a new land bay S-1, and three single-family units were transferred from land bay S-3 to the new land bay S-1. This amendment brought the total number of permitted single-family units to 368 in land bay S-1 (Greensprings West) and to 172 in land bay S-3 (Greensprings Plantation). In 1999 the proffers were amended to create separate, comparable recreation facilities for each of the two major single-family detached land bays in the development. Later that same year the master plan and proffers were amended to transfer 5.9 acres of open space to developable land in exchange for a transfer of 3.19 acres of developable land to open

space. This exchange resulted in a net 2.72-acre increase in developable land and corrected property lines reflected on development plans. In 2002 the proffers were amended to permit a 120-foot Wireless Communication Tower at the intersection of Route 5 and Greensprings Plantation Drive.

## **PUBLIC IMPACTS**

### **Archaeology**

#### **Proffers:**

- The County archaeological policy is proffered.

### **Environmental**

**Watershed:** The entire planned community is split between the Gordon's Creek and Powhatan Creek Watersheds. Greensprings West, including Phase VII where the proposed additional thirty homes would be built, is in the Gordon's Creek Watershed.

**Staff Comments:** Environmental staff has noted minor issues that must be addressed prior to development plan approval. Namely, staff has requested an analysis of the current stormwater facilities to verify that actual performance meets the standards claimed during the design process. The applicant has agreed to perform this analysis.

### **Fiscal**

The applicant has stated that the thirty additional units with a sale price of \$500-600,000 will have a positive fiscal impact.

#### **Proffers:**

- The applicant has proffered \$1,400.00 for each additional lot that may be used for any project in the County's Capital Improvement Plan, including emergency services, off-site road improvements, library uses, and public use sites.
- The applicant has proffered \$4,011.00 for each additional lot on the property for any project in the County's Capital Improvement Plan, including school uses.

**Staff Comments:** The Department of Financial and Management Services has reviewed the proposal and concludes that it would result in a negative fiscal impact. The actual average of homes sold in the last twelve months in Greensprings West is less than \$450,000. Greensprings West is averaging 65 children per 100 units (a figure 50% higher than the County average for single-family). Of the proposed proffers, the amount realized by the County is not enough to make this a fiscally desirable proposal.

### **Public Utilities**

Greensprings West and a portion of Patriot's Colony are located outside the Primary Service Area; the rest of the area covered under the Master Plan is inside the PSA. Since the additional units proposed are part of Greensprings West, they would be outside the PSA. The Planning Commission and Board of Supervisors previously approved rezoning the entire master plan area to R-4 with proffers, allowing this planned development to occur outside the PSA and further allowing JCSA to extend service to it. As previously stated in this report, 351 units have been either approved or are currently under review, and all are served by JCSA.

#### **Proffers:**

- The owner has previously obtained approval from the County for the use of 21 grinder pumps on the property should the use of gravity sewer not be feasible. A contribution to JCSA of \$2,700.00 for each grinder pump used on the Property over and above the previously-approved 21 is proffered.
- A contribution to JCSA of \$1,061.00 for each additional lot is proffered for water system improvements.

**Staff Comments:** JCSA staff has reviewed and approved the Master Plan amendment and proffers.

### **Schools**

Per the Adequate Public School Facilities Test policy adopted by the Board of Supervisors, all special use

permits or rezoning applications should pass the test for adequate public school facilities, based on design capacity. With respect to this test, the following information is offered by the applicant:

School	Design Capacity	Effective Capacity	Current Enrollment (9/30/2005)	Projected Students Generated	Enrollment + Projected Students
D.J. Montague Elementary	757	617	779	9	788
James Blair MS	625	764	628	5	633
Jamestown HS	1250	1177	1524	6	1530

**Proffers:**

- A contribution of \$4,011.00 for each additional lot on the property is proffered for school uses.

**Staff Comments:** This application was received prior to the November 13, 2005 effective date of the County's new Cash Proffer Policy for Schools. Nonetheless, the amount proffered is equal to the amount for single family detached residences in that adopted policy.

Although both design capacity and effective capacity are exceeded at the elementary school, the Board of Supervisors approved construction of an eighth elementary school as part of the FY06 budget. The Adequate Public Schools Facilities Test states that if physical improvements have been programmed through the County CIP then the application will be deemed to have passed the test. Therefore, the proposal passes the Adequate Public Schools Facilities Test at the elementary school.

Using design capacity as the standard, per the adopted policy, the proposal fails the Adequate Public Schools Facilities Test for the middle school. However, James Blair Middle School is well within their effective capacity with this proposal.

Although the design and effective capacities of Jamestown High School are clearly exceeded, voters approved the new high school referendum in 2004 and the new high school is scheduled to open in September 2007. Therefore, the proposal passes the Adequate Public Schools Facilities Test for the high school.

**Parks and Recreation**

**Staff Comments:** Staff believes both Section 24-286 of the Zoning Ordinance and the Park and Recreation Guidelines have been met. The proposed additional thirty lots do not warrant an appreciable increase in recreational facilities, and staff believes the existing facilities and additional cash proffer to the Homeowners Association are adequate.

**Transportation**

The site is accessed off Centerville Road between Monticello and Brick Bat Roads. A second entry is under construction, near the intersection of Centerville and Monticello Roads. An existing entry, near the intersection of Centerville and Brick Bat Roads, takes you into Greensprings West via Manor Gate Drive.

The proposed Phase VII is located on the northwest edge of the master plan area, accessed from Manor Gate Drive and Longview Landing.

**2005 Traffic Counts:** 5,060 vehicles per day.

**2026 Volume Projected:** 9,500 vehicles per day on a two lane road.

**Road Improvements:** None included with this proposal.

**VDOT Comments:** VDOT concurs with the engineer's analysis that the proposed additional thirty lots will not have an adverse impact on the surrounding roadway network.

**Staff Comments:** Although no road improvements are required or recommended with this proposal, the applicant has proffered \$1,400.00 for each additional lot that may be used for off-site road improvements.

## **COMPREHENSIVE PLAN**

### **Land Use Map Designation**

The 2003 Comprehensive Plan designates the Greensprings West development as Rural Lands and the Greensprings Plantation development as Low Density Residential. The dividing line follows the PSA boundary. Low density areas are residential developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. Examples of acceptable land uses within the Low Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented facilities, and very limited commercial establishments. The limited commercial establishments, schools, churches, and community-oriented public facilities should be located on collector roads at intersections where adequate buffering and screening can be provided to nearby residential uses and the character of the surrounding area. As stated earlier, the original rezoning for Greensprings was in 1989 with a master plan and proffers.

### **Proffers**

Additional cash proffers are offered as outlined below:

- A contribution of at least \$1,000.00 for each additional lot on the property has been proffered for the *Friends of Greensprings*. If by the date of final subdivision plat approval of the additional lots, the *Friends of Greensprings* have raised more than \$30,000.00, an additional one time contribution will be made to the *Friends of Greensprings* in an amount equal to the amount of money raised in excess of \$30,000.00 up to a maximum total gift of \$50,000.00.
- A contribution of at least \$1,000.00 for each additional lot on the property has been proffered for *Housing Partnerships, Inc.* If by the date of final subdivision plat approval of the additional lots, *Housing Partnerships, Inc.* have raised more than \$30,000.00, an additional one time contribution will be made to *Housing Partnerships, Inc.* in an amount equal to the amount of money raised in excess of \$30,000.00 up to a maximum total gift of \$50,000.00.
- A contribution of \$30,000.00 has been proffered for the Greensprings West Homeowners Association to mitigate potential impacts on recreational facilities from the development of these additional lots. This amount shall be payable to the HOA prior to final subdivision plat approval for the additional lots if, as of such date the HOA has obtained final approval of the site plan for the project by the County. If as of the date the HOA has not obtained final site plan approval for the project, such amount shall be paid to the County. The County shall hold such funds and pay them to the HOA if the HOA obtains final approval of the site plan for the project within a period of five years from the date of payment to the County. If the HOA does not obtain final site plan approval for the project within the five year period, the HOA shall have no further right to the funds and the County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the additional lots, including, without limitation, for recreation uses. Owner shall have no obligation with respect to the planning or construction of the project.

