

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
FEBRUARY 6, 2006 - 6:30 p.m.

1. ROLL CALL
2. CLOSED SESSION
 - A. Consideration of the Appointments of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
3. ANNUAL ORGANIZATION MEETING
 - A. Election of Officers
 - B. Committee Appointments
4. COMMITTEE AND COMMISSION REPORTS
 - A. Development Review Committee (DRC) Report
 - B. Policy Committee
 - C. Other Committee/Commission Reports
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. Z-7-05/MP-5-05 Jamestown Retreat
 - H. Z-17-05/MP-14-05 Greensprings MP Amendment
 - I. SUP-31-05 Norge Elementary School Cafeteria Expansion
 - J. SUP-33-05 Chickahominy Riverfront Park
6. PLANNING DIRECTOR’S REPORT
7. ADJOURNMENT

(Note: Planning Commission worksession on New Town Section 9/ Settler’s Market to be held February 9, 2006 at 1:00 p.m. in Building F Worksession Room)

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Planning Commission of James City County, Virginia, ("Commission") has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2 - 3712 of the Code of Virginia requires a certification by the Commission that such closed meeting was conducted in conformity with the Virginia Freedom of Information Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and (ii) only such public business matters were heard, discussed, or considered by the Commission as were identified in the motion, made pursuant to Section 2.2-3711 (A)(1), to consider the nomination of Chairman and Vice-Chairman and consideration of appointments of Commission committees.

Donald C. Hunt
Chairman
Planning Commission

ATTEST:

O. Marvin Sowers, Jr.
Secretary

Adopted by the Planning Commission on this 6th day of February 2006

DEVELOPMENT REVIEW COMMITTEE ACTIONS REPORT MEETING OF February 1, 2006

Case No. S-117-05 Liberty Ridge

Mr. Ted Miller of Kimley-Horn and Associates has applied on behalf of JCC, L.L.C. for approval of a 139 lot subdivision and 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. The property lies on the West side of Centerville Road between the entrance to Freedom Park and Jolly Pond Road. The property can be further identified as parcel (1-2) on James City County tax map (30-3). DRC action is necessary on any Ordinance exception and for any subdivision proposing over 50 lots and/or two entrances on the same road (Centerville).

DRC Action: The DRC deferred action on this case until the March 1st meeting.

Case No. S-1-06 1699 Richmond Road Subdivision

Mr. Peter Farrell of LandMark Design has applied on behalf of Prime Outlets, L.L.C. for a waiver to the required side yard setback for properties in the B-1 General Business District in accordance with section 24-395 of the James City County Zoning Ordinance. Specifically, the exception request is to allow for a side yard setback reduction for the new property line from 20 feet to zero feet. The property is located on the West side of Richmond Road and can be further identified as parcel (1-33C) on James City County tax map (38-4). DRC action is necessary on any Ordinance exception.

DRC Action: The DRC deferred action on the case until the March 1st meeting.

Case No. SP-159-05 New Town Community Building

Mr. Robert Cosby III of AES Consulting Engineers has applied on behalf of James City County to construct a 10,000 square foot public community building. The property is located at 4301 New Town Avenue and can be further identified as parcel (24-15) on James City County tax map (38-2). DRC action is necessary for any proposed public area, facility or use not shown on the adopted Comprehensive Plan.

DRC Action: The DRC unanimously recommended approval of the New Town Community Building, determining that it was substantially consistent and in accord with the adopted 2003 Comprehensive Plan of James City County.

Case No. SP-160-05 Stonehouse Elementary Addition

Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of WJCC Public Schools to expand existing classroom and parking facilities at Stonehouse Elementary School. The site is located at 3651 Rochambeau Drive and can be further identified as parcel (1-20) on James City County tax map (13-1). DRC action is necessary for any proposed public area, facility or use not shown on the adopted Comprehensive Plan.

DRC Action: The DRC unanimously recommended approval of the school expansion projects, determining that they were substantially consistent and in accord with the adopted 2003 Comprehensive Plan of James City County.

Case No. SP-162-05 Eaglecliffe Condominiums

Mr. Jason Grimes of AES Consulting Engineers has applied on behalf of Realtec, Inc. for approval of 84 condominium units on 7.02 acres. The site is bounded by St. Andrew's Drive to the East and Ashford Manor and Ford's Colony Drive to the West. The property is further identified as parcel (1-53) on James City County tax map (31-3). DRC action is necessary for any site plan proposing more than 50 units.

DRC Action: The DRC unanimously recommended preliminary approval of the site plan subject to agency comments.

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE NINTH DAY OF JANUARY, TWO-THOUSAND AND SIX, 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> | <u>ALSO PRESENT</u> | <u>ABSENT</u> |
| | Jack Fraley | Mr. John Horne, Development Manager | Don Hunt |
| | Wilford Kale | Marvin Sowers, Planning Director | |
| | Mary Jones | Adam Kinsman, Assistant County Attorney | |
| | George Billups | Matthew Smolnik, Planner | |
| | Shereen Hughes | Ellen Cook, Senior Planner | |
| | James Kennedy | Joel Almquist, Planner | |
| | | Toya Ricks, Administrative Services Coordinator | |
| | | Jason Purse, Planner | |
| | | Jose Ribeiro, Planner | |
| | | Kathryn Sipes, Planner | |
| | | Leanne Reidenbach, Development Management Assistant | |

2. MINUTES

A. NOVEMBER 7, 2005 REGULAR MEETING

Mr. Kale said he was pleased with the changes that were made to the November 7th minutes.

Mr. Kale motioned to approve the minutes of the November 7, 2005 meeting.

Mr. Kennedy seconded the motion.

In unanimous voice vote the minutes were approved (6-0). (Hunt Absent)

B. DECEMBER 5, 2005 REGULAR MEETING

Mr. Kennedy motioned to approve the minutes of the December 5, 2005 meeting.

Mr. Kale seconded the motion.

In unanimous voice vote the minutes were approved (6-0). (Hunt Absent)

3. COMMITTEE AND COMMISSION REPORTS

A. POLICY COMMITTEE

Mr. Billups stated that the Policy Committee met in December and January regarding the definition of gardening supplies. He said the approved definition is included in a case being brought forth later in the meeting. Mr. Billups recommended approval of that definition at the appropriate time.

Mr. Billups also stated that the dates for the Capital Improvement Program (CIP) meetings had been set for January 31st, February 8th and 9th, and tentatively for February 14th. He also said a meeting had been scheduled with the School Board for February 19th to discuss their needs.

Mr. Billups said the Committee was moving forward with the Commission's requests made in November regarding policies to reflect more accurate information on school population, environmental concerns, and transportation conditions.

B. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. Fraley stated that the DRC considered four cases at its January 4th meeting. The Committee recommended preliminary approval subject to agency comments for three cases: New Town January 2006 Quarterly Shared Parking Plan Report, certain building setback modifications in New Town, and a site plan for 43 residential townhomes in New Town Block 11. The Committee recommended deferral of the Stonehouse Land Bay XXXI site plan pending resolution of issues related to the Stormwater Master Plan. Mr. Fraley said the voting on all four cases was unanimous.

Mr. Kennedy motioned for approval of the report.

Mr. Kale seconded the motion.

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

4. PLANNING COMMISSION CONSIDERATION

A. Toano Community Character Area Study Design Guidelines

Mr. Jason Purse introduced Mr. Fred Boelt, a member of the Toano Community Character Area Study Steering Committee, to discuss the process used to develop the design guidelines. Mr. Purse also requested a recommendation for approval.

Mr. Boelt introduced other members of the Steering Committee. He stated that the Committee worked with Renaissance Planning Group and held five meetings that were open to the public and included time for public comment and two public workshops. Mr. Boelt also talked about the history of the Toano area.

Mr. Eric Wright, Renaissance Planning Group, gave a presentation outlining the Guidelines that were developed. He stated that the 2003 Comprehensive Plan designated the area as a Community Character Corridor which meant the architecture, scale, materials, and spacing of the

buildings must compliment the historic character of the area and was used as a basis for the Guidelines.

Ms. Kristin Van Vorhees, Renaissance Planning Group, continued the presentation. She gave more detail on the specific elements identified in the Guidelines.

Mr. Kennedy asked about a previous effort to widen the buffer on Route 60 near the entrance corridor from Anderson's Corner and the current lack of parking in the Historic Toano area. He asked if the proposal suggested a realignment of Route 60.

Ms. Van Vorhees said the proposal was to add additional access points and parking lots behind the buildings.

Mr. Kennedy said he wondered where the property would come from to create the additional parking.

Ms. Van Vorhees showed the proposed parking locations on a map.

Ms. Hughes said she was a part of the roundtable discussion that proposed putting the parking behind buildings and on side streets for safety reasons given the amount of industrial traffic. She also asked about the size of the landscape buffer between the farmland area.

Ms. Van Vorhees said the buffer shown on the plan was meant to give a general idea since the development doesn't exist today.

Mr. Kennedy said quite a bit of emphasis was placed on leaving a rather large buffer.

Mr. Wright explained that Ms. Van Vorhees was referring to a buffer in a different location.

Mr. Kale asked if the Village of Whitehall development would fit with what was proposed for that development's location.

Mr. Wright answered yes with some modifications.

Ms. Van Vorhees concluded her presentation.

Mr. Billups asked if there were any problems with acquiring the land necessary for the project.

Mr. Wright said that land acquisition was not a part of the study. He said the Guidelines would be incorporated into the Comprehensive Plan for future development.

Ms. Jones asked who would pay for the streetscape implementation.

Mr. Purse explained the five implementation strategies which included working with developers, VDOT, grants, and individuals to fund the proposal.

Mr. Kennedy asked if the plan included preserving the current buildings.

Mr. Purse answered yes and said the hope was to work with citizens to have some of them designated on federal and state historic registries.

Mr. Kennedy asked if bike paths were purposed for the downtown area.

Mr. Wright said yes, that they helped to slow down the traffic.

Mr. Kennedy said the area needed a lot of traffic calming before the bike paths are in place.

Mr. Wright said other traffic calming measures including building massing planted medians are included in the proposal.

Ms. Hughes asked if the historic neighborhoods would be preserved.

Mr. Wright said the study did not go into neighborhoods but focused on the corners.

Ms. Hughes said she wondered if there was any danger of those neighborhoods being destroyed or erased.

Mr. Wright said the proposal was not parcel specific.

Mr. Kennedy said he was supportive of the plan. He said he hoped the Economic Development Authority would be involved through investment bonds and that capital would be needed similar to York County's investment in Riverwalk.

Mr. Fraley said the plan was big, creative, and visionary and that he would keep his fingers crossed.

Ms. Hughes agreed with Mr. Fraley. She said she was concerned that there would not be a transition between the rural areas and Historic Toano.

Mr. Kennedy said he was concerned with parking and the fact that agreement from multiple property owners would be necessary to make it work. He also stated his concern over traffic and compatibility with the industrial uses.

