

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
JANUARY 10, 2007 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
 - A. December 4, 2006 Regular Meeting
4. DEVELOPMENT REVIEW COMMITTEE REPORT
5. PUBLIC HEARINGS
 - A. SUP-31-06 Toano Middle School Bus Entrance
 - B. ZO-2-06 Subdivision Ordinance Amendment - Final Plan Submittal Requirements
 - C. AFD-6-86 Cranston's Pond AFD – Warwick Hunt Withdrawal
 - D. SUP-33-06 Johnny Timbers Tree Service
 - E. SUP-34-06 Rawls Byrd Elementary School Bus Loop & Parking
 - F. SUP-35-06 Kenneth Brook's Contractor's Warehouse
 - G. Z-7-06 New Town Section 3 & 6 Proffer Amendment
6. PLANNING DIRECTOR'S REPORT
7. ADJOURNMENT

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

1. ROLL CALL

George Billups
Mary Jones
Tony Obadal
Jack Fraley
Shereen Hughes
Jim Kennedy
Don Hunt

STAFF PRESENT

Marvin Sowers, Planning Director
Jenny Lyttle, Assistant County Attorney
David German, Planner
Melissa Brown, Acting Zoning Administrator
Darryl Cook, Environmental Director
Toya Ricks, Administrative Services Coordinator

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

Hearing no requests; the public comment period was closed

3. MINUTES

A. November 6, 2006 Regular Meeting

Ms. Jones motioned to approve the minutes.

Ms. Hughes seconded the motion.

In a unanimous voice vote the minutes of the November 6, 2006 regular meeting were approved.

4. COMMITTEE AND COMMISSION REPORTS

A. Policy Committee

Mr. Billups stated that the Policy Committee will meet later in December to prepare new guidelines for the CIP (Capital Improvement Programs).

B. Development Review Committee (DRC)

Mr. Kennedy presented the DRC report stating that the Committee met on November 29, 2006 and considered one case: SP-74-06 New Town Section 9 which was approved 3-0. Mr. Kennedy stated that the meeting was continued to December 4, 2006 at 5:30 p.m. where additional cases were considered. SP-124-06 Weatherly at White Hall, SP-129-06 Massie Parking Lot Expansion, SP-125-06 Sentara New Town, and C-126-06 Overhead Utility Waiver were approved 4-0. SP-118-06 Thomas Nelson Community College Parking Lot was deferred until Wednesday December 6, 2006, 7:30 a.m.

Mr. Hunt motioned to approve the report.

Ms. Jones seconded the motion.

In a unanimous voice vote the report was approved.

Mr. Fraley acknowledged and thanked Mr. Obadal for his report and efforts with regard to the environmental design and protections of the New Town Sections 7 & 8 case. He stated that citizens interested in obtaining a copy of the report should contact Mr. Obadal.

5. PUBLIC HEARINGS

A. SUP-22-06 Hill Pleasant Farm

Mr. Fraley stated that the applicant has requested an indefinite deferral and asked if Staff agreed.

Mr. Sowers said Staff agreed.

Mr. Fraley opened the public hearing.

Hearing no requests to speak the public hearing was closed.

B. SUP-31-06 Toano Middle School Bus Entrance

Mr. Fraley stated that the applicant requested deferral until the January Planning Commission meeting and asked if Staff concurred.

Mr. Sowers stated that Staff concurred.

Mr. Fraley opened the public hearing.

Hearing no requests to speak the public hearing was continued to January 10, 2007.

C. SUP-27-06 Homestead Garden Center

Ms. Melissa Brown presented the staff report stating Mr. Stanley B. Treleaven of Commonwealth of Virginia Group has applied for a special use permit to operate a retail garden center utilizing existing structures and outdoor display areas. The property, located at 4191 Rochambeau Drive, is currently zoned A-1, General Agricultural, and is designated Rural Lands on the 2003 Comprehensive Plan Land Use Map. The parcel may be further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4). Planning Staff recommended approval of this application.

Mr. Fraley opened the public hearing.

Mr. Stanley Treleaven represented Homestead Garden Center and said he was available for questions.

Hearing no requests to speak the public hearing was closed.

Mr. Kennedy motioned for approval.

Ms. Jones seconded the motion.

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

D. SUP-15-06 Mann Service Station

Mr. David German presented the staff report stating that Mr. Joseph Kniatt has applied for a Special Use Permit to allow for the conversion of the former service station located at 9447 Richmond Road into a contractor's warehouse and office. The project, if approved, will utilize the existing service station building on the parcel, which will be renovated for the intended use. The property is also known as Parcel (1-48) on JCC Tax Map (2-4), zoned A-1, General Agriculture, and is designated as Rural Lands on the Comprehensive Plan. Properties designated Rural Lands are primarily intended for agricultural and forestall activities, along with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Commercial and retail uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the PSA. The intended use is specially permitted in this zoning district. Planning Staff recommended approval of the application with attached conditions.

Mr. Fraley opened the public hearing.

Mr. Joseph Kniatt, the applicant, stated that he was available for questions.

Mr. Hunt stated his pleasure at seeing the building being utilized.

Mr. Billups asked if equipment such as trucks or bulldozers will be parked in the fenced lot at the back of the property.

Mr. Kniatt stated that there would be pick-up trucks, one backhoe, and maybe tractors.

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

Ms. Jones motioned for approval.

Mr. Kennedy seconded the motion.

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

E. Z-6-06 Charlie's Antiques

Mr. David German presented the staff report stating that Mr. Timothy Trant has applied, on behalf of Charlie and Susan Crawford, to rezone 7.60 acres of a 22.65-acre parcel from A-1, General Agriculture, to B-1, General Business, with proffers, to allow for retail store and garden center with provision for the sale of yard goods, outdoor displays and storage on the site. The property is located at 7709 Richmond Road, and is further identified as Parcel (1-3) on JCC Tax Map (13-3). The property is designated Low Density Residential on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing. Planning Staff recommended denial of this application, citing conflict with the 2003 Comprehensive Plan Land Use designation for the subject parcel.

Mr. Obadal asked if the Comprehensive Plan permitted some commercial in low density residential areas.

Mr. German answered yes and stated that it was the determination of Staff that this use is more intensive than intended by the Comprehensive Plan.

Mr. Obadal asked about the number of customers Charlie's Antiques has in a day.

Mr. German deferred the question to the applicant.

Mr. Obadal said he understood the number of customers to be less than 30 per day.

Mr. Charlie Crawford, the landowner, agreed.

Mr. Obadal stated that the operation was rather unobtrusive, and asked if the applicant has made any proposals to ensure that the business does not appear to be unsightly from Route 60.

Mr. German stated that the applicant has proposed a perimeter buffer with landscaping materials and fencing as well as a low stone wall on the front. He stated Staff's opinion that it would be an attractive site.

Mr. Obadal asked if surrounding landowners had stated any objections.

Mr. German stated that the only objection came from a public meeting held by the applicant where neighbors expressed concern that when the undeveloped portion of the property was developed in the future, access might be drawn off of Toano Woods Road, through the Toano Woods subdivision.

Mr. Obadal asked for clarification.

Mr. German stated that Toano Woods Road is adjacent to the southern boundary of the subject property and could be used as an access for the remainder of the site. He also stated that the applicant has maintained that this would be not allowed, and that access for the balance of the site would be drawn through Parcel #1330100004, located adjacent to the subject property on its eastern side.

Mr. Obadal asked how long the applicant has been in the community.

Mr. German deferred the question to the applicant.

Mr. Crawford answered thirty-two years.

Mr. Kennedy stated that across the street from the site is the Massie facility which was rezoned in 1991 from A-1 to M-2 and that it abuts the Mirror Lakes subdivision. Mr. Kennedy stated that the road in question would require VDOT (Virginia Department of Transportation) approval. He also stated that heavy equipment is parked at the Country Contractors property and the asked zoning of that property.