### **Staff Comments:**

Staff finds the proposed additional units are generally consistent with the previously approved master plan and the existing development. This proposal requests a minor increase to density; however, overall density is still well below the Comprehensive Plan maximum of 4 dwelling units per acre for Low Density Residential areas. Furthermore, the Greensprings Plantation Master Plan and the proffers have been amended five times since 1992, and each time the project as a whole was deemed consistent with the Comprehensive Plan.

**RECOMMENDATION**

With the submitted proffers, staff believes that this proposal will not negatively impact surrounding property. Staff finds the proposal consistent in character with the previously approved Master Plan and has determined that the additional units proposed will not have an appreciable impact. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors.

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Kathryn Sipes

CONCUR:

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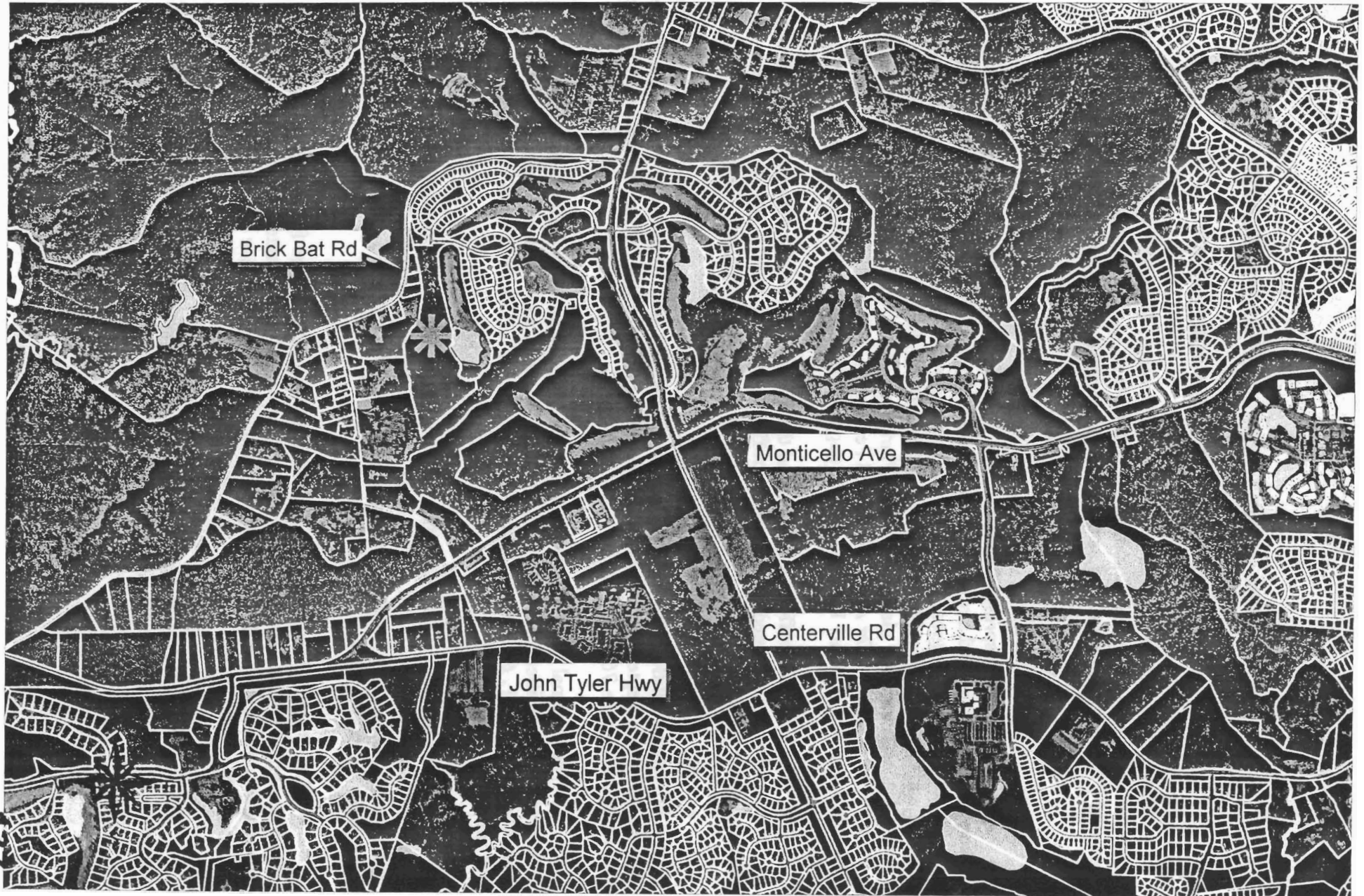
O. Marvin Sowers, Jr.

**ATTACHMENTS:**

1. Location map
2. Master Plan
3. Proffers
4. Community Impact Study
5. Correspondence from Greensprings West resident

Z-17-05/MP-14-05

# Greensprings Master Plan Amendment



## SIXTH AMENDMENT TO AMENDED AND RESTATED

### GREENSPRINGS PROFFER AGREEMENT

This Sixth Amendment to the Amended and Restated Greensprings Proffer Agreement is made this 16<sup>th</sup> day of December, 2005, by JAMESTOWN, LLC, a Virginia limited liability company ("Owner"), to be indexed as Grantor; and provides as follows:

#### RECITALS:

A. In 1989 Greensprings Plantation, Inc. ("Greensprings") applied for and James City County ("County") granted a rezoning of certain real property then owned by Greensprings and being described in the Original Proffer Agreement and on Exhibit A hereto (defined below) from Limited and General Agricultural Districts, A-2 and A-1 to Residential Planned Community District, R4, with a master plan (the "Master Plan") and proffered conditions as set forth in that certain Greensprings Proffer Agreement dated February 6, 1989 and recorded in the Clerk's Office in James City County Deed Book 427, page 466 (the "Original Proffer Agreement").

B. The Original Proffer Agreement and the Master Plan for the Property were amended by the Amended and Restated Greensprings Proffer Agreement dated April 30, 1992 and recorded in the Clerk's Office in James City County Deed Book 562, page 794.

C. The Original Proffer Agreement and the Master Plan were further amended by that certain document entitled "First Amendment to Amended and Restated Greensprings Proffer Agreement" dated September 29, 1993 and recorded in the Clerk's Office in James City County Deed Book 652, page 765.

D. The Original Proffer Agreement and the Master Plan were further amended by that certain document entitled "Second Amendment to Amended and Restated Greensprings Proffer Agreement" dated July 6, 1998 and recorded in the Clerk's Office as James City County Instrument No. 980013306.

E. The Original Proffer Agreement and the Master Plan, were further amended by that certain document entitled "Third Amendment to Amended and Restated Greensprings Proffer Agreement" dated June 2, 1999 and recorded in the Clerk's Office as James City County Instrument No. 990015761.

F. The Original Proffer Agreement and the Master Plan, were further amended by that certain document entitled "Fourth Amendment to Amended and Restated Greensprings Proffer Agreement" dated October 29, 1999 and recorded in the Clerk's Office as James City County Instrument No. 990025600.

G. The Original Proffer Agreement and the Master Plan, were further amended by that certain document entitled "Fifth Amendment to Amended and Restated Greensprings Proffer



Agreement" dated May 24, 2002 and recorded in the Clerk's Office as James City County Instrument No. 040011407.

H. The Original Proffer Agreement, as amended and restated as set forth in these Recitals, is hereinafter called the "Proffers".