Mr. Kale said he saw the plan as an overarching concept that future developers would use as a guide for new projects that presented excellent out of the box ideas. He also said he saw the secondary roads being used by trucks. Mr. Kale said it reminded him of an area of Lancaster, Pennsylvania that exhibits a beautiful blend of agriculture with the village concept. Mr. Kale said the Board of Supervisors should carry the study through to Anderson's Corner.

Mr. Billups stated that it was an excellent plan and that he would like to see commitment to it from the Board of Supervisors. He also stated that he would like to see a timeline for each phase.

Ms. Jones agreed with Mr. Billups. She said she too was concerned that the parking areas needed coordination with the County as well as cooperation with citizens and business owners. She stated her support.

Mr. Fraley asked Mr. Sowers the status of a study of the Anderson's Corner area.

Mr. Sowers said a request was made to the Board of Supervisors concurrently with the request for the Toano Area study. He said the Board chose to move forward with the Toano Area study only at that time.

Mr. Fraley said the request should be made again and that a study should include the transition area between Anderson's Corner and Historic Toano. Mr. Fraley asked how staff proposed to move forward with the overall plan including benchmarks and timelines.

Mr. Purse said one of the first things was to work on the historic registry and then move forward using framework similar to the Five Forks Design Guidelines.

Mr. Sowers detailed the various matching grants and other funding options being considered.

Mr. Kale suggested including the implementation strategies with the Commission's recommendation to the Board.

Mr. Sowers said that would be appropriate if the Commission was comfortable doing so.

Mr. Fraley confirmed that Mr. Kale was proposing to forward both the Implementation Strategies and Design Guidelines in an endorsement to the Board.

Mr. Kennedy asked if it would be appropriate to ask that funding measures be considered by the Board as well.

Mr. Sowers said yes.

Ms. Jones thanked the citizens that worked on the Steering Committee.

Mr. Fraley summarized that the recommendation was for approval of the Toano Community Corridor Area Study Design Guidelines and Implementation Guidelines included in the staff report and consideration of capital requirements and funding sources.

Mr. Kale motioned for approval.

Mr. Billups seconded the motion.

In a unanimous voice vote the proposal was approved (6-0). (Hunt Absent).

B. Initiating Resolution – Zoning Ordinance Amendment – Residential Cluster -Curb & Gutter Requirements

Ms. Ellen Cook said staff received a request to amend the Residential Cluster Zoning Ordinance to permit the inclusion of certain alternatives and/or additional provisions for waiver or modification of the curb and gutter requirements. Staff recommended adoption of the initiating resolutions referring the matter to the Policy Committee.

Mr. Kennedy motioned to approve the resolution.

Mr. Kale seconded the motion.

Ms. Hughes said she was in favor of low impact design measures but that she felt that making changes to the Zoning Ordinance was a reactionary measure. She said she felt the matter should be reviewed in a comprehensive way not just making one change.

Mr. Kale said the proposed amendment put the County in the position to do as Ms. Hughes suggested.

Mr. Fraley said that Ms. Hughes' suggestion would be discussed during the Planning Director's report on the budget process later in the meeting.

Mr. Sowers said he thought the study Ms. Hughes referred to "Builders for the Bay Better Site Design" would be the next project staff would be directed to undertake.

In a unanimous voice vote the resolution was approved (6-0). (Hunt Absent).

C. Initiating Resolution – Zoning Ordinance Amendment – Athletic Field Lighting

Ms. Ellen Cook said that as a part of the Community Sports Stadium project staff 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 recommended adoption of the resolution referring the matter to the Policy Committee.

Mr. Kale asked why the proposal included amending height for all districts.

Ms. Cook said that currently all districts listed items that height waivers could be applied for and that the lists do not include athletic fields.

Mr. Kale asked if they could just add "anything the County government wanted to do?" Mr. Kale said that citizens are held to requirements that the County cannot adhere to itself. He

said that every time something doesn't work out for the County that the height requirement is amended but that regular property owners have to bite the bullet. He said that he has problems with that and does not see any reason to change the height in any residential zoned area.

Mr. Kennedy said he supported Mr. Kale's reaction. He said he realized it was needed in this venue but was not comfortable giving approval cart blanche. He said he agreed with Mr. Kale on the scrutiny a citizen would have to go through if making the same request.

Mr. Sowers said that Board of Supervisors approval would still be a requirement. He said the ordinance does allow a height waiver approved by the Board of Supervisors for a variety of items already. Mr. Sowers said that Parks and Recreation has discovered that there are some Districts in which sports facilities are located that they cannot currently light. He said this amendment would allow them to make application to the Board.

Mr. Fraley said it appeared to be global and not district oriented.

Mr. Sowers said an initiating resolution allows Staff to look at the ordinances but reserves the ability of the Commission and Board to decide which of those areas to actually amend.

Mr. Billups stated that any request should show cause as to why a modification is necessary. He said that he is hesitant to make any change to the ordinance until the next Comprehensive Plan review can be considered by the public. Mr. Billups also said that during the planning of the Warhill project this need should have been foreseen and should have been acted upon during the previous Comprehensive Plan review.

Mr. Kale said one of the elements taught in the planning commissioners course at Virginia Commonwealth University is the importance of dealing with public property because the County holds it in trust for all citizens for various uses. He said that consideration should be given only to this area not all districts.

Ms. Cook said that staff would be happy to take the issues mentioned under advisement and bring them forward to the Policy Committee.

Mr. Billups stated that the sentence including all districts should be excluded from the proposal.

Ms. Jones stated her feeling that the Policy Committee should be able to consider the proposal in its entirety. Ms. Jones made a substitute motion referring the matter to the Policy Committee for consideration.

Ms. Hughes seconded the motion.

The proposal was referred to the Policy Committee.

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 Rezoning

Mr. Fraley stated that the applicants for cases 5A-5F requested deferral of those cases until the February meeting.

Mr. Sowers said staff concurred with the requests. He also stated that staff recommended the Planning Commission hold a work session on the Stonehouse proposal.

Mr. Fraley opened the public hearings.

Hearing no requests to speak; the public hearings were continued until the February 6th meeting.

The Planning Commissioners, Mr. Sowers, and Mr. Kinsman discussed the Commissioners' availability regarding a Stonehouse worksession and the feasibility of taping the session. It was decided that the Mr. Kennedy and Mr. Kale would let staff know their availability on February 6th the following day and a date would be set at that time.

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

Mr. Joel Almquist stated that pursuant to a citizen request Staff is proposing to amend the Zoning Ordinance to define plant and garden supply sales and to allow retail sales of plant and garden supplies as a specially permitted use in the A-1, General Agriculture, District. Staff recommended that the Planning Commission recommend approval.

Mr. Billups stated that the Policy Committee held a special meeting to approve the definition.

Mr. Kennedy asked if a property owner who wanted to sell stone would fall under the scope of this amendment.

Mr. Almquist said that only the sell of plants that are grown off-site as a primary use would fall under that definition.

Mr. Sowers added that the Zoning Administrator would be responsible for determining whether a use was primary or secondary in nature.

Ms. Hughes gave the background on the process used to develop the definition and stated that it is consistent with other districts.

Mr. Kale asked if the proposal was for a by-right or specially permitted use.

Ms. Sowers said it was a special use permit use.

Mr. Kennedy motioned to recommended approval.

Ms. Jones seconded the motion.

Mr. Fraley opened the public hearing.

Hearing no requests; the public hearing was closed.

In a unanimous roll call vote approval was recommended (6-0). (Hunt Absent).

H. Z-7-05/MP-5-05 Jamestown Retreat

Mr. Matthew Smolnik stated that the applicant requested a deferral until the February 6th meeting to consider further revisions to the application.

Mr. Fraley opened the public hearing.

Ms. Ann Hewitt, 147 Raleigh Street, asked how many more deferrals the applicant would be allowed. She also stated that the applicant was a part of the Better Site Design Roundtable and asked why he could not come up with a suitable plan for the 16 acre site after 7 months. Ms. Hewitt stated her plans to continue to support compliance with the Comprehensive Plan with regard to this project.

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

H. Z-17-05/MP-14-05 Greensprings MP Amendment

Mr. Kathryn Sipes stated that Mr. Christopher Basic has applied on behalf of Jamestown, LLC 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 proposed an additional thirty units on approximately 35 acres; 17 units had been previously approved for the 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. Staff found the proposal generally consistent with the previously approved Master Plan and recommended approval.

Mr. Hunt opened the public hearing.

Mr. Vernon M. Geddy, III gave an overview of the application and proposed proffers. He said that the applicant's fiscal impact study showed a positive impact while the County's showed a negative one because the County's study was based on home and lot sales in a section of Greensprings by another developer with smaller lots and lower home prices. Mr. Geddy said the

lot closings for Section 4B through November 2005 showed substantially higher lot prices which is an indication that higher priced homes would be built on those lots. Mr. Geddy also said this would generate more tax revenue and would be less likely to attract young families with school age children. He requested a recommendation for approval.

Mr. Kale asked how many additional homes could be built in Greensprings West.

Mr. Geddy said no additional homes could be built if the amendment were approved.

Mr. Kale stated that he was uncomfortable going over the number of units approved by the County in 1989. He asked if it was correct that none of the previous amendments added additional units.

Mr. Geddy said Mr. Kale was correct.

Mr. Kale asked if the request for more lots was for the purpose of making more money.

Mr. Geddy said that was correct.

Mr. Kale asked if the applicant felt the proposed proffers would mitigate the additional impacts.

Mr. Geddy stated that the combination of proffers and housing prices would make up for the additional 30 lots.

Mr. Kale said he wished there was a way to penalize an applicant for every school age child above the applicants' projection. He also said he was disappointed that the applicant could not work with what was previously approved as other planned communities had been able to do.

Mr. Geddy said that most of the planned communities Mr. Kale mentioned were predominately single-family residential and were approved at densities that most people felt at the time would be difficult to achieve. He said this project was predominately multiple-family with a smaller portion of single-family residential. Mr. Geddy stated that there is now a realization that additional capacity was available and that the infrastructure is already in place.

Mr. Kale said that when he first joined the Planning Commission a resolution was approved which stated the County would not approve more than one unit per acre developments. He said this project was as close as he has seen.

Mr. Geddy said that he handled most of the Greensprings Rezoning requests and suggested that if more precise information had been available at that time on how things would fit into the Master Plan and they had requested 1535 units as opposed to 1505 than it would have been approved.

Ms. Hughes stated that a consideration of an amendment to a planned unit development should look back at what worked and what didn't. She said she has reservations with the proposal

given the Environmental Division's concerns that some of the Stormwater Management Facilities in Greensprings West might be failing. She asked if the applicant could guarantee that they work.

Mr. Geddy said the issue was not with Stormwater Facilities in Greensprings West. He said the applicant was asked to do an analysis of all the stormwater ponds in the entire Greensprings Plantation development. Mr. Geddy said they would be happy to do any work in Greensprings West and anywhere else they have control. He said there are land bays that the developer had nothing to do with and that they would be hesitant to commit to something they have no control over.