Mr. German said it is currently zoned A-1.

Mr. Kennedy asked the differences between the two businesses.

Mr. German said he did not review the plan for Country Contractors and did not know how the two differed.

Mr. Kennedy stated his concern about aesthetics and asked if the applicant had made any agreement to remove the tractor trailers on the site.

Mr. German said the plan shows well screened areas and absence of the trailers.

Mr. Billups asked what the applicant could do to meet Comprehensive Plan requirements and gain Staff's support of the project.

Mr. Sowers stated that what is primarily at issue is the use and that the proposal would require an amendment to the Comprehensive Plan to allow Staff to recommend approval.

Ms. Hughes stated that it appeared to her that the project would be permitted in A-1 with a special use permit (SUP) and not require rezoning. She stated that she has no problem with the business, only that rezoning to B-1 would set a precedent for rezoning in the area. She asked what is allowed in B-1 that would not be permitted in A-1 with an SUP.

Mr. Hunt stated that Olive Branch Christian Church has been in existence since 1832 and would remain rural in character in perpetuity. He said he did not foresee a proliferation of rezoning to B-1 as a result of this application.

Ms. Jones added that the applicant has proffered to prohibit thirteen uses.

Ms. Hughes said she was concerned about a natural progression to B-1 rezoning on adjacent properties thereby permitting uses such as banks, service stations etc. that would not be in character.

Mr. German stated that although the potential is there, any such proposal would require a public hearing. He also noted uses that are typically permitted in B-1 that will not be permitted with the proposal. Mr. German stated that any proposal to rezone would need to be permitted through a similar process.

Mr. Kennedy stated he appreciated Ms. Hughes' argument. He said he prefers this proposal over other potential A-1 uses on the site.

Mr. Fraley asked if there were discussions between the applicant and Staff concerning rezoning versus an SUP.

Mr. German stated that for more than a year there has been ongoing discussions about the different ways to approach the proposal. He stated that primarily at-issue is the storage of construction stone and sale of yard goods which is not permitted in A-1.

Mr. Fraley asked if the applicant was led by Staff to a rezoning instead of an SUP.

Mr. German stated that no attempt was made to lead the applicant in any direction. He stated that the applicant was made aware that the operation as he described it would not be permitted in A-1, even with an SUP.

Mr. Sowers stated that the Zoning Administrator determined that a B-1 designation was necessary due to the storage of stone outside rather than inside, and the sale of yard goods (items that are placed in the yard for decorative purposes).

Mr. Fraley opened the public hearing.

Mr. Timothy Trant of Kaufman and Canoles represented the applicant stating that customer volume at Charlie's Antiques on December 4, 2006 was twenty customers, and that his client has assured him that the trailers will be removed.

Mr. Kennedy stated that his other question were hours of operation.

Mr. Trant presented the proposal highlighting the history of the business. Mr. Trant stated that Charlie's Antiques has become part of the cultural identity of the area. He also said the hours of operation would be 9-5.

Mr. Kennedy asked about delivery times.

Mr. Crawford stated that deliveries are not made before 8 a.m.

Mr. Kennedy asked that delivery hours be limited to the hours of operation, and that back-up warning beepers be turned to the lowest legal volume setting on any vehicles or equipment outfitted with these devices.

Mr. Trant stated the applicant's willingness to work with Staff regarding Mr. Kennedy's request.

Mr. Obadal stated that the business offers a unique public benefit and noted the number of neighbors who were in attendance in support of the application.

Mr. Rich Krapf represented the Friends of Forge Road and Toano stating their group's support of the project, with stipulations, due to consistency with surrounding uses, low impact to public schools and water/sewer utilities, and large buffer adjacent to Toano Woods, and requested the removal of the trailers.

Mr. Daniel Tucciarone, of Fairfax Station, Virginia, stated that many people such as himself visit Williamsburg to shop at Charlie's Antiques and visit other businesses while in the area.

Mr. Robert Yacobi, of 6 Chanteraine Close, noted that thirty customers a day is fewer than four an hour and recommended approval.

Mr. Tim O'Connor, of 3617 Toano Woods Road, stated that Charlie's Antiques is a good neighbor, the proposal is a great use of the land, and stated his support.

Mr. Crawford thanked citizens and staff for their help and confirmed that the trailers would be removed.

Mr. Fraley informed the television audience of the large numbers of people who had stood up to show support of the application.

Hearing no other requests the public hearing was closed.

Mr. Kennedy motioned for approval stating his knowledge that Mr. Crawford is a man of his word and that it eases his mind to have the proposed operation as a neighbor.

Ms. Jones seconded the motion.

Mr. Fraley stated his support of the application citing reduced impervious cover, open space, buffering with enhanced landscaping, architecture, hidden parking, aesthetics, and public support.

Ms. Hughes complimented the applicant on all his efforts. She stated that the business is a part of the character and a good use of the land. Ms. Hughes stated her support.

Mr. Billups concurred with Ms. Hughes' comments stating his concerns about rezoning the property, but stated his overall support due to the economic development benefits and public support that the application received.

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

6. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the Planning Director's Report reminding Commissioners that beginning January 10, 2007 meetings will be held on Wednesday noting that the DRC meeting schedule would remain the same.

Mr. Fraley asked that Staff research a process that would allow the Commission to give out awards for exceptional environmental design uses and stated that he would contact the Board of Supervisors' Chair for advice.

7. Adjournment

There being no further business the Planning Commission was adjourned at 8:20 p.m.

Jack Fraley, Chairman

O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY
DEVELOPMENT REVIEW COMMITTEE REPORT**

FROM: 12/1/2006

THROUGH: 12/31/2006

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-009-05	Colonial Heritage Ph. 1, Sec. 4 SP Amend.
SP-071-05	Merrimac Center Parking Expansion
SP-089-05	Stonehouse- Rt. 600 Utilities
SP-093-05	The Pointe at Jamestown, Ph. 2 Amend.
SP-106-05	New Town Block 5 Dumpster Relocation
SP-136-05	Colonial Heritage Ph. 5 Sec. 1
SP-140-05	Hankins Industrial Park Ph. 2 Cabinet Shop
SP-147-05	Warhill - TNCC Site Improvements
SP-001-06	5525 Olde Towne Rd
SP-012-06	New Dawn Assisted Living
SP-025-06	Prime Outlets Ph. 7 Expansion
SP-033-06	Chickahominy Riverfront Park
SP-041-06	Prime Outlets Ph. 6 Lighting
SP-044-06	James River Baptist Church
SP-054-06	Prime Retail Phase 8 Expansion
SP-069-06	Settlement at Powhatan Creek, Phase 2
SP-070-06	Williamsburg Airport, Marclay Access Rd
SP-071-06	T-Hanger Site Prep, Williamsburg Airport
SP-073-06	Settlers Market Off Site Rd Improvements
SP-074-06	Settlers Market at New Town Sec 9
SP-076-06	New Town, Sec 3 & 6, Block 14, Parcel C & D
SP-085-06	Settler's Market at New Town Sec. 9, Phase 2
SP-087-06	Romack Expansion
SP-094-06	Avid Medical & ESGI Expansion
SP-097-06	T-Mobile SBA Monopine Tower
SP-103-06	Starling Gutters Site Plan
SP-104-06	Walnut Grove
SP-105-06	White Hall North Off-Site Utilities
SP-106-06	Old Capitol Lodge 629
SP-107-06	NF494 Riverside Brick
SP-108-06	White Hall Roadway Improvements
SP-109-06	Strawberry Plains Road Bus Shelter