I. By Deed dated March 5, 2003 and recorded in the Clerk's Office as Instrument No.030003788, Greensprings conveyed a portion of the property subject to the Proffers generally known as Greensprings West and being more particularly described on Exhibit A hereto to Owner (the "Property").

J. Owner has applied to the County to amend the Master Plan with respect to the Property and to amend the Proffers as set forth herein and to restate the Proffers in their entirety.

NOW, THEREFORE, this Sixth Amended and Restated Greensprings Proffer Agreement provides as follows:

#### REVISED PROVISIONS:

1. Number of Dwelling Units: Land Bay S-1. The number of dwelling units permitted within Land Bay S-1 as shown on the amended Master Plan submitted herewith shall be 398. The 30 additional lots are hereinafter referred to as the "Additional Lots".

2. County Cash Contributions. (a) A contribution of \$1,061.00 for each Additional Lot on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) Owner has approval from the County for the use of 21 grinder pumps on the Property. While Owner intends to utilize gravity sewer wherever feasible, if Owner must utilize more than the 21 approved grinder pumps, a contribution of \$2,700.00 for each grinder pump used on the Property over and above 21 shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(c) A contribution of \$1,400.00 for each Additional Lot on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site road improvements, library uses, and public use sites.



(d) A contribution of \$4,011.00 for each Additional Lot on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(e) The contributions described above in paragraphs (a), (c) and (d) shall be payable for each Additional Lot on the Property at the time of final subdivision plat or site plan approval for such Additional Lot unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process. The contributions described in Paragraph (b) above shall be payable upon the issuance of the sewer permit for the lot in question.

(f) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

3. Community Cash Contributions. (a) Owner shall make to the Friends of Greensprings a contribution of at least \$1,000.00 for each Additional Lot on the Property. If by the date of final subdivision plat approval of the Additional Lots, the Friends of Greensprings have raised more than \$30,000.00, Owner shall make a one-time matching gift in an amount equal to the amount of money raised by the Friends in excess of \$30,000.00 up to a maximum total gift of \$50,000.00. Contributions made under this paragraph shall be payable at the time of subdivision plat approval for the Additional Lots.

(b) Owner shall make to Housing Partnerships a contribution of at least \$1,000.00 for each Additional Lot on the Property. If by the date of final subdivision plat approval of the Additional Lots, Housing Partnerships has raised more than \$30,000.00, Owner shall make a one-time matching gift in an amount equal to the amount of money raised by Housing

Partnerships in excess of \$30,000.00 up to a maximum total gift of \$50,000.00. Contributions made under this paragraph shall be payable at the time of subdivision plat approval for the Additional Lots.

4. HOA Contribution. To mitigate potential impacts on recreational facilities from the development of the Additional Lots, Owner shall make a contribution to or for the benefit of the Greensprings West Homeowners Association ("HOA") in the amount of \$30,000.00 for a specific physical improvement project or projects selected by the HOA. This amount shall be payable to the HOA prior to final subdivision plat approval for the Additional Lots if, as of such date, the HOA has obtained final approval of the site plan for the project by the County. If as of the date the HOA has not obtained final subdivision plat approval for the Additional Lots, such amount shall be paid to the County. The County shall hold such funds and pay them to the HOA if the HOA obtains final approval of the site plan for the project within a period of five years from the date of payment to the County. If the HOA does not obtain final site plan approval for the project within the five year period, the HOA shall have no further right to the funds and the County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Additional Lots, including, without limitation, for recreation uses. Owner shall have no obligation with respect to the planning or construction of the project(s).

#### RESTATEMENT OF PREEXISTING PROFFERS:

A. Amendment to Proffers made by Greensprings by "Fifth Amendment to Amended and Restated Greensprings Proffer Agreement" dated May 24, 2002 and recorded in the Clerk's Office as James City County Instrument No. 040011407:

1. Amendment to Condition 17. Condition 17 under the Heading "Restatement of Balance Preexisting Proffers" below is hereby amended by the addition of the following sentence at the end thereof:

The foregoing restrictions notwithstanding, in Land Bay M-9 stealth communications towers up to 120 feet in height as defined and governed by the James City County Zoning Ordinance shall be permitted.

2. Ratification. Except as expressly amended hereby, the terms and provisions of the Original Proffer Agreement, as modified by the amendments described herein are hereby ratified and confirmed.

3. Restatement Terms. The Restatement of Preexisting Proffers below is made in conformity with the County proffer policy and restates but does not amend the preexisting proffers set forth below.

B. Restatement of Proffers made by Riverside Health Care Association, Inc. ("RHCA") by "Fourth Amendment to Amended and Restated Greensprings Proffer Agreement" dated October 29, 1999 and recorded in the Clerk's Office as James City County Instrument No. 990025600 applicable to the property described on Exhibit B hereto:

1. Number of Dwelling Units: Land Bay M-10. The number of residential units within Project Land Bay M-10 as shown on the Master Plan for the Greensprings Property (now the RHCA Property), as amended October 7, 1999 and submitted herewith shall be as follows:

<u>Project Land Bay</u>	<u>R-4 Master Plan Designation</u>	<u>Maximum Number of Dwelling Units</u>
M-10	A	24
M-10	B	76
M-10	C	56
M-10	D	144
M-10	Nursing Home	120 Beds

2. Master Plan Acreage. The Greensprings Property as defined in the Original Proffer Agreement shall be corrected hereby to reflect 1396.5 acres +/-.

3. Revised Master Plan. The Master Plan shall be amended in accordance with that certain plat or plan entitled: "Master Plan for Greensprings, a development by Greensprings Plantation, Inc., a Virginia corporation" revised October 7, 1999, which is incorporated herein by reference.

4. Screening. Landscaped areas shall be created as a part of future development of the RHCA Property under the Conceptual Plan, so as to create an evergreen buffer and visual screening between buildings one (1) through four (4) inclusive shown on the Conceptual Plan and the Greensprings Plantation National Historic Site ("Historic Site") as shown on the Master Plan. The landscaping and plantings within such areas shall be subject to approval by the County Director of Planning prior to final site plan approval.

5. Building Materials. Exterior building/siding materials employed in buildings one (1) through six (6) inclusive shown on the Conceptual Plan shall be of brick or other non-glossy materials which are dark, naturally occurring colors, on such surfaces which front upon, face or are visible from the Historic Site. Samples of such building materials and colors shall be approved by the County Director of Planning prior to final site plan approval. Trim colors shall not be subject to this restriction.

6. Changes in Conceptual Plan. RHCA may from time to time in final plats or site plans submitted to the County relocate the specific uses shown on the Conceptual Plan provided (a) that such uses are permitted by the County Zoning Ordinance, the Master Plan and these

Proffers, and (b) that the County Director of Planning determines that such relocations do not alter the basic concept or character of the development shown on the Conceptual Plan.

7. Severability/Partial Invalidity. Should any term or provision of this Agreement be determined to be invalid, illegal, or unenforceable, in whole or in part, the validity of the remaining part of such term or the validity of any other term of this Proffer Agreement shall not be in any way affected.

8. Definition of Terms. Unless otherwise defined above, all terms used herein shall be defined as set forth in the James City County Zoning Ordinance in effect on the date hereof..

9. Effect of Restatement. This Fifth Amendment to Amended and Restated Greensprings Proffer Agreement shall not be read to require RHCA to undertake, perform, fund or comply with any obligation (a) arising under amendment(s) to the Original Proffer Agreement made after February 9, 1995, or (b) not expressly undertaken by RHCA in paragraphs one (1) through eight (8) above or in any other written proffer agreement executed by RHCA.