Ms. Hughes said her other concern was that there are 65 children per 100 units in Greensprings. She said the community recreation was geared toward adult's not children's recreation. She asked if the applicant could provide open space designated for children's recreation.

Mr. Geddy said that there is or will be a clubhouse, a full-size pool, a wading pool, two tennis courts, open play areas, and a tot lot.

Ms. Jones asked for the location of those facilities.

Mr. Geddy showed the facilities on a map.

Mr. Fraley stated that his concern was the absence of playing fields and that the minimum half acre lot referred to in the proffers was inadequate.

Mr. Kale stated that the proffers had been approved by the Planning Commission and Board of Supervisors and would over-ride the guidelines of the current Comprehensive Plan.

Mr. Geddy said that if the proffers were contrary to the Comprehensive Plan that one would build according to the proffers.

Mr. Kale said that since the applicant is requesting an amendment that perhaps this would be an opportunity to correct a previous error.

Mr. Geddy said that would be correct assuming that there was a problem.

Mr. Kale also stated his concern with requesting this applicant to take a look at anything that is beyond the area he is developing with regard to storm water applications.

Mr. Kinsman said the request could be made only to the extent that this applicant still had some ownership in the other properties. He also said that if one particular BMP was failing that that particular owner or entirety could be required to remedy the situation since the proffer runs with the land.

Mr. Kale said that if the problem exists in another area with another developer then this developer should not be held accountable unless the current proposal would impact that area. He also stated his concern with the lack of adequate recreation.

Mr. Geddy said the applicant would be willing to consider an area to combine or create an open play area more inviting to children.

Mr. Fraley said he felt that an amendment to a master plan opens itself up to a review of other concerns.

Ms. Hughes asked that the Stormwater Facilities under this developer's control be reviewed.

Mr. Kennedy asked if the prior proposal talked about buffers in the area along Jolly Pond Road.

Mr. Geddy said there was a required perimeter buffer in R-4 at that time.

Mr. Kennedy said a citizen complained that he was told that the area next to his property was a green space lot. He also stated his agreement that the recreation issue be looked into.

Mr. Geddy stated that Greensprings far exceeds the open space requirement and was the first development to initiate and implement what was then called the Greenbelt Policy.

Mr. Billups questioned the dollar amount proffered to the James City Service Authority (JCSA) to expand services beyond the Primary Service Area (PSA).

Mr. Geddy said the area is outside the PSA and was approved in 1989 as part of the overall development and the services are already there. He said there is no request to expand it any further outside the confines of Greensprings West.

Mr. Billups said the applicant would still need JCSA to connect from one location to another.

Mr. Geddy said they will be connecting to the utility infrastructure JCSA built to serve Greensprings West.

Mr. Billups asked what percentage of the development had been completely built out.

Mr. Jim Bennett of Jamestown LLC said that approximately 170 lots out of 398 do not have homes constructed on them representing roughly half of the development.

Mr. Billups asked if roads were still under construction.

Mr. Bennett said roads are under construction in sections 4B and 5 and have been planned for sections 6 and 7.

Mr. Billups said he questions what the project will look like at build out in terms of schools, environment, safety, water and other items that become the responsibility of the County and the impact 30 additional houses will have on them. He also questioned the legalities of making owners of separate sections responsible to mitigate impacts of the overall project. Mr. Billups said he did not think the Commission was ready to act on the matter until the applicant made changes to the plan. He also stated that the monies proffered to Housing Partnership are not significant enough to have much impact.

Mr. Billups asked for a timeline on building the remaining houses.

Mr. Bennett said approximately 150 homes were built last year and that assuming that trend continued built out should be reached in about 3-4 years.

Mr. Geddy added that all the studies and information the applicant has provided have been based on total build out.

Mr. Kennedy stated that he felt the current Adequate Facilities Test is inadequate so that he does not put a lot of faith in data indicating that facilities are adequate. He also said that school overcrowding is a fact and that with the cost of housing escalating at a mind boggling pace the notion that \$600,000 homes will not have children in them may be flawed as well. He also stated that although he was pleased the applicant met the requirements for JCSA and would fall under the County's policy on water conservation; \$600,000 homes tend to use more water bringing irrigation issues. Mr. Kennedy said he thought the project was good overall but needed some changes such as recreation facilities and a turf management plan.

Mr. Geddy said that given the feedback from Commissioners the applicant would like to request deferral of the case to allow time to look into a stormwater management analysis and turf management.

Ms. Jones said she thought Greensprings West is an outstanding community. She said it is a planned community and she doesn't have an issue with 30 extra lots being added. She did agree with the Commissioners that additional recreation space was warranted.

Mr. Fraley stated that he would be happy to support the project if the applicant made the changes Mr. Geddy mentioned.

Mr. Tim Crowder, 3301 Windsor Ridge South, said the biggest issue for the homeowners was recreation for the kids but that they have no problem with the additional 30 homes.

Hearing no other requests to speak, the public hearing was continued until the February 6th meeting.

6. PLANNING DIRECTOR'S REPORT

Mr. Fraley said that Mr. Kennedy is shown on the County's website as a member of a committee that he is no longer a part of and requested the information be corrected. He also said there was some confusion over the date of the May meeting and confirmed that it is May 1st.

Mr. Sowers presented the Planning Director's report reminding members that the next Rural Lands public workshop would be January 12th at 6:30 at the James City County Library. He also said the Commission will hold its annual re-organization meeting in February which includes selecting a Chairman and Vice-Chairman and that discussion of nominations could be done in closed session.

Mr. Fraley said his suggestion would be to meet prior to the next regular meeting.

Mr. Kennedy said he too felt it should be done in February because there was a possibility of having as many as two new members in February.

Ms. Jones said early February would be appropriate because the Policy Committee had several Capital Improvement Program (CIP) meetings scheduled in mid-February and suggested meeting at 6:30 pm the night of the next regular meeting.

Mr. Sowers asked Mr. Kinsman if tonight's meeting should be adjourned and recessed until February 6th at 6:30 pm.

Mr. Kennedy stated that the Commission did not know what would happen at the end of the month in terms of re-appointments and that the Stonehouse workshop should be postponed until the new Commission was in place.

Mr. Sowers agreed to share Mr. Kennedy's comments with the Stonehouse applicant.

Mr. Kinsman asked if the Commission desired to meet in closed session for the election of officers next month.

Mr. Fraley answered yes.

Mr. Fraley, Mr. Kale, and Mr. Kinsman discussed the proper procedure for closing tonight's meeting. It was decided that the meeting should be adjourned.

Mr. Fraley stated his desire to have two studies included in the Division's up-coming budget. He said he would like to have a comprehensive review of the residential zoning ordinances. Mr. Fraley stated that they were no longer modern and that there are some inconsistencies between some of them and the Comprehensive Plan. He also stated that he would like the process of how traffic impacts studies are done reviewed. He said he felt that the method used is flawed and that professional staff should be used to evaluate traffic impacts instead of relying on traffic impact studies that he feels are inadequate and that are done by consultants who are paid by applicants. Mr. Fraley also noted that Virginia Department of Transportation (VDOT) responds to studies presented to them and does not make suggestions.

Mr. Kale stated his endorsement of both studies. He said he agreed with Mr. Billups that making amendments causes problems but he didn't want to wait until the next Comprehensive Plan review.

Ms. Hughes asked Mr. Sowers if the Better Site Design study was already budgeted for. She said she felt it should be a part of a comprehensive review of the ordinances.

Mr. Fraley agreed Ms. Hughes.

Ms. Hughes she did want to go through the ordinances, do another study, and then go through the ordinances again.

Mr. Sowers agreed that there should be some integration of the studies.

Ms. Jones agreed with Mr. Fraley that an in-house person should evaluate traffic impacts and give a comprehensive outlook. She asked if Mr. Fraley wanted the Policy Committee to handle the studies.

Mr. Billups stated that he suggested several years ago that each department include in the staff report a statement of how the new project would impact their area.

Ms. Hughes said Mr. Billups made an excellent point that Greensprings West has not been built out so that the data given was for what had been built to date but that another 175 homes have been approved that would have kids.

Mr. Fraley requested that the studies be put in the budget process so that funding could be requested.

Mr. Sowers stated he would include those suggestions in the Division's budget request along with the Division's other major work items for the next two years.

Mr. Fraley stated his feeling that an in-house traffic consultant was critical.

Mr. Kale stated that if the decision was made to hire a consulting firm that the firm assign someone familiar with the local area who could commit to the project a period of time.

7. ADJOURNMENT

There being no further business, the Planning Commission meeting was adjourned at 10:05 p.m.

Donald Hunt, Chairman

O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY
DEVELOPMENT REVIEW COMMITTEE REPORT**

FROM: 1/1/2006

THROUGH: 1/31/2006

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-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-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-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 |
| 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) |

Tuesday, January 31, 2006

Page 1 of 6

| | |
|-----------|--|
| SP-159-05 | New Town Community Building Block 9 Parcel B |
| SP-160-05 | Stonehouse Elementary Addition |
| SP-162-05 | Eaglescliffe Condos |
| SP-163-05 | Busch Gardens Equipment Carport |
| SP-164-05 | Busch Gardens Cold Frame |
| SP-001-06 | 5525 Olde Towne Rd |
| SP-002-06 | Wythe-Will Candy Store Canopy Addition |
| SP-003-06 | Lee Tourist Homes SP Amend. |
| SP-004-06 | Villas at Five Forks |
| SP-005-06 | Governor's Grove at Five Forks |
| SP-006-06 | Whythe-Will Parking Lot Expansion |
| SP-007-06 | GreenMount Road Extension Ph. 2 |

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-024-05 | Norge Water System Improvements | 4 /8 /2006 |
| SP-026-05 | Williamsburg Plantation, Sec. 10 Amend. | 4 /14/2006 |
| 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-070-05 | St. Bede Church Dam Improvement Plan | 7 /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-115-05 | Farm Fresh Fuel Express | 1 /25/2007 |
| 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 |
| SP-161-05 | New Town, Block 3, Parcel E (Bldg 900) | 1 /18/2007 |

C. FINAL APPROVAL

DATE

| | | |
|-----------|--------------------------------|------------|
| SP-041-05 | Warhill - Third High School | 1 /4 /2006 |
| SP-062-05 | Greenmount-DCB LLC Storage | 1 /19/2006 |
| SP-073-05 | Jeanne Reed's Office/Warehouse | 1 /26/2006 |

| | |
|-----------|--|
| SP-087-05 | Archaearium at Historic Jamestowne Amend |
| SP-101-05 | Fairmont Pump Station |
| SP-112-05 | College Creek Water Main |