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SP-110-06	Lafayette HS Bus Shelter
SP-111-06	Longhill Rd - Lafayette Manor Apt Bus Shelter
SP-112-06	Richmond Road - Ramada Inn Bus Shelter
SP-113-06	Lafayette Square/Lafayette Family Site Plan Amend
SP-117-06	Lake Powhatan Road Closure
SP-121-06	Hankins Industrial Park Auto Shop/Warehouse Ph II
SP-122-06	Medical Arts Bldg Handicap Parking
SP-126-06	New Town Sec 2 & 4, Blk 3, Parcel C
SP-127-06	Tewing Road Commerical Park Lots 11 & 12
SP-128-06	Warhill Sports Complex
SP-132-06	New Town Sec 3 & 6 Roadways Ph. 4 Amend.
SP-133-06	Liberty Crossing SP Amendment
SP-134-06	Go Karts Plus-Relocat.Kiddie Carts/Add Koaster
SP-136-06	Toano Middle School Cafeteria Exp
SP-137-06	Governors Land Nextel Tower
SP-138-06	Bus Shelter Mooretown Rd - Anvil Campground
SP-141-06	Lambert Building New Town
SP-142-06	New Town Sec. 2&4 Block 2 (Bonefish Grill)
SP-143-06	White Hall Sec 1
SP-144-06	White Hall Section 2
SP-145-06	Busch Gardens: France Restrooms & Legrande Gourmet
SP-146-06	Carolina Furniture Warehouse
SP-147-06	Cell Tower 6489 Richmond Rd Ewell
SP-148-06	Wedmore Place at the Williamsburg Winery
SP-149-06	Lawrenceville Brick Lot 7 James River Commerce Ctr
SP-150-06	Hankins Industrial Park Parcel 2
SP-151-06	Busch Gardens Main Gate Restrooms
SP-152-06	New Town Sec 2 & 4 Blk13 Parcel A THAY Building
SP-153-06	Greensprings Trailhead
SP-154-06	TRCC Temporary Kitchen

B. PENDING FINAL APPROVAL

		EXPIRE DATE
SP-133-05	Prime Outlets Ph. 6	5 /11/2007
SP-148-05	Noland Commercial Site	4 /6 /2007
SP-004-06	Villas at Five Forks	4 /3 /2007
SP-005-06	Governor's Grove at Five Forks	5 /1 /2007
SP-007-06	GreenMount Road Extension Ph. 2	3 /20/2007
SP-031-06	Shell Building - James River Commerce Center	4 /26/2007
SP-077-06	Williamsburg Landing Woodhaven Expansion	8 /7 /2007
SP-096-06	Office Renovation - 7840 / 7844 Richmond Rd	12/4 /2007
SP-118-06	Thomas Nelson CC Parking Lot	12/6 /2007
SP-119-06	Michele Point renewal	11/6 /2007
SP-124-06	Weatherly at White Hall	12/3 /2007
SP-125-06	Sentara Bldg New Town Sec 3 & 6, Block 14 Parcel E	12/4 /2007
SP-129-06	Massie Corp Parking Lot Expansion Building #4	12/4 /2007

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C. FINAL APPROVAL

		DATE
SP-036-06	Zion Baptist Church Expansion	12/13/2006
SP-040-06	New Town Sec. 3 & 6, Ph. 6 Infrastructure	12/12/2006
SP-068-06	New Town Section 3 & 6 Block 17, Oxford Apartments	12/8 /2006
SP-092-06	Greensprings, Wmbg. Nat'l Golf Maintenance Bldg.	12/12/2006
SP-120-06	Eaglecliffe Condos SP Amend.	12/4 /2006
SP-123-06	HR Development - Endeavor Drive	12/29/2006
SP-135-06	Pocahonas Square SP Amend Landscape	12/4 /2006
SP-139-06	Attendent Shack at Jolly Pond Rd.	12/4 /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-066-04	Hickory Landing Ph. 1
S-067-04	Hickory Landing Ph. 2
S-121-04	Wellington Public Use Site
S-039-05	Hofmeyer Limited Partnership
S-042-05	Toano Business Center, 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-097-05	ROW Conveyance- 6436 Centerville Road
S-105-05	Stonehouse Land Bay 31
S-106-05	Colonial Heritage Ph. 5 Sec. 1
S-108-05	3020 Ironbound Rd. BLE
S-015-06	Indigo Park- Block A, Lot 1
S-026-06	Colonial Heritage, Ph. 5, Sec. 2
S-027-06	Realtec Properties BLA & BLE
S-028-06	133 & 135 Powhatan Springs BLE
S-036-06	Vineyards at Jockeys Neck Ph 3
S-038-06	3215 & 3221 N Riverside Drive BLE
S-039-06	Settlement at Powhatan Creek, Phase 2
S-045-06	Toano Business Centre Lots 5-9
S-053-06	Blackthorn Subdivision
S-055-06	Burlington Woods
S-060-06	Villas at Five Forks
S-062-06	Villas at Five Forks (abandonment)
S-064-06	Colonial Heritage Ph. 3 Sec. 2
S-065-06	Coleman Family Subdivision
S-070-06	Elise C. & Douglas C. West
S-071-06	Avid Medical & ESGI Expansion
S-073-06	Boundary Line Adjustment
S-075-06	BLA Wmsbg - Jamestown Airport
S-078-06	Walnut Grove
S-079-06	BLA Ware Road

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S-081-06	Liberty Crossing/Noland
S-082-06	New Town Sec 9 Parcel B
S-084-06	Village Housing Vineyards at Jockeys Neck Ph 4
S-088-06	Heath Properties lots 1-4
S-089-06	Heath Property Lots 5-8
S-090-06	Fenwick Hills Section 4
S-091-06	Whittaker BLA
S-092-06	Gregg Klich BLA
S-093-06	Matoaka Elementary School
S-094-06	Pierce Subdivision
S-097-06	Willow Pond Estates
S-098-06	White Hall Section 2
S-099-06	Turners Neck Estates
S-100-06	Riverview Plantation Sec 6 Parcel B
S-101-06	Additional New Town Ave. ROW
S-103-06	Liberty Crossing Phase 2
S-104-06	9447 Richmond Rd

B. PENDING FINAL APPROVAL

EXPIRE DATE

S-101-03	Ford's Colony - Sec. 35	2 /2 /2007
S-037-04	Michelle Point	11/6 /2007
S-075-04	Pocahontas Square	9 /16/2007
S-091-04	Marywood Subdivision	12/5 /2007
S-111-04	Colonial Heritage Ph. 3, Sec. 1	2 /7 /2007
S-112-04	Wellington Sec. 6 & 7	12/5 /2007
S-002-05	The Pointe at Jamestown Sec. 2B	2 /18/2008
S-012-05	Greensprings Trail ROW-Waltrip Property Conveyance	3 /20/2007
S-013-05	Greensprings Trail ROW-Ambler/Jamestown Prop. Conv	3 /20/2007
S-014-05	Greensprings Trail ROW-P L.L.C Prop. Conveyance	3 /20/2007
S-053-05	Kingsmill-Spencer's Grant	6 /15/2007
S-078-05	Fairmont Subdivision Sec. 1- 4 (Stonehouse)	10/3 /2007
S-091-05	Windmill Meadows	10/3 /2007
S-095-05	Landfall Village	3 /10/2007
S-040-06	Colonial Heritage 18 Hole Golf Course	7 /7 /2007
S-049-06	Village Housing - The Vineyards Jockeys Neck Ph 4	9 /1 /2007
S-057-06	220 Peach Street BLA	8 /15/2007
S-058-06	McDonald	8 /10/2007
S-067-06	New Town Sec. 3 Block 14	9 /25/2007
S-076-06	New Town Sec 2/4 Block 10 Lot 1-69	10/27/2007
S-087-06	120 Carriage Rd BLA	11/3 /2007

C. FINAL APPROVAL

DATE

S-043-06	6601 Richmond Rd Parcel A	12/19/2006
S-083-06	Rivers Edge Ph 4	12/12/2006
S-085-06	Fords Colony Sec 7 Lots 119 120	12/21/2006

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D. EXPIRED

EXPIRE DATE

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SPECIAL USE PERMIT-31-06. Toano Middle School Bus Entrance
Staff Report for the January 10, 2007, 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:	December 4, 2006	Deferred
	January 10, 2007	7:00 p.m.
Board of Supervisors:	February 13, 2007 (tentative)	7:00 p.m.