C. Restatement of Balance of Pre-existing Proffers Applicable to the Entire Greensprings Plantation Project:

1. Number of Dwelling Units. The number of residential units shall be limited in relation to the areas as designated on the Amended Master Plan submitted herewith last revised July 6, 1998 and made by Rickmond Engineering (the "Amended Master Plan") as follows:

<u>Project Land Bay</u>	<u>R-4 Master Plan Designation</u>	<u>Maximum Number of Dwelling Units</u>
S-1	A	368
S-2	Eliminated	
S-3	A	172
S-4	Eliminated	
M-5	D	218
M-6	D	282
M-7	Eliminated	
M-8	D	0
M-9	D	165

2. Route 5 Greenbelt. Owner shall designate 150-foot greenbelt buffers along the Property's Route 5 frontage measured from the existing Route 5 right-of-way. The greenbelt buffers shall be exclusive of any lots and, except as set forth below, shall be undisturbed. Utilities, drainage improvements, community entrance roads as shown generally on the Amended Master Plan (limited to one entrance for relocated Route 614, one entrance to Land Bay M-10, and one entrance to each of the public use sites shown on the Amended Master Plan), pedestrian/bicycle trails and signs as approved by the Development Review Committee. In the

portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive, Owner may (i) engage in select hand clearing and trimming of trees and other plants with a caliper of three inches or less; (ii) may engage in select hand clearing or trimming of trees and plants with a caliper of more than three inches with the prior specific approval of the Director of Planning on a case by case basis on the condition such trees or plants with a caliper in excess of three inches so cleared are replaced with new trees or plants with a caliper in excess of three inches; (iii) may plant enhanced landscaping, including trees and shrubs; and (iv) install fencing, all in accordance with a landscape plan approved by the Development Review Committee and the Director of Planning. The goal of the preceding sentence is to allow Owner to create a more attractive buffer than currently exist that allows partial visibility (but not an unobstructed view) of the development in adjacent Landbays comparable to the visibility provided by the greenbelt buffer along the Route 5 frontage of the Governor's Land at Two Rivers development. Unless otherwise approved by the Director of Planning, buildings constructed after the date hereof adjacent to the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive shall utilize materials (other than roofing materials) of brick and/or earth tone (from cream to tan) colors except doors, trim and shutters may be of any color from the City of Williamsburg approved color palette.

3. Golf Facilities. The areas on the Amended Master Plan designated as golf courses, clubhouse, and practice range shall be used only for those purposes or such areas shall be left as Major Open Space and subject to Condition 14 hereof. If golf facilities are constructed on the Property, all owners of lots in areas with a Master Plan Area designation "A" and owners of units in Land Bays M-5 through M-7 shall have the right to use the aforementioned golf facilities upon payment of any applicable fees and subject to the other rules and regulations governing use of such facilities as in effect from time to time. Development of golf courses on the Property shall be subject to the following conditions:

(a) All disturbed slopes steeper than 25% shall be sodded immediately after clearing and grubbing associated with cut and fill operations. The sod shall be staked into place, as necessary, and temporary fill diversions shall be constructed to minimize water flow over slopes, until sod has become fixed to the slope by establishment of root structure. Owner acknowledges that disturbance of slopes steeper than 25% requires an exception under the County's Chesapeake Bay Preservation Ordinance, Chapter 23 of the County Code.

(b) All disturbed slopes exceeding 10% shall be stabilized immediately upon reaching final grade with sod or excelsior blanket and seed, or other approved erosion control matting at vertical increments not exceeding 10 feet, or at the end of the work day, should a fill greater than 10 feet occur during that period.

(c) A construction phasing plan shall be provided as part of the site plan to be approved by the Environmental Director. That plan will divide the construction into four or five phases. Land disturbance beyond the first phase shall be permitted based upon the demonstrated adequacy of erosion and sedimentation control measures installed in prior phases.

(d) Grass depressions and catchment areas shall be used throughout the construction area as a means of runoff detention and Best Management Practices.

(e) An operation and maintenance plan, including an integrated pest management plan, shall be submitted as part of the site plan submittal for approval by the Environmental Director before final site plan approval. The integrated pest management plan shall require the recordation of the application of all fertilizers, herbicides, pesticides, insecticides and/or other chemicals applied to the golf courses. A copy of the application records shall be kept on site and shall be made available, upon request, for review by the Environmental Division of the Code Compliance Department. Additionally, a copy of the records shall be submitted to the Environmental Director annually from the date of approval of the golf course site plan, for review and approval. The Environmental Director may require the submittal of a new integrated pest management plan if the review of these records show the plan to be inadequate.

(f) The golf course and driving range will not be illuminated for use after dark.

(g) Water for irrigation of the golf courses shall be provided from surface water collection or withdrawn from Powhatan Creek.

#### 4. Neighborhood Recreational Facilities.

(a) Single-Family Neighborhood Recreation Centers. The Single-Family Neighborhood Recreation Center ("SNRC") shown on the Amended Master Plan in Land Bay S-3 and labeled "SNRC" shall be located generally as shown on the Amended Master Plan. The SNRC shall contain at least one 25 meter swimming pool and one wading pool with a total water surface area of at least 4,000 square feet, one community center/bath house of at least 2,000 square feet, two hard surface, regulation size tennis courts and one tot lot with playground equipment. In Land Bay S-1 there shall be a single-family neighborhood recreation center containing at least one 25 meter swimming pool and one wading pool with a total water surface area of at least 4,000 square feet, one community center/bath house of at least 2,000 square feet, two hard surface, regulation size tennis courts, one tot lot with playground equipment, an additional play area with playground equipment, and an open play area of a minimum of one-half acre, all in locations approved by the Development Review Committee. These facilities shall be completed or bonds in a form acceptable to the County Attorney for their completion posted with the County before the County is obligated to grant final subdivision approval for any lots in Land Bay S-1. Owner shall maintain the SNRC and the additional recreational areas and facilities preferred above until such time as it is conveyed to an owners association, at which time such association shall assume responsibility for its maintenance.

(b) Multi-Family Neighborhood Recreation Centers. (i) Unless Owner elects to construct a single central multi-family neighborhood recreational center pursuant to subparagraph (ii) below, before the County shall be obligated to issue Certificates of Occupancy for more than 50 units in Land Bays M-5 through M-9 shown on the Amended Master Plan, residents of each of those Land Bays shall have access to at least one Multi-Family Neighborhood Recreation Center

("MNRC") serving (but not necessarily located in) that Land Bay. There shall be recreational facilities which comply with requirements of the Zoning Ordinance located within Land Bay M-10 with the type and location of such facilities to be determined by Owner following consultation with the residents of Land Bay M-10. The recreational facilities shall be shown on site plans of Land Bay M-10 and subject to the approval of the Development Review Committee. The MNRCs for all multi-family Land Bays in the aggregate shall be provided with swimming pools with a total minimum water surface area of 5,000 square feet with no single pool having a minimum water surface area of less than 750 square feet and a total of at least six regulation size, hard surface tennis courts. The MNRCs in Land Bay M-5, M-6, M-8, and M-9 shall have an open play area of at least one-fourth an acre and a tot lot with playground equipment. The pools and tennis courts shall be distributed as follows:

<u>Land Bay</u>	<u>Minimum Facilities</u>
M-5	2 pools, 2 tennis courts
M-6	to be determined by Owner
M-9	1 pool, 1 tennis court

Each MNRC shall be open for use by owners of units within the Land Bay(s) which it serves subject to the provisions of any applicable restrictive covenants and rules and regulations adopted thereunder.

(c) Trail System. Owner shall provide a central pedestrian/bicycle trail system along one side of realigned Route 614, and along one side of Monticello Avenue when and if such road is constructed. Owner shall provide a soft surface pedestrian trail along its Route 5 frontage. Such trail system shall be located in or adjacent to the road right-of way of the roads listed above and shall be constructed when the adjacent road is constructed or, in the case of the trail adjacent to Route 5, prior to completion of development of the Land Bay adjoining the segment of the trail in question. The portions of the central pedestrian/bicycle trail system located outside the VDOT right-of-way shall be maintained by Owner until the area containing the trail is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. Internal trails shall be provided in each Land Bay in accordance with the County's Sidewalk Policy or as shown on the Amended Master Plan. The internal trails shall be connected with the central trail system. Before the County is obligated to grant final approval of a site plan for Land Bay M-9, Owner shall submit to the County a feasibility study of providing pedestrian access from Land Bay M-9 to the Neighborhood Commercial Center.