1 /13/2006

1 /30/2006

1 /4 /2006

D. EXPIRED

EXPIRE DATE

II. SUBDIVISION PLANS

A. PENDING PRELIMINARY APPROVAL

| | |
|----------|--|
| S-104-98 | Skiffes Creek Indus. Park, VA Trusses, Lots 1,2,4 |
| S-013-99 | JCSA Mission Bank ROW Acquisition |
| S-074-99 | Longhill Station, Sec. 2B |
| S-110-99 | George White & City of Newport News BLA |
| S-091-00 | Greensprings West, Plat of Subdv Parcel A&B |
| S-086-02 | The Vineyards, Ph. 3, Lots 1, 5-9, 52 BLA |
| S-062-03 | Hicks Island - Hazelwood Subdivision |
| S-034-04 | Warhill Tract BLE / Subdivision |
| S-048-04 | Colonial Heritage Open Space Easement |
| S-066-04 | Hickory Landing Ph. 1 |
| S-067-04 | Hickory Landing Ph. 2 |
| S-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.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-090-05 | Powhatan Secondary Ph. 7C |
| S-094-05 | Warhill Tract Parcel 1 |
| S-095-05 | Landfall Village |
| S-097-05 | ROW Conveyance- 6436 Centerville Road |
| 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-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 |
| S-001-06 | 5699 Richmond Rd |
| S-002-06 | 114 Hollinwell BLA/BLE |
| S-005-06 | New Town Block 14 Parcel B |
| S-006-06 | Ripley Family Subdivision |

S-007-06 7521 Richmond BLA
 S-008-06 108 Mace Street BLE
 S-009-06 Garrett BLA & BLE

B. PENDING FINAL APPROVAL

EXPIRE DATE

| | | |
|----------|---|------------|
| S-044-03 | Fenwick Hills, Sec. 3 | 6 /25/2006 |
| S-073-03 | Colonial Heritage Ph. 2, Sec. 2 | 10/6 /2006 |
| S-098-03 | Stonehouse Glen, Sec. 1 | 4 /5 /2006 |
| S-101-03 | Ford's Colony - Sec. 35 | 2 /2 /2007 |
| 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 /2007 |
| 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-081-05 | New Town, Sec. 6, Parcel 2 BLE | 1 /24/2007 |
| S-082-05 | Fernandez BLA | 9 /6 /2006 |
| S-083-05 | Curry Revocable Trust | 1 /9 /2007 |
| S-091-05 | Windmill Meadows | 10/3 /2006 |
| S-114-05 | Colonial Heritage Ph. 1 Sec. 5 Lots 1-30 | 12/15/2006 |
| S-003-06 | New Town Block 8 Parcels A, D, & E BLE & BLA | 1 /13/2007 |
| S-004-06 | New Town Block 6 & 7 Parcel A & C BLA & BLE | 1 /12/2007 |

C. FINAL APPROVAL

DATE

| | | |
|----------|---------------------------------------|------------|
| S-085-05 | Haven Landing Ph. 1 | 1 /4 /2006 |
| S-086-05 | Haven Landing Ph. 2 | 1 /4 /2006 |
| S-096-05 | ROW Conveyance- 6428 Centerville Road | 1 /23/2006 |
| S-098-05 | ROW Conveyance- Opportunity Way | 1 /10/2006 |
| S-107-05 | Wal Mart Dist. Center BLE | 1 /24/2006 |

D. EXPIRED

EXPIRE DATE

REZONING Z-13-05, Village at Toano

Staff Report for February 6, 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

February 6, 2006

7:00 p.m.

Board of Supervisors:

April 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. The applicant anticipates the application will go forward for consideration in March. 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@ghflaw.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.



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 February 6, 2006, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

August 1, 2005 (proffer deadline not met) 7:00 p.m.

September 12, 2005 (applicant deferral)

October 3, 2005 (applicant deferral)

November 7, 2005 (applicant deferral)

December 5, 2005 (deferral recommended by staff)

January 9, 2006 (applicant deferral)

February 6, 2006

Board of Supervisors:

March 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 February 6, 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 (applicant deferral) 7:00 p.m.

December 5, 2005 (applicant deferral)

January 9, 2006 (applicant deferral)

February 6, 2006

Board of Supervisors:

March 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

Ellen Cook

Attachments

1. Deferral 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 30, 2006

Via U.S. Mail & Email

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

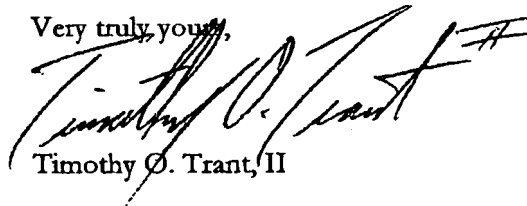
**Re: Stonehouse Planned Unit Development
Proposed Land Use Modifications
James City County Case Numbers Z-11-03 and MP-11-03
Our Matter No. 100281**

Dear Ellen:

The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on February 6, 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 February 6, 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 February 6, 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 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

REZONING Z-13-04/SUP-31-04/MP-10-04. Monticello at Powhatan North
Staff Report for February 6, 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

November 7, 2005 (applicant deferral)

December 5, 2005 (applicant deferral)

January 9, 2006 (applicant deferral)

February 6, 2006

7:00 pm

Board of Supervisors:

March 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 March 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

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 30, 2006

Via U.S. Mail & Email

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

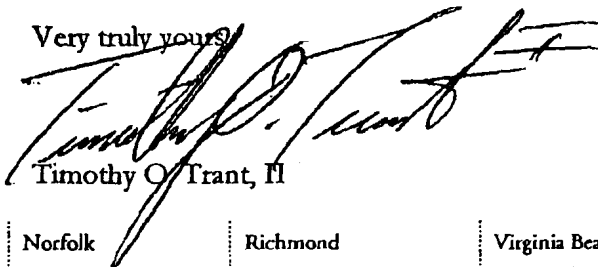
Re: *Powhatan Enterprises, Inc.*
Monticello at Powhatan North (Phase III)
James City County Case No's. Z-13-04, MP-10-04, & SUP-31-04
Our Matter No. 79791

Dear Joel:

The above-referenced case is scheduled to be presented to the James City County Planning Commission at its meeting on February 6, 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 February 6, 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 February 6, 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 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 February 6, 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 **Building F Board Room; County Government Complex**

| | | |
|-----------------------|------------------|--------------------------------|
| Planning Commission: | November 7, 2005 | 7:00 p.m. (applicant deferral) |
| | December 5, 2005 | 7:00 p.m. (applicant deferral) |
| | January 9, 2006 | 7:00 p.m. (applicant deferral) |
| | February 6, 2006 | 7:00 p.m. |
| Board of Supervisors: | March 14, 2006 | 7:00 p.m. (tentative) |

SUMMARY FACTS

| | |
|-----------------------|---|
| Applicant: | Mr. Vernon Geddy, III on behalf of AIG Baker Development, LLC and Developer's Realty Corporation |
| Land Owner: | WHS Land Holdings, LLC and New Town Associates, LLC |
| Proposal: | To apply Design Guidelines and rezone 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 March 6, 2006 Planning Commission meeting to resolve traffic concerns with staff.

Staff Contact: Matthew J. Smolnik

Phone: 253-6685

ATTACHMENTS:

1. Deferral letter from applicant

Matthew J. Smolnik

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

MAILING ADDRESS:

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

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

ANDREW M. FRANCK
RICHARD H. RIZK

email: vgeddy@ghflaw.com

February 1, 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 March 2006 Planning Commission meeting. We look forward to the work session on the 9th and presenting the case in March. 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 February 6, 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: | 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. (applicant deferral) |
| Planning Commission: | February 6, 2006 | 7:00 p.m. |
| Board of Supervisors: | March 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 March 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

Jose L. Ribeiro

ATTACHMENTS:

1. Deferral letter from applicant



Scott Evans Contracting, Inc.

Industrial • Commercial • Residential

January 31, 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 30 days.

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

Sincerely,

Scott Evans
President

REZONING-07-05. Jamestown Retreat
MASTER PLAN-05-05. Jamestown Retreat
HEIGHT WAIVER-03-05. Jamestown Retreat
Staff Report for the February 6, 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 **Building F Board Room; County Government Complex**

Planning Commission: 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. (applicant deferral)
Board of Supervisors: December 13, 2005, 7:00 p.m. (remanded back to Planning Commission)
March 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

The applicant has requested that this case be deferred until the March 6, 2006 Planning Commission meeting.

Staff Contact: Matthew J. Smolnik

Phone: 253-6685

Matthew J. Smolnik

ATTACHMENTS:

1. Deferral letter from the applicant

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

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

ANDREW M. FRANCK
RICHARD M. RIZK

February 1, 2006

email: vgeddy@ghflaw.com

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

Re: Jamestown Retreat/Case No. Z-07-05 and MP-05-05

Dear Matt:

I am writing on behalf of the applicant to request that the Planning Commission defer consideration of this case until its March meeting to give the applicant time to consider further revisions to the application.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VMG/ch
cc: Mike Brown

**REZONING CASE NO. Z-17-05 & MASTER PLAN NO. MP-14-05. Greensprings
Staff Report for the February 6, 2005, Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

December 5, 2005

Deferred

January 9, 2006

Deferred

February 6, 2006

7:00 p.m.

Board of Supervisors:

March 14, 2006

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.

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

| Cash Proffer Summary (See previous staff report narrative and attached proffers for further details) | |
|---|---|
| <u>Use</u> | <u>Amount</u> |
| Water-JCSA | \$1,093.00* 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 |
| Total Amount (2005 dollars) | \$195,120 (excludes sewer, community cash, HOA, and incentive contributions) |
| Total Per Lot | \$6,504.00 (\$195,120 / 30 Additional Lots) |

*Please note the dollar amount for Water-JCSA has been adjusted to reflect 2006 figures.

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.

ISSUES RAISED AT THE JANUARY 9, 2006 PLANNING COMMISSION MEETING

At its January 9 meeting, the Planning Commission voted to defer the case and cited the following issues: need to address the Environmental Division's comments, adequacy of recreational facilities, and turf management and impacts of lawn irrigation. Following is a summary of how these concerns have been addressed:

Environmental

Environmental staff expressed the need to confirm the master planned area would meet current stormwater management requirements with the proposed additional units. Per Environmental staff comments, in order to meet the "10-point" standard, the applicant would have to update the previously submitted calculations, using current performance of actual facilities.

Staff Comments: Environmental proffers have been added since the January Planning Commission meeting. Environmental staff has reviewed and approved proffer language that commits the applicant to perform the necessary evaluations and submit appropriate data to ensure this 10-point standard will be met with the proposed

additional units. Additionally, the applicant proffered turf management for common areas within the Greensprings West development.

Parks and Recreation

Two previously proffered recreational facilities, a tot lot with playground equipment and an additional play area with playground equipment, have not yet been built. An additional need, an open play area available for ball games, was identified by current residents. A vacant lot, recorded as conservation area, was being used by neighborhood children to meet this need. The Planning Commission believed this need was not sufficiently being met.