SUMMARY FACTS


Applicant:	Mr. Bruce Abbott, AES Consulting Engineers
Land Owner:	Williamsburg-James City County Public Schools
Proposal:	To construct a second right-in/right-out entrance onto Richmond Road (Route 60) for Toano Middle School to be used solely for bus traffic.
Location:	7817 Richmond Road
Tax Map/Parcel Nos.:	(12-4)(1-51)
Parcel Size:	34.1 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	State, Federal, County Land
Primary Service Area:	Inside

STAFF RECOMMENDATION

The applicant has requested deferral of this case to the February 2007 Planning Commission meeting. Staff concurs with the request.

Staff Contact: Leanne Reidenbach

Phone: 253-6685


Leanne Reidenbach

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 19-29, FINAL PLAN - SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Article II, Procedures and documents to be filed, Section 19-29, Final plan – Submittal requirements.

Chapter 19. Subdivisions

Article II. Procedures and Documents to be Filed

Section 19-29. Final plan - Submittal requirements.

The final plan for a subdivision shall be on blue-line or blackline print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 1/2" x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

(c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.

(d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

Owner's Certificate

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

_____	_____
Date	Signature

	Name printed

Certificate of Notarization

Commonwealth of Virginia

City/County of (Name)

I, (Name Printed), a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my name this _____ day of _____, (Year)

(Signature)

My commission expires _____

(e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

Certificate of Source of Title

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

Engineer or Surveyor's Certificate

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

Date

Name

Name printed

(f) Certificate of approval as follows:

Certificate of Approval

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

_____	_____
Date	Virginia Department of Transportation
_____	_____
Date	Virginia Department of Health
_____	_____
Date	Subdivision Agent of James City County

(g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:

“Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section ~~23-9(e)(1)~~ 23-7(c)(1) of the James City County Code.”

(h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:

“Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement.”

- (i) The plat shall include the following note:

“Unless otherwise noted, all drainage easements designated on this plat shall remain private.”

- (j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.

- (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.

- (l) Prior to final approval, data for major subdivisions shall be submitted in accordance with the “GIS Data Submittal Requirements for Major Subdivisions” policy, as approved by the governing body. This requirement may be waived provided a note is placed on the final plat stating that the engineer or surveyor of record did not draft the subdivision plans with a computer.

- (m) If the subdivided property contains drainfield locations for a septic tank, the plat shall include the following note: “Septic tank and soils information should be verified and reevaluated by the Health Department prior to any new construction.”

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this _____ day of _____,
2007.

SubDvsnOrdRevs.ord


MEMORANDUM

DATE: January 10, 2007
TO: The Planning Commission
FROM: Adam R. Kinsman, Assistant County Attorney
SUBJECT: Case No. ZO-02-06. Subdivision Ordinance Revision

On November 23, 2003, the County's Chesapeake Bay Preservation Ordinance (the "CBPO") was comprehensively revised to bring it into compliance with State regulations. As part of the revision, many of the original CBPO sections were renumbered. Staff recently discovered that a section of the County's Subdivision Ordinance incorrectly refers to a section of the CBPO that no longer exists.

Section 19-29 of the County's Subdivision Ordinance sets forth the submittal requirements for a final subdivision plan. Subsection (g) requires that property containing wetlands and/or resource protection areas include a statement on the final plat indicating that these areas will remain undisturbed "except for those activities permitted by section 23-9(c)(1) of the James City County Code." On November 23, 2003, Section 23-9(c)(1) was revised and recodified as Section 23-7(c)(1); consequently, the above-quoted reference to the old section of the CBPO must also be revised.

Staff recommends adoption of the attached ordinance.


Adam R. Kinsman

ARK/nb
SubDvsnOrdRevsn.mem

Attachment

Staff Report for the January 10, 2007, Planning Commission Public Hearing

PUBLIC HEARINGS

Planning Commission:	January 10, 2007	7:00 p.m.
Board of Supervisors:	February 13, 2007	7:00 p.m.

Applicant:	Douglas Hornsby
Land Owner:	Warwick Hunt Land Trust
Proposal:	Withdrawal of 205 acres from
Location:	2601 Little Creek Dam Road
Tax Map/Parcel Nos.:	(21-4) (1-46)
Parcel Size:	205 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Primary Service Area:	Outside

Staff finds the proposed withdrawal is not consistent with all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts outside the PSA. On December 19, 2006 the AFD Advisory Committee recommended approval of the withdrawal of this land by a vote of 7-0. Staff recommends that the Planning Commission recommend denial of this AFD withdrawal to the James City County Board of Supervisors.

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

The district was approved on December 1, 1986, for a term of four years and has been renewed for additional four year terms by the Board of Supervisors in October 1990, November 1994, September 1998, August 2002 and August 2006. This district has remained essentially the same since the AFD was created, with the following changes occurring over time: approximately 32 acres were added to the district in 1994, approximately 14 acres were added to the district in 2002, and approximately 243 acres were removed between 1998 and 2006, leaving the district with approximately 974 acres.

Mr. Douglas Hornsby has applied on behalf of Warwick Hunt Land Trust to withdrawal 205 acres from the Cranston's Pond AFD. It is comprised of one parcel identified as Tax Map No. (21-4) (1-46). The property that is requested to be withdrawn is landlocked from a public road, and is located generally south of Little Creek Reservoir. There is no formal development plan submitted in conjunction with the withdrawal request.

PUBLIC IMPACTS

Public Utilities

Public water and sewer are unavailable.

Transportation

The site is landlocked with the closest public road being Cranston's Mill Pond. Access to the property is an issue that will have to be addressed should development occur on the property.

COMPREHENSIVE PLAN

Land Use Map

Designation	<i>Rural Lands</i> (Page 119): Primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.
Goals, strategies and actions	<i>Goal #3</i> (page 138): Enhance and preserve farm and forestal lands and the predominantly wooded, natural and small-town character of the County.
	Staff Comments: The majority of parcels within the Cranston's Pond AFD are also designated Rural Lands. The AFD program supports the County goal of preserving farm and forestal lands.

ANALYSIS

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

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

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever criteria it deems appropriate for the individual case.

Each of these criteria have been evaluated by Staff:

Criteria 2A: Change in Circumstances

In his letter dated September 12, 2006, Mr. Hornsby states from the time of the AFD renewal in 2002, the address for Warwick Hunt Land Trust was changed. The new mailing address was updated in the County

Real Estate office in June 2005. He believes that a mailing error occurred, which is why he did not receive notification of the AFD renewal in August of 2006. While it is the responsibility of the landowner to complete the necessary paperwork to receive the Land Use tax benefits for land in an AFD, Mr. Hornsby states that the land has never received the Land Use tax benefits because neither he nor any other representative of the Land Trust completed the necessary paperwork with the Commissioner of Revenue's office. Staff confirmed that the land has never received the Land Use tax benefits with the Commissioner of Revenue's office.