5. Neighborhood Commercial Center. (a) The Neighborhood Commercial Center shall be located generally as shown on the Amended Master Plan and shall contain no more than 50,000 square feet of Gross Floor Area (as defined in the County Zoning Ordinance). Within the Neighborhood Commercial Center no more than one retail establishment shall have a Gross Floor Area of more than 8,500 square feet. The one retail establishment which may exceed 8,500 square feet shall have a Gross Floor Area of no more than 12,000 square feet. No building within the Neighborhood Commercial Center shall have a height in excess of 35 feet from grade

unless otherwise approved by the Planning Commission..

(b) Within the Neighborhood Commercial Center the following uses, otherwise permitted within the R-4 zoning district, shall not be permitted: any office use with outdoor equipment storage; and hotel/motel/tourist homes/convention centers.

6. Archaeological Sites. A Phase I Archaeological Study of the Property meeting the guidelines set forth in the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and conducted under the supervision of a qualified archaeologist who meets, at a minimum the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards shall be prepared and submitted for approval to the Director of Planning. Owner shall undertake a Phase I and/or, subject to the following sentence, a Phase III study of archaeological sites identified in the Phase I study, if identified by the Phase I study heretofore submitted as warranting Phase II or Phase III study, and shall submit such studies to the County for review and approval prior to any land disturbing on or adjacent to such sites. Owner may at its option leave undisturbed an archaeological site planned for development in lieu of performing a Phase III study thereon. The recommendations of such studies shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon. If as a result of a Phase I study of a site, the County determines the site is eligible for inclusion in the National Register of Historic Places based on the criteria established by the Department of the Interior, Owner shall develop and implement a plan for inclusion of the site on the National Register of Historic Places and for the mitigation of potential adverse impacts on the site. All sites to be left undisturbed or upon which a Phase III study is to be conducted shall be protected from development activities by temporary fencing until development activities adjacent to the site or the Phase III study, as the case may be, is complete.

If a previously unidentified archeological site is discovered during land disturbing activities, all construction work involving subsurface disturbance will be halted in the area of the site and in the surrounding area where further subsurface remains can reasonably be expected to occur and Owner will immediately notify the County of the discovery. The County, or an archeologist approved by it, will immediately inspect the work site and determine the area and the nature of the affected archeological site and its potential eligibility for inclusion on the National Register of Historical Places. Construction work may then continue in the project area outside the archeological site. Within 15 working days of the original notification of discovery, the County shall determine the National Register eligibility of the site. The County may extend this working day period for determining the National Register eligibility one time by an additional 5 working days by written notice to Owner prior to the expiration date of said 15 working day period.

If the site is determined to meet the National Register Criteria (36 CFR Part 60.0), Owner shall prepare a plan for its avoidance, protection, recovery of information, or destruction without data recovery. The plan shall be approved by the County prior to implementation. Work in the affected area shall not proceed until either (a) the development and implementation of appropriate data recovery or other recommended mitigation procedures, or (b) the determination



is made that the located remains are not eligible for inclusion on the National Register.

7. Nature/Conservation Park. At the request of the County Administrator, the Owner and/or the owners association shall grant, free of charge, an easement to the County or its assignee over the area designated on the Amended Master Plan as Nature/Conservation Park generally in the locations shown on the Amended Master Plan. The Nature/Conservation Park shall remain undisturbed and in its natural state except as set forth below, preserving indigenous vegetation to the maximum extent possible. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Nature/Conservation Park; (ii) select hand clearing and pruning of trees shall be permitted in the Nature/Conservation Park to permit sight lines or vistas and (iii) utilities (including the irrigation intake shown on the Amended Master Plan), stormwater best management practices, roads, pedestrian and golf cart paths, trails and bridges may intrude into or cross the Nature/Conservation Park. If vegetation is removed from the Nature/Conservation Park it shall be replaced by vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Utility crossings shall be generally perpendicular through the Nature/Conservation Park and Owner shall endeavor to design utility systems that do not intrude into the Nature/Conservation Park. The Nature/Conservation Park shall be maintained by Owner unless the County assumes responsibility therefor under its easement or the Park is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance.

8. Historic Site Buffer. There shall be a 50-foot buffer (undisturbed and exclusive of any lots) along the eastern and western boundaries of the Greensprings National Historic Site subject only to appropriate stormwater management and utility improvements/easements as approved by the Development Review Committee.

9. Water Lines. In addition to any other conditions to subdivision or site plan approval, before the County is obligated to grant final approval of any subdivision plat or site plan for single family lots, multi-family units or the Neighborhood Commercial Center (but not for site plans for roads or the golf facilities), the Owner shall contract to complete the James City Service Authority water line system loop from the Ford's Colony area to Route 5, connecting to the existing JCSA water line adjacent to St. George's Hundred.

10. Monticello Avenue Right-of-Way. There shall be preserved a 120' road right of-way for the construction of Monticello Avenue in the locations shown on the Amended Master Plan as "Monticello Avenue Right-of-Way". Owner shall convey the "Monticello Avenue Right-of-Way", free of charge, to the County for dedication to VDOT at the request of the County Administrator. Where construction limits may require additional right-of-way beyond 120' feet, such additional right-of-way shall also be dedicated, free of charge, to the County for dedication to VDOT upon the request of a the County Administrator. The obligation to dedicate right-of-way pursuant to this Proffer shall not adversely affect Owner's right to reimbursement from the County or the Route 5 Transportation Improvement District for costs incurred by Owner based on any change in alignment of Monticello Avenue from that shown on the Master Plan approved

most recently in 1997

11. Realigned Route 614 and Future Right-of-Way Greenbelt. The Owner shall designate a greenbelt buffer along realigned Route 614 and along the right-of-way shown on the Amended Master Plan as Monticello Avenue measured from a line 60 feet from the center line of realigned Route 614 and Monticello Avenue. Such line shall hereinafter be called the "Greenbelt Line". No structure except the road and related improvements in Land Bay S-3 shown on the Amended Master Plan and the existing maintenance facility located in Land Bay M-8, together with any expansions thereof so long as any such expansion is located no closer to the Greenbelt Line than the existing maintenance facility and any road or cart paths necessary for access from the facility to Legacy Drive and the timeshare buildings and development within the M Land Bays may be located within 150 feet of the Greenbelt Line. Where the road in Land Bay S-3 parallels realigned Route 614, the greenbelt buffer shall be no less than 115 feet from the Greenbelt Line of realigned Route 614. Where golf course fairways abut relocated Route 614 or Monticello Avenue, the greenbelt buffer shall have a minimum width of 75 feet. Where tee boxes or the putting surface of greens are located within 100 feet of the Greenbelt Line, enhanced landscaping approved by the Development Review Committee in the golf course site plan review process shall be provided between the tee or green and the 75 foot greenbelt buffer. In all other areas, a minimum 150 foot buffer shall be maintained. Where golf course fairways abut realigned Route 614 or Monticello Avenue, selective hand thinning of trees (but no removal of stumps) shall be permitted as a part of a landscaping plan approved by the Development Review Committee. Within this greenbelt the land shall be exclusive of any lots and undisturbed except for approved utilities, stormwater management improvements, entrance roads to Land Bays as shown generally on the Amended Master Plan, pedestrian/bicycle trails, golf cart path crossings and tunnels and project signs as approved by the Development Review Committee. No signs other than project signs and those requested by VDOT and/or the County shall be allowed. In the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive, Owner may (i) engage in select hand clearing and trimming of trees and other plants with a caliper of three inches or less; (ii) may engage in select hand clearing or trimming of trees and plants with a caliper of more than three inches with the prior specific approval of the Director of Planning on a case by case basis on the condition such trees or plants with a caliper in excess of three inches so cleared are replaced with new trees or plants with a caliper in excess of three inches; (iii) may plant enhanced landscaping, including trees and shrubs, and (iv) install fencing, all in accordance with a landscape plan approved by the Development Review Committee and the Director of Planning. The goal of the preceding sentence is to allow Owner to create a more attractive buffer than currently exist that allows partial visibility (but not an unobstructed view) of the development in adjacent Landbays comparable to the visibility provided by the greenbelt buffer along the Route 5 frontage of the Governor's Land at Two Rivers development. Unless otherwise approved by the Director of Planning, buildings constructed after the date hereof adjacent to the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive shall utilize materials (other than roofing materials) of brick and/or earth tone (from cream to tan) colors except doors, trim and shutters may be of any color from the City of Williamsburg approved color palette.