Staff Comments:

Recreation proffers have been added since the January Planning Commission meeting. This language commits the Owner to completing the previously proffered facilities, as well as an additional playing field of 0.6 acres, prior to approval of the development plans for the Additional Lots. The additional playing field has been added to the master plan as the orange thatched area labeled as Recreational Facility 1a. Staff believes both Section 24-286 of the Zoning Ordinance and the Park and Recreation Guidelines are being met.

RECOMMENDATION

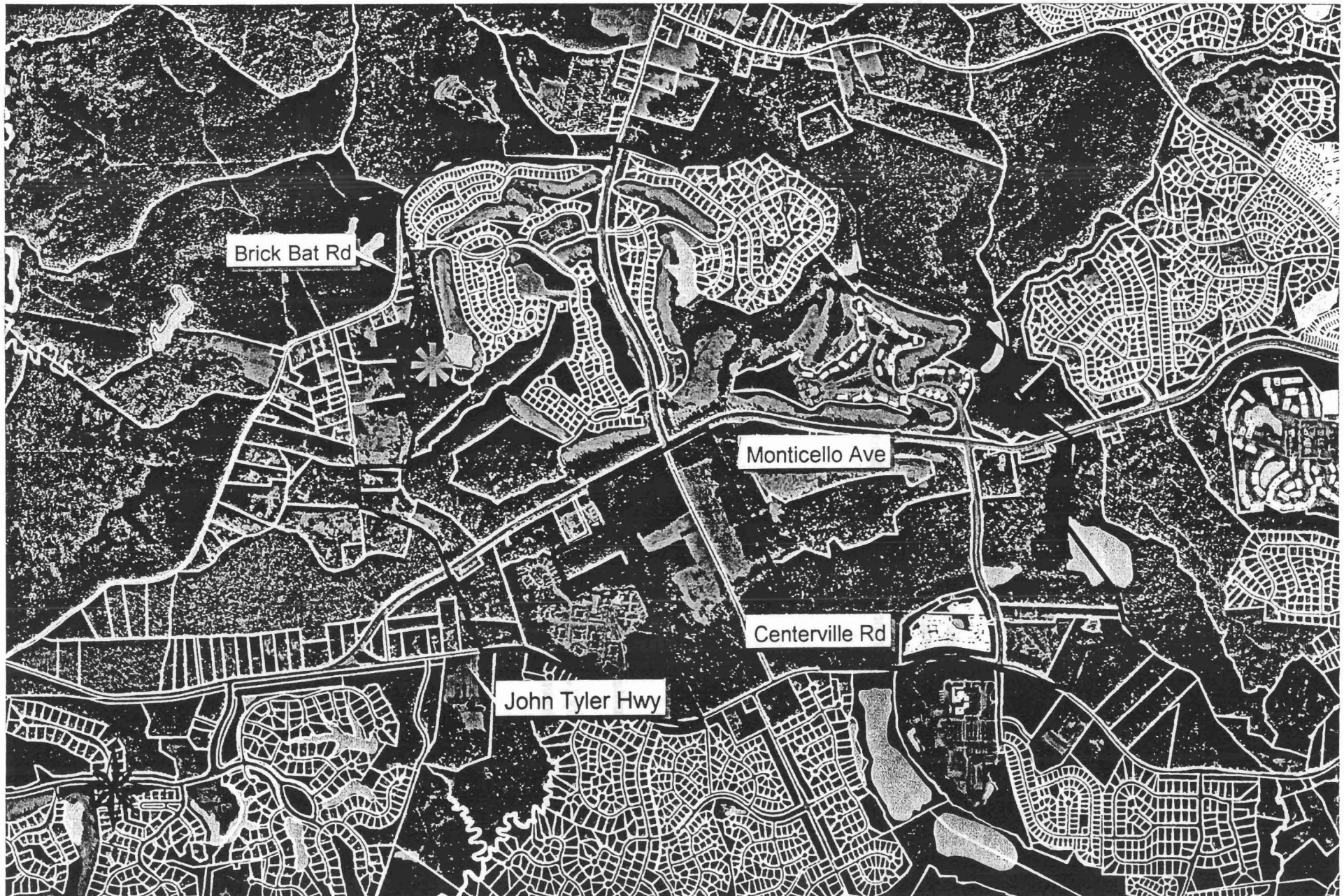
With the submitted proffers, staff believes that this proposal will not negatively impact surrounding property. Staff finds the proposal consistent in character with the previously approved Master Plan and has determined that the additional units proposed will not have an appreciable impact. Based on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

Kathryn Sipes

ATTACHMENTS:

1. Location map
2. Master Plan (under separate cover)
3. Proffers
4. Community Impact Study (under separate cover)
5. Correspondence from Greensprings resident (two previous emails provided at January PC meeting)

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 23rd day of January, 2006, 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 \$1,093.00 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, whichever is sooner, 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 Marshall and Swift Building Costs Index (the "Index"). 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 Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, 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 Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (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 Owner receives final subdivision plat approval for the Additional Lots 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(s).

5. Recreation. Prior to the County being obligated to grant preliminary approval of the development plans for Phase VII, Owner shall install the tot lot and play area currently proffered under Section C, Proffer 4 (a) of these Amended and Restated Proffers. Prior to the County being obligated to grant final approval of the development plans for Phase VII, the new open play field of approximately 0.6 acres in the general location shown on the Master Plan shall be cleared, graded, sodded, and in useable condition. Prior to the County being obligated to grant final subdivision plat approval for the Additional Lots, Owner shall complete the recreational trail located on the north side of Monticello Avenue on the Property in the general location shown on the Master Plan. on the Master Plan.

6. Greenway Easement. Prior to the County being obligated to grant final subdivision plat approval for the Additional Lots, Owner shall grant the County a greenway easement 35 feet in width immediately adjacent to Centerville Road in the general location shown on the Master Plan.

7. Environmental. (a) The HOA shall be responsible for developing and implementing a turf management plan ("Turf Management Plan") for the maintenance of common areas on the Property in an effort to limit nutrient runoff into Shellbank Creek and its tributaries. The Turf Management Plan shall include measures necessary to manage and limit yearly nutrient application rates to turf. 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 Turf Management Plan shall include terms permitting enforcement by either the HOA or the County. The Turf Management Plan shall be approved by the Environmental Division prior to final subdivision plat approval of the Additional Lots.

(b) Prior to the County issuing a land-disturbing permit for the Additional Lots, Owner shall perform analyses and evaluation of the Master Stormwater Management Plan to ensure compliance is achieved with the County's 10-point BMP system. The County Environmental Division must review and approve the analyses and evaluation prior to issuance of a Land-Disturbing permit for the Additional Lots area. If 10-point compliance is effectively demonstrated, there will be no further action required beyond preparation of the plan of development for the Additional Lots. If 10-point compliance is not effectively demonstrated, then additional action will be required to achieve overall stormwater management compliance, including, but not limited to, placement of additional BMPs or natural open space in the Additional Lots area. Alternatively, Owner may perform an analysis and evaluation of the stormwater facilities in Greensprings West to demonstrate compliance is achieved with the County's 10-point BMP system for that area independent of the remainder of the Master Stormwater Management Plan area.

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 Bav</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 II 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 II 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 to allow for future improvements. As part of this construction the following intersection improvements shall be made: | Before approval of any subdivision plat or site plan, other than golf course |
| 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.

- | | | |
|----|--|--|
| 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. |
| 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 turn lane, eastbound combined left turn lane and through lane, and eastbound right turn lane at Land Bay M-7. | Prior to issuance of 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 | Prior to issuance of |

southbound left turn lanes,
northbound right turn lane,
westbound left turn lane, and
right turn lane at clubhouse.

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.

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

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 Times City, to-wit:

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

as MGR of Jamestown, LLC., on behalf of the company this 25 day of

JANUARY, 2005.

[Signature]
NOTARY PUBLIC

My commission expires: 9/30/07

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.

Kate Sipes

From: Christy Parrish
Sent: Tuesday, January 17, 2006 8:55 AM
To: Marvin Sowers; Allen Murphy; Kate Sipes
Subject: FW: Greensprings West, Green Space Area
Importance: High

From: Wayne R. Potter [mailto:potter1958@cox.net]
Sent: Monday, January 16, 2006 4:54 PM
To: jlowenhaup@widomaker.com; tdearnl@unitedproperty.org
Cc: Planning
Subject: Greensprings West, Green Space Area
Importance: High

John,

Please let me know what the delay is regarding notification to all Greensprings West homeowners to inform their children to STOP using the designated "green space" area beside my home on Thorngate Drive as a "recreation area". I hoped to see some correspondence to homeowners regarding this problem by now. I understand the 2 to 3 weeks necessary to plan, purchase, and plant the trees, etc. However, there is absolutely no reason for delaying notification to all homeowners.

I am very angry due to an incident that happened yesterday. My 15 year old son was inappropriately approached by the father of one or more of the children playing football in the "green space", and rudely told my son that his children could do anything they wanted on the "open area" as he incorrectly called it. First, my son was with his church youth group members at my home when this parent approached him. This is going to turn into a problem if something isn't done now. Secondly, my grandson was riding his bike in my drive last week, and told my wife that he heard children playing football in the "green space" say bad words. Well, I have personally heard very bad and vulgar language from some of the children playing football there. And, these children are now becoming more aggressive when playing their football games in the green space. They do NOT listen to me when I ask them politely to please stop kicking the football and to throw it because they keep hitting my vehicles, trees, bushes, and house! I am very angry now; however, I still have not been ugly to any of these children because it's not their fault. At this point, it's the Developer and HOA's fault.

If the trees, bushes, etc. aren't planted by Feb 7th, and if all homeowners aren't notified to inform their children to stop playing football, etc. games on this "green space" lot by Jan 31st, I regrettably will take the next step of action which I had hoped to avoid. I will NOT allow inconsiderate homeowners, the Developer, or passive HOA management to allow this unauthorized activity on a "green space" lot that is negatively affecting my property value, and the daily lives of my family.

Please let me know the status of the notification to homeowners, and the planting soonest.

Thank you.

WAYNE R. POTTER

**SPECIAL USE PERMIT-31-05. Norge Elementary School Cafeteria Addition
Staff Report for the February 6, 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:
Board of Supervisors:

Building F Board Room; County Government Complex

February 6, 2006 7:00 p.m.
March 14, 2006 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Bruce Abbott, AES Consulting Engineer

Land Owner: Williamsburg-James City County Public Schools

Proposal: To bring the existing public school facility into conformance with the current zoning ordinance and allow for the construction of approximately 1,550 square feet addition to existing cafeteria.