During the summer of 2006, Staff conducted the AFD renewal process in accordance with state code, including sending notification letters (sent to the addresses used by Real Estate Assessments), posting of signs, advertising the renewal in the newspaper, and conducting public hearings with the Planning Commission and Board of Supervisors. Staff would note that there was additional notice during this renewal cycle due to staff sending out post card surveys regarding preferred renewal periods prior to sending out the official notification letters. Staff did not receive any returned mail originally sent to Mr. Hornsby regarding the renewal of the AFD during the summer of 2006. Additionally, Staff would also note that the potential purchaser of this property, Mr. Gene Farley, was notified of the parcel's status in a comment letter sent by Staff to Mr. Farley on February 28, 2006. Finally, every property owner is sent a copy of the adopted ordinance following each renewal by the Board of Supervisors. This ordinance states the terms of the district and the applicant would have been receiving the ordinance every four years. Staff believes that the applicant should have been aware that the property was in an AFD and was being renewed. In addition, while the applicant may not have completed the correct paperwork with the Commissioner of Revenue's office, and so had not been receiving the Land Use tax benefit, that in itself does not have any effect on the parcels status in the AFD. While Staff regrets that Mr. Hornsby may have been affected by a postal error, Staff believes that there has not been a change in circumstances that would merit withdrawal. **The application does not meet this criteria.**

Criteria 2B: Request Would Serve a Public Purpose

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

Criteria 2C: No Damage or Disruption to District

Should this withdrawal be approved, the size of the Cranston's Pond AFD would be 769.29 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. **The application meets this criteria.**

Criteria 2D: Conformance with the Comprehensive Plan

There was no formal development plan submitted in conjunction with the withdrawal request. **This criteria is not applicable.**

RECOMMENDATION

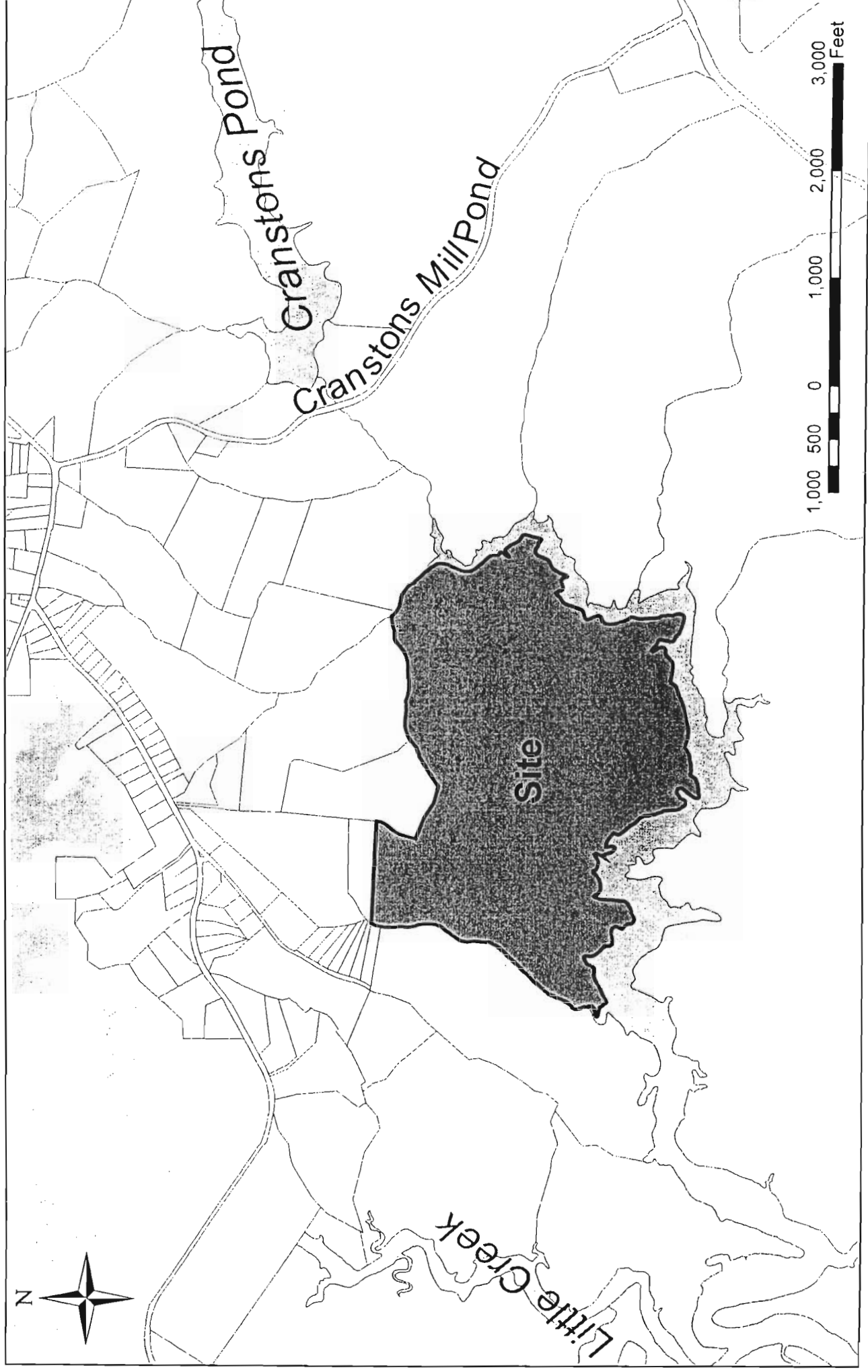
Staff finds the proposed withdrawal is not consistent with all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts outside the PSA. On December 19, 2006 the AFD Advisory Committee recommended approval of the withdrawal of this land by a vote of 7-0. Staff recommends that the Planning Commission recommend denial of this AFD withdrawal to the James City County Board of Supervisors.


Matthew J. Smolnik

ATTACHMENTS:

1. Location Map
2. Minutes of the December 19, 2006 AFD Advisory Committee Meeting
3. Letter from Douglas Hornsby dated September 12, 2006

3CC-AFD-6-86 Cranston's Pond Warwick Hunt Land Trust Withdrawal



AT THE MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 19TH DAY OF DECEMBER, TWO THOUSAND SIX, AT 4:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. Gilley
Mr. Ford
Ms. Garrett
Mr. Richardson
Mr. Abbott
Mr. Bradshaw
Mr. Meadows

Members Excused

Mr. Icenhour
Ms. Smith

Also Present

Ms. Milly Story
Mr. Matt Smolnik
Mr. Doug Hornsby
Mr. Bob Hornsby
Mr. Bowdich

2. Minutes

Minutes from October 17, 2006 were approved by Mr. Gilley.

3. Old Business

No old business was discussed.

A. AFD Withdrawal

Mr. Smolnik presented the case for the Warwick Hunt Club's application for withdrawal of their 205 acres from the AFD. Mr. Smolnik made the staff recommendation to deny the request based on the application presented. Mr. Bradshaw confirmed there was no land use application on file in the Commissioner of Revenues office regarding the Warwick Hunt Club property.

Mr. Ford expressed several concerns as to the timing of the application for withdrawal and why the land was renewed without knowledge of the land owners. Mr. Ford was also concerned about the lack of a plan for the land after it is removed. Mr. Ford asked the staff if we had received any returned or undeliverable mail from the address the renewal notice was mailed to. Mr. Smolnik informed the members that we had not received any returned mail.

Mr. Hornsby stated they did not receive notification of the renewal and that they had not been receiving the tax benefit of having their land in the AFD. Mr. Doug Hornsby did confirm the mailing address on file with staff was the correct mailing address.

Mr. Abbot was concerned as to why over the course of 16 years no one had taken advantage the AFD tax benefit.

Mr. Ford expressed concern about setting a precedent by removing the land based on the timing of the application for withdrawal being so soon after the land was renewed.