12. Entrances. The number of entrances and driveways to the project off of Route 5, realigned Route 614 and, if constructed, Monticello Avenue shall be limited to those shown on the Amended Master Plan.

13. Owners Association. All property owners at Greensprings by virtue of ownership of their lot or unit shall become members of an incorporated owners association although there may be different associations for different Land Bays. Each owners association shall adopt an annual budget for maintenance of all common open space, recreation areas, sidewalks, parking, private streets, if any, and other privately owned but common facilities serving the portion of the Property in question and owned or maintained by the association in question.

14. Major Open Space. Areas shown on the Amended Master Plan as "Major Open Space" and areas within subdivisions or sites shown on the subdivision plat or site plan as greenspace areas shall be exclusive of any lots and undisturbed, except as provided below. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from such areas; (ii) select hand clearing and pruning of trees shall be permitted in such areas to permit sight lines or vistas; and (iii) utilities, stormwater best management practices, roads, pedestrian and golf cart paths, trails and bridges may intrude into or cross such areas. If vegetation is removed from such areas it shall be replaced by vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Utility crossings shall be generally perpendicular through such areas and Owner shall endeavor to design utility systems that do not intrude into such areas. All such Major Open Space and greenspace areas and other common areas shall be maintained by Owner until conveyed by Owner to an owners association, at which time the association shall assume responsibility for such maintenance.

15. Road and Intersection Improvements. (a) The Owner shall provide roadway and intersection improvements in accordance with the schedule set forth below. Each of such improvements shall be commenced and bonds approved by the County Attorney for completion of the improvements shall be posted as provided in the schedule set forth below, including, in addition any other road improvements that may be necessary for these proffered improvements to function at a minimum level of service of "C".

<u>Proffered Improvement</u>	<u>Timing</u>
1. Commence construction of realigned Route 614 from existing Route 5 to northern boundary. A 120 right-of-way (or such wider right-of-way as may be necessary to accommodate required drainage structures) shall be dedicated	Before approval of any subdivision plat or site plan, other than golf course

to allow  
for future improvements. As  
part of this construction the  
following intersection  
improvements shall be made:

- a. Realigned Route 614 shall be four lanes from existing Route 5 through the intersection with Land Bay M-9 and the Neighborhood Commercial Center. The remainder of realigned Route 614 shall be built as two lanes, offset within the right-of-way to allow for future widening. Realigned Route 614 shall be constructed in accordance with the standards set forth on Exhibit C hereto.
- b. At Brick Bat Road: The intersection of Brick Bat Road and Route 614 shall be relocated and part of Brick Bat Road reconstructed so that Brick Bat intersects Route 614 at approximately 90 degrees. Relocated Brick Bat Road shall have a separate left turn lane. North and southbound left turn lanes and a southbound right turn lane shall be built on Route 614.
- c. At Old Route 614 at North Boundary of Historical Site:  
A "T" intersection with a northbound right turn lane, a southbound left turn lane and westbound right and left turn lanes shall be constructed.
- d. At Entrance to Land Bay M-5:  
A "T" intersection with a northbound left turn lane, an eastbound

right turn lane and an eastbound left turn lane. The first 50 feet of the entrance to Land Bay M-5 shall be constructed with adequate width for southbound right and through lanes.

- e. At existing Route 5:  
An eastbound left turn lane and a westbound right turn lane on existing Route 5.  
Southbound right and left turn lanes and one through lane shall be constructed as part of realigned Route 614.

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| 2. | Construct northbound and southbound left turn lanes into Land Bay M-9 and Neighborhood Commercial Center.  | Prior to issuance of Certificate of Occupancy in Area M-9 or the Neighborhood Commercial Center.                    |
| 3. | Construct northbound right turn lane, westbound left and right turn lanes and one west bound through lane  | Prior to issuance of Certificate of Occupancy in Neighborhood Commercial Center. at Neighborhood Commercial Center. |
| 4. | Construct southbound right turn lane and eastbound left and right turn lanes, and one eastbound through lane at Land Bay M-9.                              | Prior to issuance of Certificate of Occupancy in Land Bay M-9.  |
| 5. | Construct southbound left turn lane, northbound right turn lane, westbound combined left and through lanes, and westbound right turn lane at Land Bay M-8. | Prior to issuance of Certificate of Occupancy in Land Bay M-8.  |
| 6. | Construct southbound right   | Prior to issuance of  |

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|     | turn lane, eastbound combined left turn lane and through lane, and eastbound right turn lane at Land Bay M-7.  | Certificate of Occupancy in Land Bay M-7.   |
| 7.  | Construct eastbound right turn lane, westbound left turn lane, and separate northbound left and right turn lanes at Land Bay M-6.  | Prior to issuance of Certificate of Occupancy in Land Bay M-6.                                  |
| 8.  | Construct northbound and southbound left turn lanes, northbound right turn lane, westbound left turn lane, and right turn lane at clubhouse.                                   | Prior to issuance of Certificate of Occupancy for Clubhouse.                                    |
| 9.  | Construct southbound right turn lane, eastbound and combined eastbound left and through lane and and eastbound right turn lane at southern entrance to Land Bay S-1.           | Prior to recordation of subdivision plat for Land Bay S-1 turn utilizing the southern entrance. |
| 10. | Construct northbound left turn, southbound right turn lane, eastbound right turn lane and combined eastbound through and left turn lanes at northern entrance to Land Bay S-1. | Prior to recordation of subdivision plat for Land Bay S-1 utilizing the northern entrance.      |
| 10. | Construct northbound left turn, southbound right turn lane, eastbound right turn lane and combined eastbound through and left turn lanes at northern entrance to Land Bay S-1. | Prior to recordation of subdivision plat for Land Bay S-1 utilizing the northern entrance.      |
| 11. | Construct northbound right turn lane into western portion of Land Bay S-3.   | Prior to recordation of subdivision plat for western portion of Land                            |

Bay S-3.

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| 12. | Construct northbound right turn lane, westbound right turn lane and combined westbound left turn and through lane at Land Bay S-3. | Prior to recordation of subdivision plat for the eastern portion of Land Bay S-3. |
| 13. | Construction or payment for construction of a traffic signal at the intersection of Realigned Route 614 and existing Route 5.      | When warranted by MUTCD and requested by VDOT                                     |

16. Restrictions on Timeshares. Owner shall not create or operate a "timeshare project" as defined in the Virginia Real Estate Time-Share Act, Va. Code, §§55360 et. set. in Land Bays S-1, S-3, M-9 or M-10.

17. Height Limitations. In Land Bays M-9 and M-10 any structure within 600 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed 35 feet in height. In Land Bays M-9 and M-10 any structure located in that area in between 600 feet from the centerline of Route 5 (John Tyler Highway) and 900 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed a maximum height of 45 feet.