Location: 7311 Richmond Road

Tax Map/Parcel Nos.: (23-2)(1-35)

Parcel Size: 20.06 acres

Zoning: R-2, General Residential

Comprehensive Plan: State, Federal, and County land

Primary Service Area: Inside

STAFF RECOMMENDATION

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

Staff Contact: Jose Ribeiro

Phone: 253-6685

PROJECT DESCRIPTION

Mr. Bruce Abbott, on behalf of Williamsburg and James City County Public Schools, has applied for a special use permit for the existing public school facility located at 7311 Richmond Road. In 1999, the R-2 district was amended to make schools a specially permitted use making Norge School a legally non-conforming use. Under the zoning ordinance, non-conforming uses cannot be expanded.

Staff has proposed a SUP condition that allows the public school to complete minor expansions and renovations (no more than the additional 1,550 square feet) which are currently prohibited since the use is non-conforming. The proposed cafeteria expansion will allow students to have more seating space during meal hours.

PUBLIC IMPACTS

Environmental

Watershed: Yarmouth Creek.

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

Public Utilities

This site is served by public water and sewer.

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

Transportation

Only access to Norge Elementary School is from Richmond Road, Route 60.

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

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

Conditions:

- Proposed condition two limits the property to one entrance on Richmond Road, Route 60.

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

COMPREHENSIVE PLAN

Land Use Map Designation

The site is designated as State, Federal, and County Land by the James City County Comprehensive Plan.

Other Considerations

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

Staff Comments: Staff finds the existing facility consistent with the Comprehensive Plan. The conditions proposed should preserve existing buffering and access for the site and minimize any additional impacts caused by minor expansions and/or renovations of the facility. The proposed cafeteria will be located at the eastern side (front) of the school facility and approximately 300 feet away from Richmond Road right-of-way.

RECOMMENDATION

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

1. This Special Use Permit shall be valid for the operation of a public school and accessory uses thereto. The property shall be developed generally in accordance with the conceptual layout submitted with the application titled, "Norge Elementary School Cafeteria Addition." Construction and/or placement of new buildings on the property or additions and renovations to existing structures shall be permitted provided these total expansions do not exceed 2,000 square feet.
2. Only one entrance shall be allowed onto Richmond Road, Route 60.
3. Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
4. Existing perimeter vegetation along the school's property line shall be retained. With prior approval of the Planning Director, dead, diseased, and dying trees or shrubbery or poisonous or invasive plants may be removed, provided however, that such removed vegetation shall be replaced with vegetation as approved by the Planning Director.
5. No new building structures shall be erected or placed within fifty feet from the school's property line. Existing building structures within this fifty foot area may be repaired and/or replaced provided there is no further encroachment.
6. If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

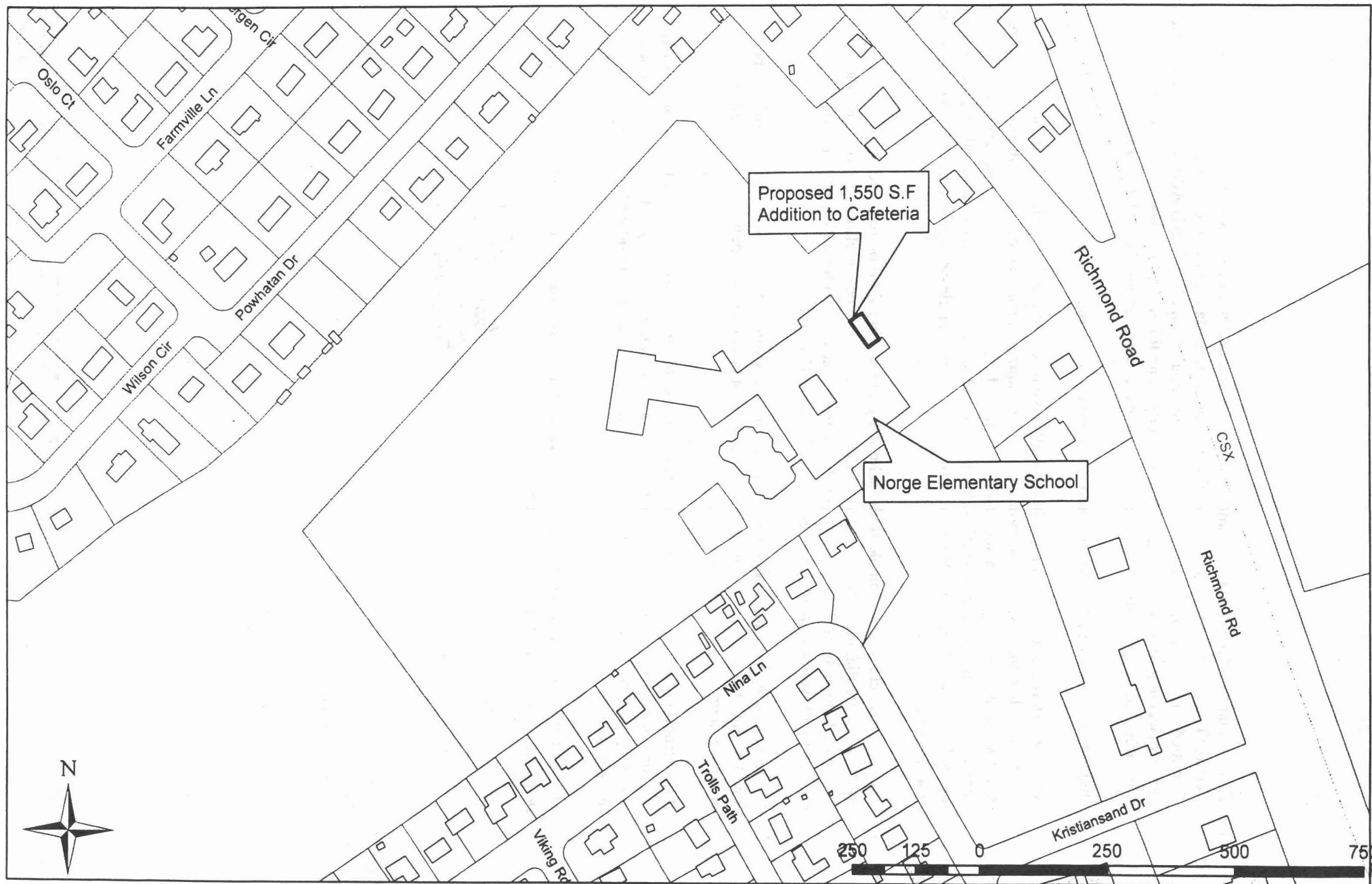
Jose Ricardo L. Ribeiro

ATTACHMENTS:

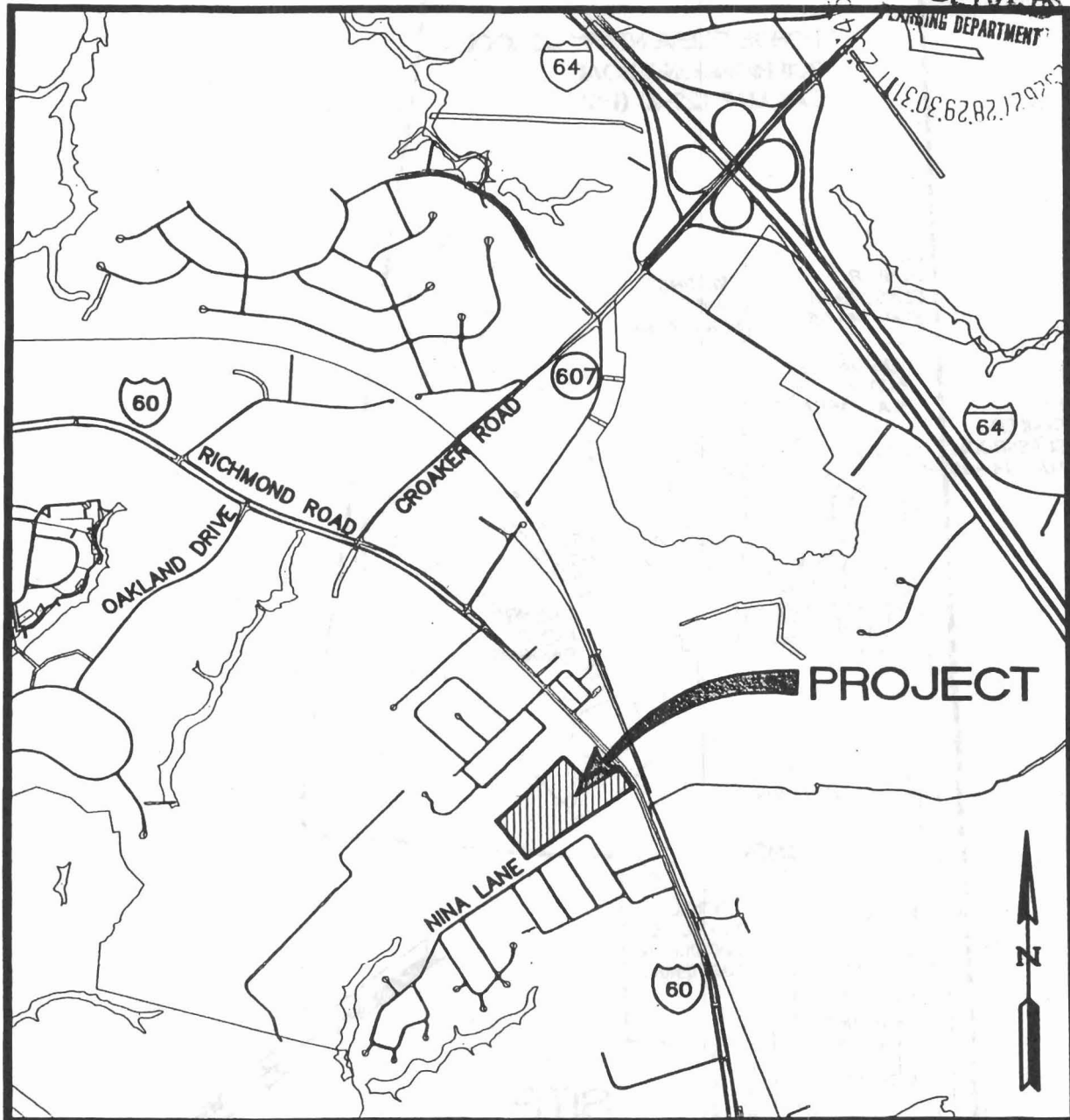
1. Location Map
2. Conceptual Layout

JCC-SUP-31-05

Norge Elementary School Cafeteria Addition



SR-31-05



VICINITY MAP

SCALE: 1"=2000'



CONSULTING ENGINEERS
WILLIAMSBURG • RICHMOND

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

CAFETERIA ADDITION
NORGE ELEMENTARY SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