The members voted 7-0 in a roll call vote to approve the withdrawal on a motion by Mr. Abbot, which was seconded by Mr. Gilley.

4. Adjournment

Mr. Gilley adjourned the meeting at 4:36 p.m.

Mr. R.E. Gilley, Chairman



Matt Smolnik, Planner

Milly Story, Development
Management Assistant

DOUGLAS L. HORNSBY, TRUSTEE
WARWICK HUNT LAND TRUST
112 MEADOWRUE COURT
WILLIAMSBURG, VA 23185



September 12, 2006

Mr. O. Marvin Sowers, Director of Planning
James City County
P.O. Box 8784
Williamsburg, VA 23187

RE: 205 Acres, 2601 Little Creek Dam Road
James City County Tax Parcel Number 2140100046

Dear Mr. Sowers,

As Trustee for the Warwick Hunt Land Trust, it has come to my attention that the land trust property at the above referenced address has been placed into the Cranstons Pond AFD in James City County based on an automatic renewal process for which I did not receive notification. The property was listed for sale in July of 2005, has been actively marketed for the past year by Hornsby Real Estate Co., and recently, a purchase contract was ratified. Through some problem with the US Mail I never received notice of the renewal process, for if I had, I would have certainly not renewed the AFD status.

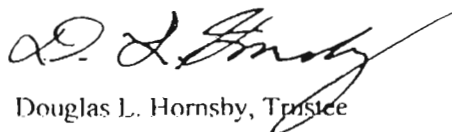
I was practicing law when the last AFD renewal notice come out, apparently some four years ago. Since that time I have accepted a position as CEO of the Christopher Newport Real Estate Foundation and changed the mailing address for the few clients I maintained, one of which was the Warwick Land Trust. It seems as though this mail change fell through the cracks somehow, and by not getting the notice I missed the opportunity to respond to your renewal letter, a copy of which was kindly provided to me by the James City Planning Department on August 17, 2006

I have just determined that the Subject Property was placed in the AFD in 1986. This was done at that time by one of the owners who was then very active in the management of this property. This single owner was not acting as the Trustee, but he certainly discussed his actions with me at that time, long ago. We now see that although the land was placed in the AFD, the "land use" *status was never applied for* with the Commissioner of Revenue so *no tax saving benefit was ever enjoyed* by the property being in the AFD. So then, the change may have been made in form, but certainly not in substance as the correct steps were never taken to obtain the benefit.

I am forwarding a change of address notice to the Real Estate Assessment office of James City County so that all notices will now be sent to the correct address.

The renewal of the property in the AFD seems to have been caused by a simple mailing error, which I would like to have corrected at your earliest convenience. Please withdraw the Subject Property from the Cranston's Pond AFD. I thank you in advance for your kind assistance in this matter.

Sincerely,



Douglas L. Hornsby, Trustee

SPECIAL USE PERMIT-33-06. Johnny Timbers Tree Service

Staff Report for the January 10, 2007, 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:	January 10, 2007	7:00 p.m.
Board of Supervisors:	February 13, 2007	7:00 p.m. (tentative)

Building F Board Room; County Government Complex

SUMMARY FACTS

Applicant:	Mr. John W. Hull
Land Owner:	John W. Hull & Sonya N. Peretti
Proposal:	To allow for a contractor warehouse/office. Contractors' warehouses, sheds and offices are specially permitted uses in the A-1, General Agricultural zoning district.
Location:	2201 Jolly Pond Road
Tax Map/Parcel Nos.:	(29-4) (1-9)
Parcel Size:	5.01 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Primary Service Area:	Outside

STAFF RECOMMENDATION

Staff believes that this proposal is not consistent with the Comprehensive Plan Land Use Map designation. However, Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors with the attached SUP conditions.

Staff Contact: Matthew J. Smolnik

Phone: 253-6685

PROJECT DESCRIPTION

The property located at 2201 Jolly Pond Road is currently being used to store equipment and material associated with the Johnny Timbers Tree Service, Inc. This business is currently operating without the required special use permit as contractors' warehouses, sheds and offices are specially permitted uses in the A-1, General Agricultural zoning district. The attached brochure for the business describes the services offered by Mr. Hull's business, which include commercial and residential tree removal, pruning and stump grinding. The property is the site of a previous hunt club and is generally wooded and contains a former one-story dwelling unit, several sheds, a pole barn and a gravel drive running down the spine of the property. The applicant owns and stores the following equipment on the property: several pickup trucks, two small dump trucks, two chippers, two bobcats and two stump grinders. The applicant has indicated the hours of normal operation are from 7:00 am to 5:00 pm with a total of four employees. The employees of the business meet at the property in the morning and leave the site with the appropriate equipment for the day. The applicant has indicated that

wood by-products such as valuable timber and mulch have been stored on the property. Log trucks come on-site, load the logs and then deliver them to the lumber mill. The mulch is ground off site at job sites and stored on site until it is needed. A special use permit condition has been drafted to eliminate the storing of this and similar type material on-site.

The applicant has been cited by James City County as a non-conforming use following noise complaints from neighboring property owners. The applicant has also been cited by the Fire Marshal's office for illegal open burning. The applicant has applied for a special use permit to bring the current use into conformance with the Zoning Ordinance. Staff has contacted neighbors of the property and discussed in detail the current operations of this business and Staff believes the proposed special use permit conditions should sufficiently mitigate the impacts of the business on surrounding residential dwellings.

The properties to the south, west and north of the property associated with his special use permit application are zoned A-1, General Agricultural and are designated Rural Land on the Comprehensive Plan. The Deerwood Hills subdivision to the east, directly across Jolly Pond Road is zoned R-6, Low Density Residential and is designated Rural Lands on the Comprehensive Plan. To date, Staff has received complaint letters from one of the property owners of the Deerwood Hills with regards to noise and hours of operation and from a citizen to the north with similar type complaints.

Environmental

Watershed: Chickahominy River Watershed

Staff Comments: Environmental staff has reviewed the application and has no further comments on the special use permit application at this time.

Public Utilities

This site is served by private well and septic systems.

Proposed Condition:

- Staff is proposing a condition that the applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.

Staff Comments: The Health Department has reviewed the proposal and has no further comments at this time.

Fire

Staff Comments: On October 25, 2006 the Fire Marshal's office issued two summonses for illegal open burning in connection with this business at the proposed site.

Transportation

Road Improvements: No road improvements are proposed for Jolly Pond Road. There are currently no turn lanes or tapers and there is one existing entrance to the site from Jolly Pond Road.

VDOT Comments: VDOT staff has reviewed the application and believes all issues can be worked out at the site plan stage of development.

Staff Comments: Staff believes the proposal will have minimal traffic impacts on Jolly Pond Road as currently operated. However, due to the narrow pavement width on Jolly Pond Road, conditions are recommended to ensure traffic does not significantly increase.