18. Turn Lanes into Land Bay M-10. Prior to the issuance of a certificate of occupancy for any structure on Land Bay M-10, a right turn lane from westbound Route 5 and a left turn lane from eastbound Route 5 into the entrance to Land Bay M-10 shall have been constructed or construction commenced and completion bonds or other surety acceptable to the County Attorney posted to assure completion of the turn lanes.

19. Commercial Uses in Land Bay M-10. Any accessory commercial uses located in Land Bay M-10, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Land Bay M-10. Commercial uses shall not be advertised from any public right-of-way.

20. Residency Agreement. Prior to the start of construction in Land Bay M-10, Owner shall submit to the County a copy of the agreements between Owner and the future residents of Land Bay M-10 which agreements shall provide that permanent residents under the age of 18 (or such higher age determined by Owner) shall not be permitted in Land Bay M-10.

21. Maintenance Facility. The area shown on the Amended Master Plan as "Fire Station & Maintenance Facility" shall be used only as a golf course maintenance facility; project maintenance, storage and office facility; construction storage, maintenance and office facilities; recreational vehicle storage area and a County fire station and related uses as determined by the

Fire Chief. Any outdoor storage areas within the Fire Station & Maintenance Facility shall be screened with a fence approved by the Development Review Committee.

22. Public Use Site. Within 60 days of the request of the County Administrator, the Owner shall convey to the County, free of charge a public use site of at least 10 acres in the location shown on the Amended Master Plan, accessible from a public road.

WITNESS the following signature and seal.

JAMESTOWN, LLC, a Virginia limited liability company

By:

Title:

STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMS BURGE, to-wit:

The foregoing instrument was acknowledged before me by C. Lewis Waltrip, II,

as Manager of Jamestown, LLC., on behalf of the company this 16th day of December, 2005.

Vernon M Sedberry, Jr  
NOTARY PUBLIC

My commission expires: 12/31/09



## EXHIBIT A

All those certain tracts, pieces, or parcels of land situate, lying and being in James City County, Virginia, and shown as Parcel "B", containing 916.77 acres, and Parcel "D", containing 572.50 acres, all as shown on that certain plat entitled, "Plat Showing a Portion of Green Springs," dated July 24, 1965, made by S. U. Camp, III, & Associates, Certified Land Surveyor, Courtland, Virginia, a copy of which said plat is recorded in the Clerk's Office of the City of Williamsburg and County of James City, in Plat Book 24, pages 28A and 28B.

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Pages 31, to Jorge Luna and Laticia Luna, husband and wife;

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Page 37, to Herman Zamora and Josefina Zamora, husband and wife;

LESS AND EXCEPT property subject to a certain Option On Real Estate recorded July 24, 1986 in James City County Deed Book 309, Page 646, to Jorge Luna and Laticia and Herman Zamora and Josefina Zamora, or their assigns;

LESS AND EXCEPT property conveyed by deed recorded April 14, 1986 in James City County Deed Book 299, Page 534, to the Commonwealth of Virginia;

LESS AND EXCEPT property conveyed by deed recorded January 11, 1978 in James City County Deed Book 181, Page 533, to the United States of America;

LESS AND EXCEPT certain property under contract to be conveyed to John M. Smith and Sonda J. Smith, husband and wife, which property is more particularly described as being "Parcel 4", 20.35 Ac.+1-, on a certain plat entitled, "A SUBDIVISION OF PART OF THE GREEN SPRINGS TRACT", James City County, Virginia," dated November, 1986, and made by Lynn D. Evans, Certified Land Surveyor, a copy of which plat is to be recorded in the Clerk's Office of the City of Williamsburg and County of James City;

LESS AND EXCEPT any and all property in the said "Parcel B" east of Powhatan Creek.

## EXHIBIT C

The two-lane roadway to be constructed in the right-of-way shown on the Amended Master Plan as Future Road "A" and realigned Route 614 shall be constructed in accordance with VDOT, Road and Bridge Standards, that are in effect at the time construction is to commence, standard GS-6, Geometric Design Standards for Urban Minor Arterial Street System. Under this standard, the design will be in accordance with "Streets With Shoulder Design", rolling terrain.

These standards are stated as follows:

Design Speed - M.P.H.	50
Maximum Degree of Curvature	6°
Maximum Percent of Grade	7%
Stopping Sight Distance	Des. 475'; Min. 400'
Width of Lane	12' - two lanes to be constructed
Width of Shoulder	Fill 13'(*); Cut 10'
Ditch Width	6' (ditch slopes to be 4:1)
Slopes	2:1 (grading for two lanes)
Right-of-Way Width	120'
Operating Speed	50 M.P.H.
Clear Zone Width	Fill: 25' Cut: 19'

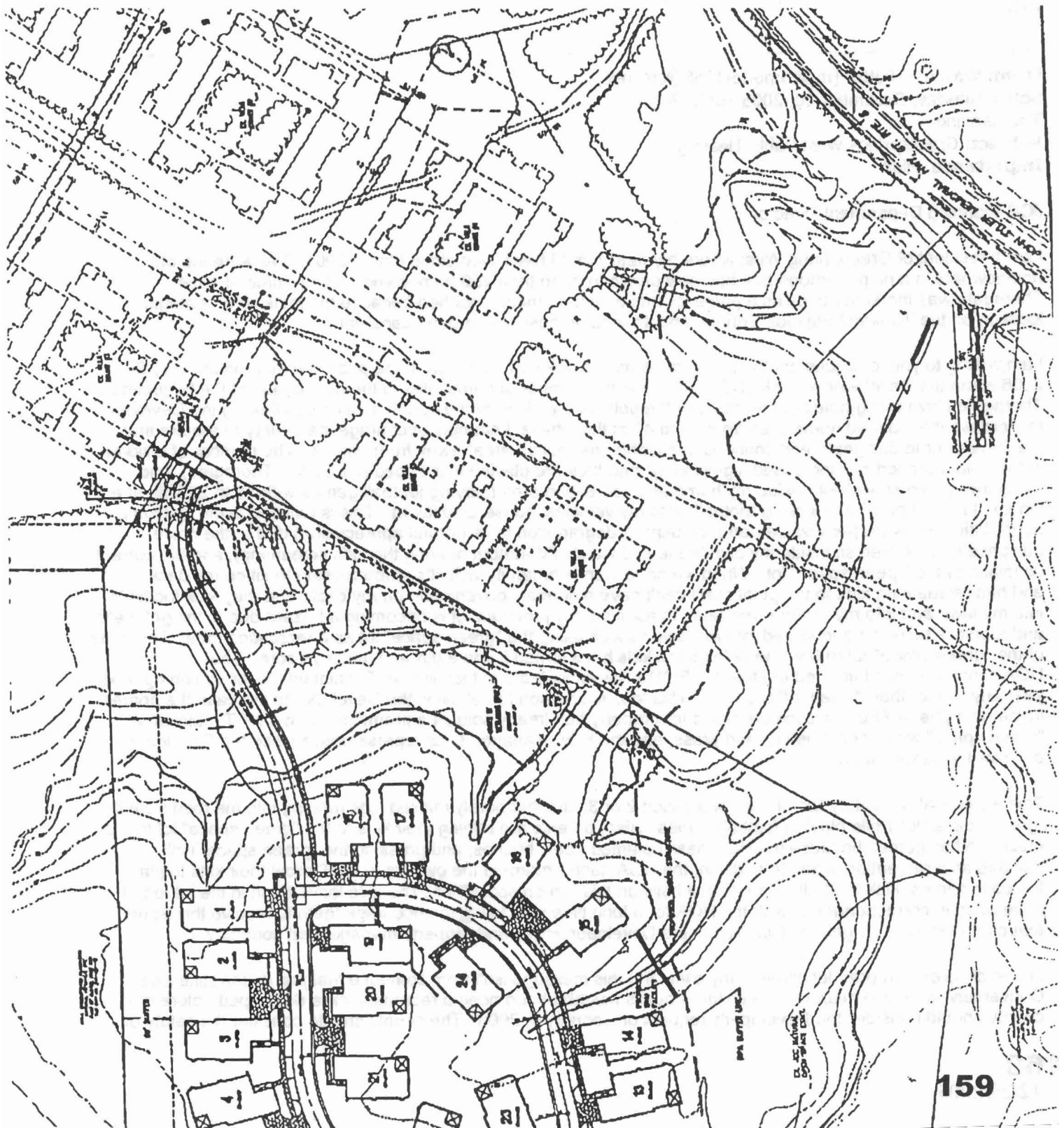
{\*} Shoulder width may be reduced by 3' when guardrail is not required and recoverable areas are not being provided.