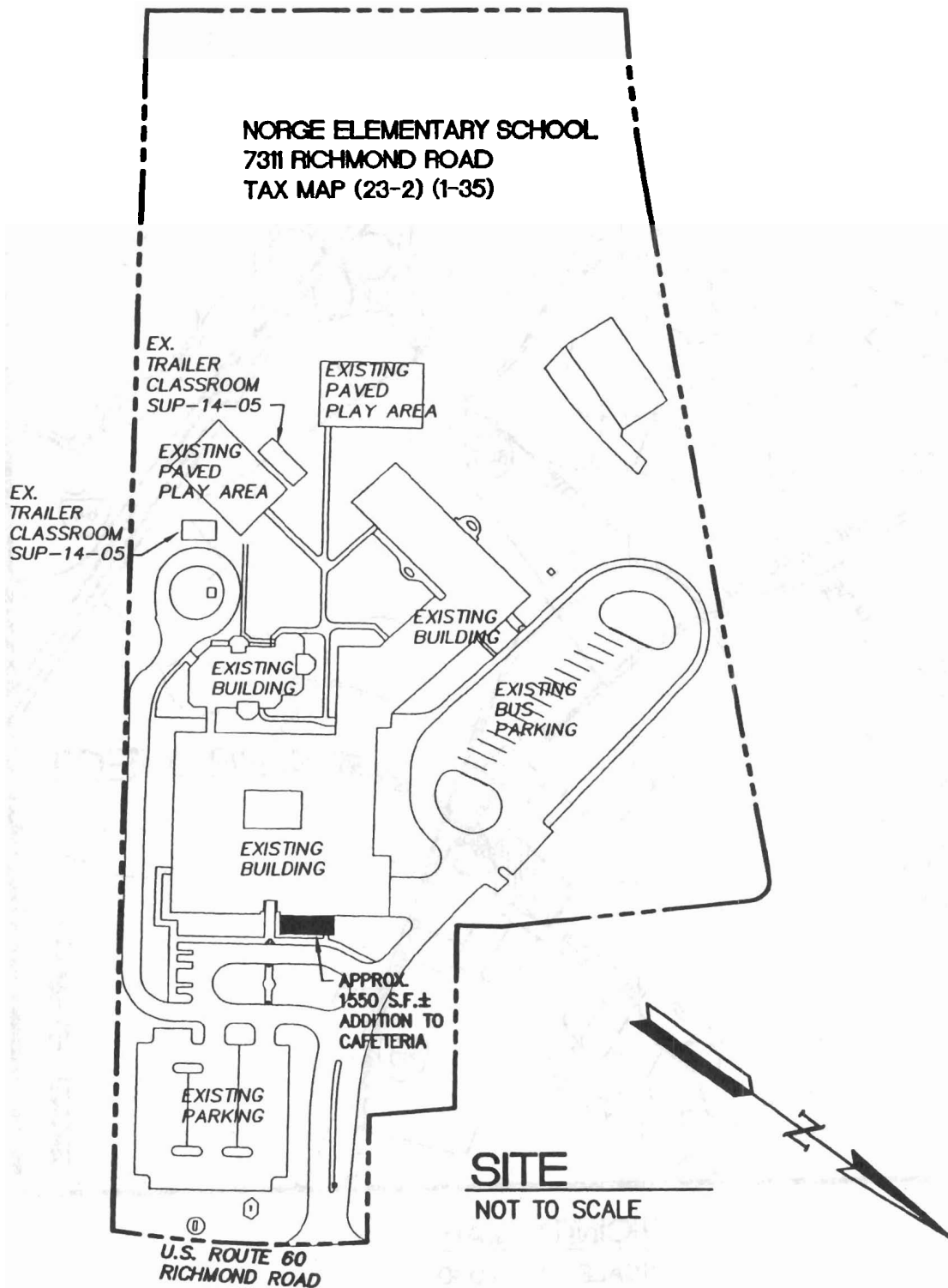
JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

Scale: N.T.S.

Date: 12/12/05

Job No: 9517-15



CONSULTING ENGINEERS
WILLIAMSBURG • RICHMOND

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

CAFETERIA ADDITION
NORGE ELEMENTARY SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

ONEHOUSE DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

Scale: N.T.S.

Date: 12/12/05

Job No: 9517-15

SPECIAL USE PERMIT-33-05. Chickahominy Riverfront Park
Staff Report for the February 6, 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:
Board of Supervisors:

Building F Board Room; County Government Complex

February 6, 2006 7:00 p.m.
March 14, 2006 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Paul Tubach, JCC Parks and Recreation

Land Owner: James City County

Proposal: The Division of Parks and Recreation is proposing to improve existing facilities on 2.5 acres of the Chickahominy Riverfront Park. Because it is currently a legally non-conforming use, a special use permit is needed to bring the property into conformance in order for improvements to be made.

Location: The north side of John Tyler Highway at the Chickahominy River

Tax Map/Parcel Nos.: (34-3) (1-2)

Parcel Size: 140 acres; 2.5 acres to be improved

Zoning: A-1, General Agricultural

Comprehensive Plan: Park, Public or Semi-Public Open Space

Primary Service Area: No

STAFF RECOMMENDATION

Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this special use permit application with the attached conditions.

Staff Contact: Kathryn Sipes Phone: 253-6685

PROJECT DESCRIPTION

The Division and Parks and Recreation would like to make improvements to existing facilities at Chickahominy Riverfront Park. The proposed improvements include replacing a structure for public restrooms and sheltered picnic tables that was in poor condition and demolished, replacing a playground area that was in serious disrepair and had to be dismantled, and expanding and paving parking areas adjacent to existing swimming pools. These improvements would take place on a 2.5-acre portion of the park at the front of the site, just off John Tyler Highway.

The property was legally non-conforming as a campground and private recreation area prior to the County acquiring it in 2001. Prior to improvements or construction projects occurring on the property, the park must be brought into compliance. Current zoning allows community recreational facilities in A-1, General Agricultural, districts with the approval of a special use permit. This SUP will need to be amended in order for future improvements to be made. On November 8, 2005 voters approved the James City County Parks & Recreation and Greenways & Trails Bond Referendum. Of the proposed \$15 million, \$500,000 was identified for projects at Chickahominy Riverfront Park, emphasizing the importance of the project.

PUBLIC IMPACTS

Archaeology

Conditions:

- Condition #5 ensures the County's Archaeological Policy will be followed, allowing for a target area at this time limited to the area to be disturbed for these improvements.

Staff Comments: The improvements proposed as part of this SUP occur in a portion of the park that has already been disturbed. VDOT has conducted a Phase I study in the area affected by their bridge project, including the site of the park's proposed improvements. The SUP condition is necessary until a copy of these results can be reviewed and it can be determined whether or not a Phase II is required. At such time a master plan is submitted, this policy will be applied to the entire 140-acre site.

Environmental

Watershed: The proposed project is located on the portion of the property that drains to the Chickahominy River.

Staff Comments: Environmental Staff has reviewed the conceptual plan and has no concerns at this time. Additional review will occur when development plans are submitted.

Transportation

2005 Traffic Counts: 3,500 vehicles per day

2026 Volume Projected: 9,000 vehicles per day

Road Improvements: VDOT has two upcoming construction projects that will impact this property. First, the replacement of the Judith Stewart Dresser Memorial Bridge is scheduled to start construction in early 2007. This project includes the widening of the right-of-way on the side of John Tyler Highway that borders the park. As a result, the park entrance will be relocated eastward at VDOT's expense. Second, the Virginia Capital Trail will run along the north side of John Tyler Highway at this section of the property.

Staff Comments: Parks & Recreation is currently working with VDOT to develop access from the expanded parking area to the Capital Trail. If funding can be located and/or negotiated, the facilities will coordinate well with one another.

VDOT Comments: VDOT staff has reviewed the conceptual plan and concurs that there will be no conflict with these upcoming projects.

COMPREHENSIVE PLAN

Land Use Map Designation

The 2003 Comprehensive Plan designates this parcel as *Park, Public or Semi-Public Open Space* described as large, undeveloped areas owned by institutions or the public and used for recreation or open space.

Other Considerations

- **Parks & Recreation**

Chickahominy Riverfront Park is listed in the 2003 Comprehensive Plan as a community park, meaning it serves several neighborhoods and will most likely be accessed by car or bicycle.

- **Community Character**

The site is located on John Tyler Highway, which is listed as a Community Character Corridor (CCC) in the 2003 Comprehensive Plan. The purpose of the CCC in this area is to preserve the views and integrity of natural open spaces so that they remain dominant visual features. The CCC designation will help preserve the existing buffer and enable staff to recommend desirable design elements to help compliment and enhance the visual quality of the corridor.

- **Conditions:**

Condition #2 ensures an appropriate buffer along John Tyler Highway.

Staff Comments: Staff finds this proposal to be consistent with the Comprehensive Plan and Land Use Designations. Furthermore, the buffer requirement is consistent with conditions placed on recent park projects at Freedom Park and the Warhill Sports Complex.

RECOMMENDATION

Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this special use permit application with the following conditions:

1. This special use permit shall permit a public community recreation facility and accessory uses thereto. Improvements to the site shall be limited to those reflected on the conceptual documents entitled “Chickahominy Riverfront Park”, prepared by James City County Division of Parks and Recreation, and submitted on January 31, 2006. Additional improvements shall require submission of an application to amend this special use permit.
2. A 150-foot buffer shall be maintained along the existing John Tyler Highway right-of-way. That buffer shall remain undisturbed with the exception of existing facilities and breaks for roadways and pedestrian connections, utilities, walking, hiking, and biking trails, landscape, signage, and lighting, as approved by the Director of Planning.
3. Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
4. All public address speakers used on the site shall be oriented generally towards the interior of the property and away from exterior property lines.
5. A Phase I Archaeological Study for any new disturbed area shall be submitted to the Director of Planning for review and approval prior to the commencement of any land disturbing activity on the property. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic

Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas.

All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

6. If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. This special use permit is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

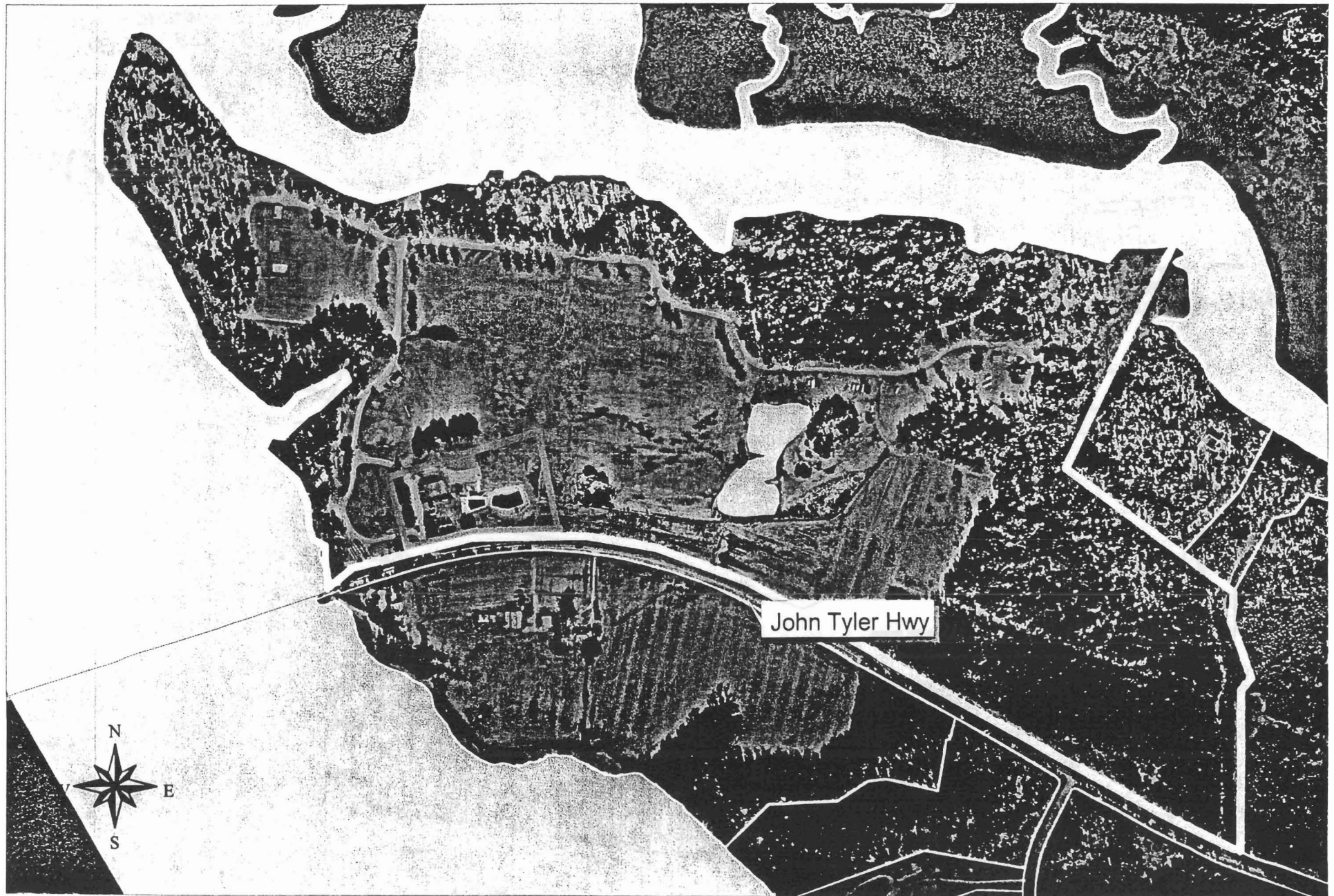
Kathryn Sipes

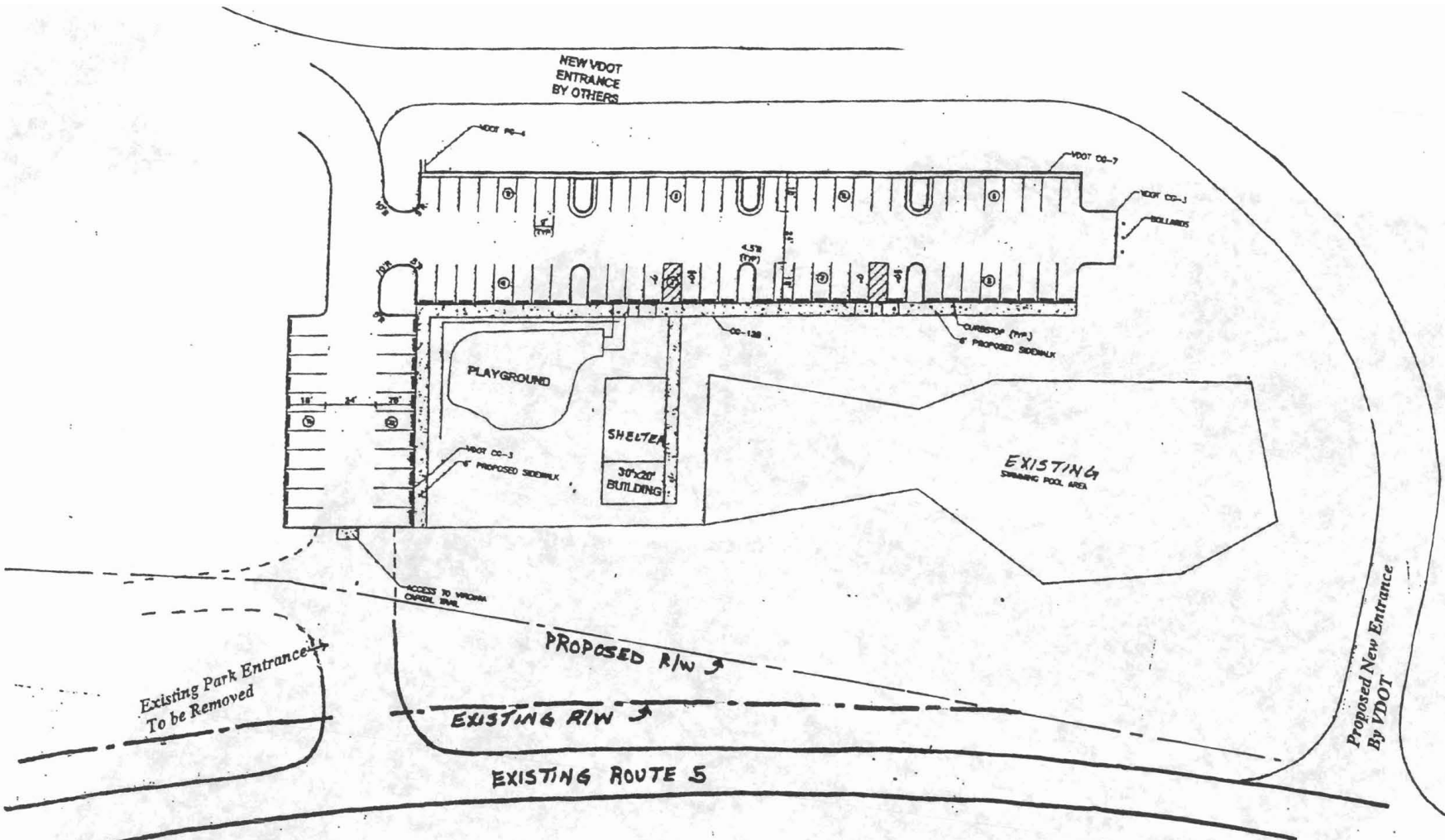
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ATTACHMENTS:

1. Location Map
2. Conceptual Plan for improvements

SUP-55-05. Chickahominy Riverfront Park





MP-33-05

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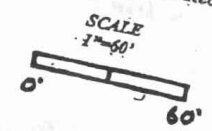
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PLANNING DEPARTMENT

Chickahominy Riverfront Park

1350 John Tyler Highway

JCC Division of Parks and Recreation



PLANNING DIRECTOR'S REPORT

February 2006

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

- Rural Lands Study. The Rural Lands Committee had several events in January. First, the committee held its second public workshop on January 12. The nearly 60 people in attendance discussed their pros and cons for various development directions and used a dot voting system to express their preferences for those directions. Second, six members of the committee and staff went on a field trip the next day to Loudoun County to visit various rural clusters and other developments. Third, the committee conducted its regularly scheduled meeting on January 25 to discuss their preliminary recommendations. The committee's deliberations will continue into February and March with two additional meetings scheduled for February 15 and March 1 at **4:30 p.m.** at the library on Croaker Road. Citizens are invited to attend the meetings and to follow the progress of the committee at www.jccegov.com.
- 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 continues to work with grant recipients to implement their improvements.
- Toano Community Character Area Study—The design guidelines were presented to the Planning Commission at the January 9, 2006 meeting. Fred Boelt made a presentation on behalf of the steering committee, and Eric Wright and Kristin Van Voorhees gave a presentation for the Renaissance Planning Group. The Planning Commission recommended approved of the plan, but highlighted the need to incorporate an implementation plan which adequately addresses the funding of public improvements. The design guidelines will be presented to the Board of Supervisors on February 14.
- Planning Division Budget. The Division continued to draft its proposed FY07 and FY08 budgets. In addition to covering routine operating funds the budget process also identifies funding needs for special projects and studies, traffic counts, landscaping, bikeways and major work program elements. At its January meeting the Commission requested the following budget and work program items: Anderson's Corner Sub-area Study, review of the residential zoning ordinance, review of the transportation impact study process and additional transportation planning resources for staff.
- 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 amendment was approved by the full Planning Commission on January 9.
- Adequate Public Schools Facilities Test Policy - The Planning Commission Policy Committee met with staff and representatives of WJCC schools to review current enrollment projection methods and options to improve these projections. At the end of the meeting, the Committee recommended leading a discussion on the policy at the joint PC/BOS worksession in March and to begin to investigate updating the policy following completion of the FY2007 CIP.
- Election of Officers. Under its bylaws, the annual election of officers is scheduled for the Planning Commission's February 6 meeting with the new officers presiding at the February 6 meeting. A closed session will be held at 6:30 to discuss nominations. 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. Joel Almquist attended a workshop offered by VDOT about Intersection and Arterial Capacity Analysis from January 31 to February 2. Additionally, the entire planning staff will attend one of three in-house GIS software training sessions during February.
- Stonehouse Work Session. The Planning Commission held a work session on January 25 on proposed master plan and proffer amendments to the previously approved Stonehouse Planned Community. Commissioners raised a number of issues for consideration by the developer and staff.
- Capital Improvements Program. The Policy Committee held its first meeting to discuss the 2007 CIP requests on January 31, 2006. Representatives from Development Management, Financial and Management Services and the Policy Committee were in attendance. Summaries were presented for each CIP request and discussions ensued on the details of several requests. The Policy Committee asked that the following groups attend the second or third CIP meetings on February 8th and 9th respectively to discuss their request(s) in greater detail: Fire Department, JCSA, Schools, Police Department, Parks and Recreation.
- Virginia Capital Trail—Chickahominy. VDOT has awarded the construction contract and work will begin as weather permits. The phase will extend from the Chickahominy Riverfront Park to just west of Jamestown High School where it will connect to the Greensprings Phase of the project. That phase is currently under construction and will be completed later this year. Staff continued to be involved in project design and right of way discussions.
- Hampton Roads Pedestrian and Bicycle Advisory Committee. The Committee, which was created by the General Assembly, held its quarterly meeting in January. Staff participated in the meeting which featured discussions pertaining to development of a Statewide Plan, bikeway and pedestrian facility maintenance, and VDOT construction policies.
- 2007 Community Activities Task Force. Staff participated in the Task Force's January meeting. Project discussions focused on beautification, facilities, volunteer recruitment and coordination, and programs.
- New Town Design Review Board. The Board reviewed six projects at its January meeting. Projects included a restaurant, a mixed use building with a restaurant, retail, and housing, an office building, the County community building and a townhouse development.

O. Marvin Sowers, Jr.