Pavement thickness shall be designed in accordance with the table entitled "Thickness Equivalency Values for Material for Primary, Interstate and Arterial Roads" from "Recommended Design Method for Flexible *Pavements* in Virginia" by N. K. Vaswani, revised 1974.

### EXHIBIT C

All that certain lot, piece or parcel of land located in the Berkeley District of the County of James City, and more particularly shown On the plat entitled "Plat of Subdivision, A Parcel Containing 89.404 Ac. Being a Portion of the Property Owned by Greensprings Plantation, Inc.", dated November 22, 1994, and made by AES, Consulting Engineers, Williamsburg, Virginia, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City in Plat Book 60, page 100.

DEC -8cm



**Kate Sipes**


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**From:** Leanne Reidenbach  
**Sent:** Wednesday, December 21, 2005 8:16 AM  
**To:** Kate Sipes; Marvin Sowers  
**Subject:** From the planning inbox  
**Importance:** High

FYI-

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**From:** Wayne R. Potter [mailto:potter1958@cox.net]  
**Sent:** Tuesday, December 20, 2005 10:07 PM  
**To:** Planning  
**Subject:** Greensprings West Public Hearing  
**Importance:** High

JCC Planning Department Director,

I am a resident of Greenspring West where my family and I have lived since March 2001. We were the 5th homeowners in a neighborhood that has now grown to more than 250 homeowners. Our home at 4034 Thorngate was marketed to us as a prime lot with a cost premium attached because the lot is on a strategic location on the Williamsburg Golf Course, and it's located beside a "green space" lot.

I am writing to you to request that you use this e-mail to voice my concern at the public hearing on January 9, 2006 when the Developer will ask JCC to increase the number of home sites in the next phase at the beginning of Thorngate Drive along hole number three of the golf course. Before the county considers allowing the Developer to increase the planned home sites from 17 to 47 at this phase, I strongly encourage the county to require that the Developer to designate and construct a suitable "recreation area" away from homes. The number of children in the neighborhood has increased significantly, and they are playing in the road (especially Thorngate), and using the "green space" lot beside my home as a recreation area (playing football games with 15 to 20 kids at a time, hitting golf balls, and kicking footballs into my vehicles, house, and lawn). This is causing in my opinion a degradation to my property value ( and, certainly a degradation to its normal appreciation) due to the noise nuisance (I can't even sit inside my own home and watch TV without hearing the kids screaming), and the current condition of the "green space" lot. When we have friends or family visit, it's embarrassing to sit on my deck and hear screaming kids to the point that I can't have a normal conversation on my deck, and they kick footballs into my lawn and into my visitor's vehicles. In addition, my premium lot is becoming a hazard due to the golf balls and footballs being hit and kicked into my lawn by kids using the "green space" lot as a recreation area. The state of the "green space" lot today is terrible as the kids have turned it into a dirt and mud eye sore. The HOA's manager just informed me that the BOD's has indicated that they will NOT maintain the lot beginning next year any further than 10 feet off the road. This too, is a reason to not allow the Developer to increase the homes in the next phase if he has such disregard for property he already sold as a premium, but will NOT maintain a "green space" with trees, bushes, and grass, and the HOA manager is his representative since the Developer still controls the association.

This issue is about safety too. I have witnessed 2 or 3 cars that barely missed kids running into the road from the "green space" lot while playing football games. Also, parents are brining their kids to the "green space" lot to play these football games because the HOA hasn't planted trees, bushes, and grass so the "green space" isn't useable as a recreation area. In addition, the HOA hasn't informed the owners to NOT allow their kids to play footballs games, kick footballs, and hit golf balls on this "green space" lot. The kids leave trash in the lot too. I have been in correspondence with the HOA for a long time now trying to encourage them to resolve this issue that could become a significant liability for the Developer, HOA, and property management company.

I have children and grandchildren of my own, and this message isn't from someone that just doesn't like kids. Conversely, we love children. The children of this neighborhood need a recreation area developed before the county should consider the Developer's request on January 9, 2006. The county should consider the safety of

## PLANNING DIRECTOR'S REPORT

### January 2006

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

- Rural Lands Study. The Rural Lands Committee held an additional committee meeting on December 14 during which it discussed the committee's preferences on various approaches for reorienting or changing the direction of residential development in the rural lands. The committee also received additional information on well and septic systems, and discussed a draft agenda for its next public workshop. The next public workshop will be January 12 from 6:30 p.m. to 9:30 p.m. at Toano Middle School and the next committee meeting will be January 25 from 4 p.m. to 6 p.m. at the James City County Library.
- 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 Community Character Area Study-- The final steering committee meeting was held on December 14, 2005 at the EOC building. There were 10 additional members of the public present to see the final draft guidelines presented by the consultant. After making some minor alterations the committee unanimously approved the draft guidelines. The guidelines will be presented to the Planning Commission on January 9 and are tentatively scheduled for the first February Board of Supervisors meeting. If adopted, the document will be used as an addendum to the 2003 Comprehensive Plan, with regard to evaluating Rezoning and Special Use Permit applications, until it can be fully incorporated into the Comprehensive Plan during the 2008 revision.
- Bikeway Status. VDOT formally kicked off the process to construct bikeways along Ironbound/Sandy Bay Roads and Longhill Road. The section along Ironbound/Sandy Bay Roads extends from News Road to Jamestown Road. The County has been awarded federal funding for both bikeway projects.
- Planning Division Budget. The Division began drafting its proposed budget for the next two fiscal years. In addition to covering routine operating funds the budget also seeks funds for special projects and studies, traffic counts, landscaping, and bikeways.
- Ordinance Amendment: Garden Supply. The Policy Committee met on Dec. 29th and voted to accept the previously submitted definition of plant and garden supplies along with accepting the recommendation to add retail plant and garden supply stores as a specially permitted use in the A-1 zoning district. The case will now go before the full Planning Commission on January 9 for a recommendation to the BOS.
- Signal Request. Staff conveyed the Planning Commission's November 7<sup>th</sup>, 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. Staff met with Ms. Hughes and Ms. Jones of the Policy Committee on December 20 to discuss how best to approach schools and learn more from their consultants about how they gather data and make projections. The Policy Committee of the Planning Commission is scheduled to meet with County staff and the schools consultant at 3 PM in Building A of the County Complex on Thursday, January 19.
- Election of Officers. Under its bylaws, the annual election of officers is scheduled for the Planning Commission's February meeting, with the new officers presiding at the February meeting. The nominating committee, which is composed of all Commissioners and chaired by the current vice chair, is charged under the bylaws with proposing nominations for chair and vice chair prior to the Commission's February meeting. Additional nominations may be made at the February meeting.
- Training. Staff recently attended a meeting coordinated by VDOT's Peninsula Workforce Development Center. On December 12<sup>th</sup> select staff attended a workshop on Pedestrian and Bicycle Accommodation. Additionally, from January 31 to February 2, one planner will be attending a workshop offered by VDOT about Intersection and Arterial Capacity Analysis.

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O. Marvin Sowers, Jr.