COMPREHENSIVE PLAN

Land Use Map

Designation	<i>Rural Lands (Page 119 and 120):</i> Primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the PSA. A few of the smaller direct agricultural or forestal-supported uses, home-based occupations and certain uses
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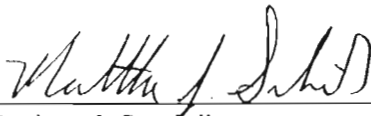
	<p>which require very low intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area and in accordance with the Development Standards of the Comprehensive Plan.</p> <p>Staff Comment: With the proper conditions applied to the property, Staff believes the use will be more consistent with the Comprehensive Plan and more compatible with the surrounding residential dwellings.</p>
Rural Land Use Standards	<p><i>Standard # 1 (page 135):</i> Preserve the natural, wooded, and rural character of the County. Particular attention should be given to ...encouraging enhanced landscaping to screen developments, minimizing the number of street and driveway intersections along the main road and utilizing lighting only where necessary and in a manner that eliminates glare and brightness.</p> <p>Staff Comment: Through special use conditions # 2, 5 and 7 Staff believes any impacts created by the proposal will be mitigated through the use of specific lighting, by limiting access points onto Jolly Pond Road and by providing an enhanced landscape buffer between Jolly Pond Road and the buildings associated with the business.</p>
Goals, strategies and actions	<p><i>Strategy #2-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control and other methods.</p> <p>Staff Comment: Through special use conditions # 1, 2, 3, 5, 6 and 7 Staff believes the use will be compatible with the size and scale of surrounding development and any impacts created by the proposal will be mitigated by limiting access points onto Jolly Pond Road; limiting hours of operation; material stored on-site and noise generating activities; and by providing an enhanced landscape buffer along Jolly Pond Road.</p>

RECOMMENDATION

Staff believes that this proposal is not consistent with the Comprehensive Plan Land Use Map designation. However, Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development. Based on this information, staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors with the attached SUP conditions.

1. This Special Use Permit (SUP) shall be valid for the operation of Johnny Timber Tree Service, Inc. (Business) and accessory uses thereto as shown on the Master Plan titled "2201 Jolly Pond Master Plan" date stamped December 20, 2006. Development of the site shall be generally in accordance with the above referenced master plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Should new exterior site or building lighting be installed for the operation of the business, such fixtures 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.
3. Hours of operation, including the operation of power tools, machinery, truck deliveries and pickups, shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday.
4. Free standing signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a free standing sign with a completely enclosed base not to exceed 16 square feet in size and not to exceed six feet in height from grade.
5. Only one entrance shall be allowed onto Jolly Pond Road (Route 611) as shown on the Master Plan.

6. There shall be no tree stumps, trunks, limbs, tree roots, chipped wood, mulch, sawdust or other wood by-products stored, placed or processed on the property.
7. A landscaping plan shall be approved by the Planning Director or his designee to effectively screen the storage of mechanical equipment from Jolly Pond Road. This buffer shall be installed or bonded in a manner satisfactory to the County Attorney within six months of the approval date of this SUP by the Board of Supervisors. The owner shall provide enhanced landscaping so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance.
8. With the exception of a drive aisle and supplemental plantings, the area depicted as "Proposed Green Space" as shown on the Master Plan shall remain in a natural undisturbed state unless otherwise approved by the Planning Director.
9. The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.
10. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

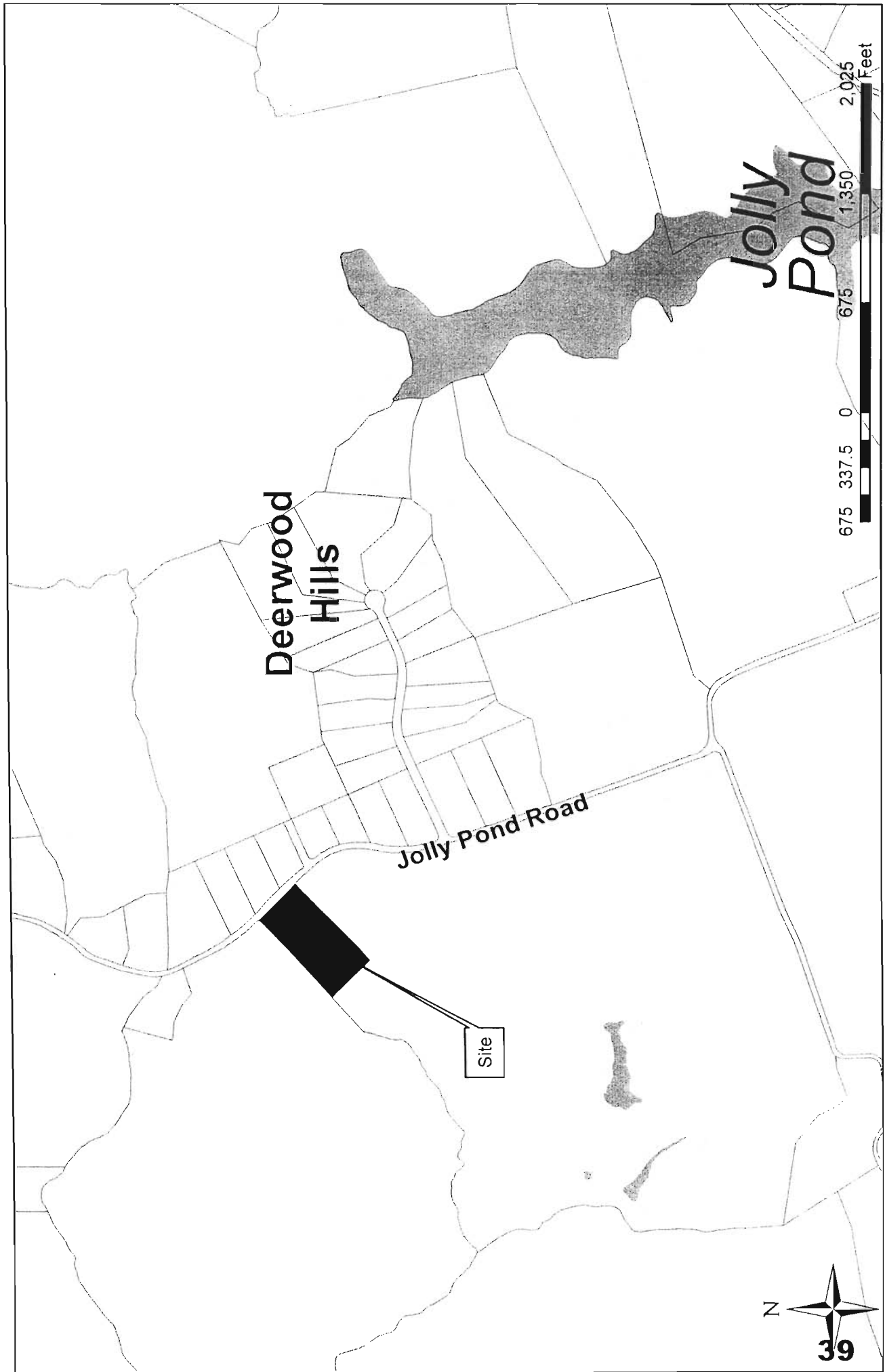

Matthew J. Smolnik

ATTACHMENTS:

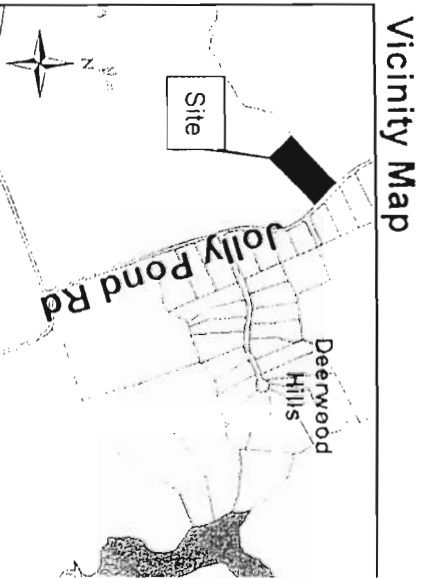
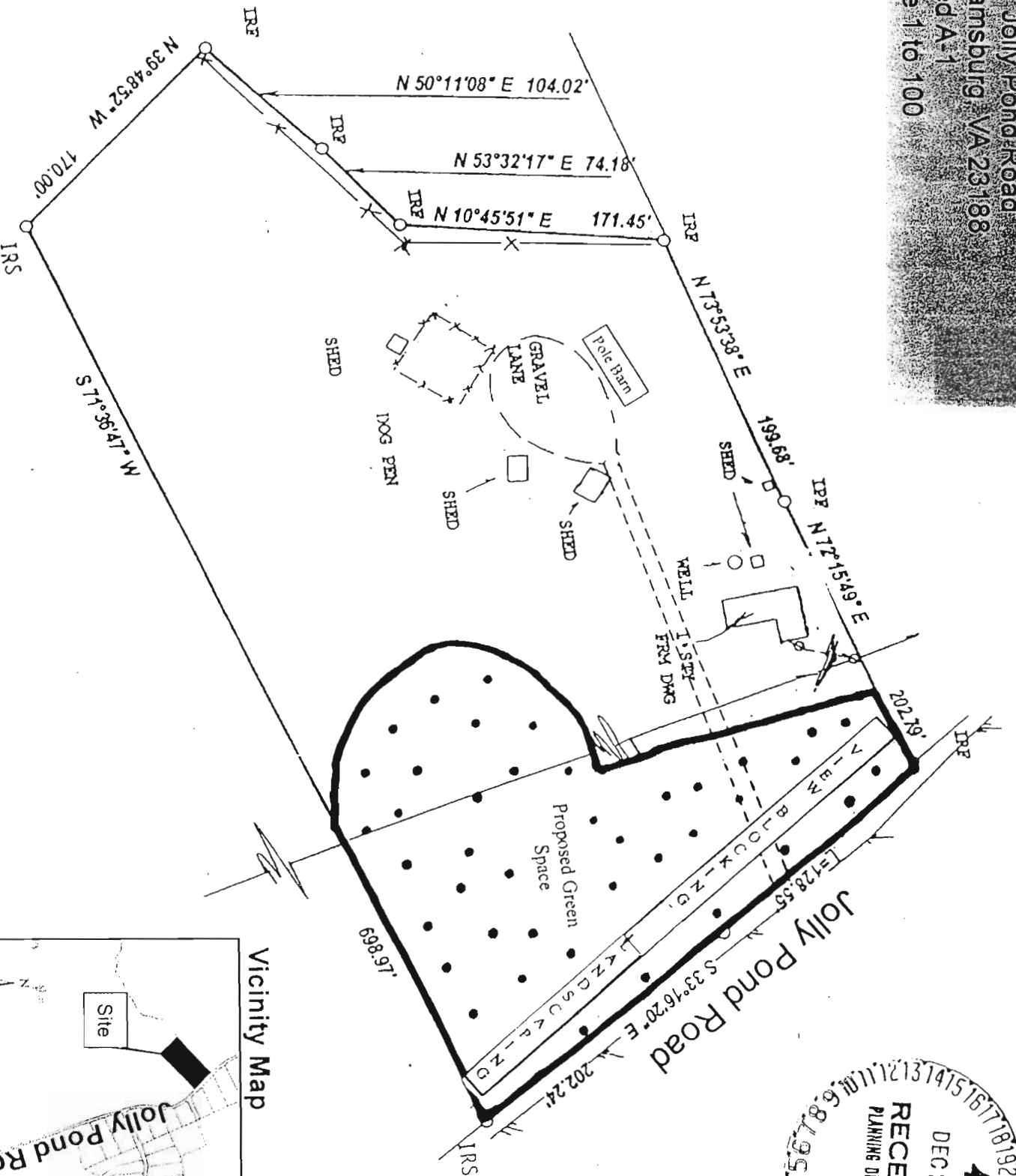
1. Location Map
2. Master Plan
3. Letter from Rachel Cole date stamped December 11, 2006 with photos from her front porch
4. Letter from Rachel Cole to the neighborhood dated December 11, 2006
5. Statement of opposition to SUP-33-06: Johnny Timbers from Rachel Cole
6. Letter from Gerald and Mona Richardson dated December 18, 2006
7. Brochure for Johnny Timbers Tree Service, Inc.

JCC-SUP-33-06

Johnny Timbers Tree Service



2201 Jolly Pond Master Plan
2201 Jolly Pond Road
Williamsburg, VA 23188
Zoned A-1
Scale 1 to 100





Hello,

My name is Rachel Cole. I purchased my home at 2202 Jolly Pond Road, Deerwood Hills in 1989. In 2005 John W. Hull and Sonya N. Peretti purchased the 5-acre plot at 2201 Jolly Pond Road, zoned A1, directly across the road from my home. They live elsewhere in the county but they operate the business, *Johnny Timbers Tree & Landscape Service, Inc.*, on this property. It is my understanding that, after operating the business illegally for about a year, Mr. Hull has been cited by the county and, as a result, has applied for a Special Use Permit to continue operating this business. I am opposed to the granting of this permit. Following is a sampling of my documentation of daily activities that now occur in Deerwood Hills, our once quiet, rural neighborhood:

11-3-06, 1:55 - 2:20 pm Logging truck entered property and was loaded with logs. Loud noise of bobcat engine, beeping, yelling and other noises associated with this activity.

11-08-06, 1:18 - 1:25 pm Blue and white dump truck loaded with logs enters the property and dumps the logs.

11-09-06, 11:00 am - 1:25 pm Bobcat running...loud engine and constant beeping noise. I had to close windows and doors (beautiful 78 degree day) due to noise and yelling.

11-10-06, 7:40 - 8:20 am Bobcat engine and beeping noise. Dump truck towing flatbed trailer filled with full length logs left property at 8:20 am.

2:30 - 4:00 pm Logging truck on the property starts engine and is loaded with logs. Noises associated with this activity were truck engine idling, bobcat engine, bobcat beeping, and much yelling back and forth among the crew.

11-11-06 9:00 - 10:10 am Bobcat engine and beeping.

11-14-06 7:15 am Dump truck loaded with logs left the property. At 9:00 am a logging truck left loaded with logs

12-01-06 2:00 - 3:40 pm Two dump trucks towing a bobcat and other heavy, industrial equipment entered property. The bobcat ran continuously back and forth as if moving something from one location to another. There was loud yelling and other banging/clanging noises, including what sounded like a chain saw. Two dump trucks loaded with logs left the property. White pickup truck towing large flatbed trailer entered the property.

12-04-06 3:30 - 4:05 pm Bobcat running continuously.

The above activities were noticed due to the resulting noise and disruption. There have been many other similar activities which I did not have the time to document.

Attached, for your information, is a letter I will be sending to home owners in my Deerwood Hills neighborhood. Thank you for taking time from your busy schedule to read this letter stating my concerns.

Respectively,

Rachel J. Cole

2202 Jolly Pond Road

Williamsburg, VA 23188

(757) 565-4729



Rachel J. Cole
2202 Jolly Pond Road
Williamsburg, VA 23188
(757) 565-4729
RachelCole@Cox.net



December 7, 2006

Dear Neighbor,

The purpose of this letter is to share with you some concerns I have about what is happening in our neighborhood.

You may already be aware that "Johnny Timbers Tree and Landscaping Service, Inc." is a commercial business operating at 2201 Jolly Pond Road. John Hull, the owner of this business, was recently cited by James City County for operating a business on property not zoned for it and he was also cited by the JCC Fire Department for burning logs and other debris on the property without a permit. For several months logs and debris from different jobs were being hauled to the property and burned within 1000 feet of a residence. The constant smoke was annoying, but the danger of a woods fire in our neighborhood was a real concern for the Fire Department.

As a result of the citing by the county, Mr. Hull has applied for a Special Use Permit (SUP) to continue operating the business and signs will soon be placed in front of his property alerting any interested parties of his intentions.

Granted, my home (of 17 years) is located directly across from the business's driveway and I may be most affected by this unfortunate development. My concern is that you may not be aware of what is really happening right here in your neighborhood. There is a lot of daily activity at this business including the "beeping" and engine noise of bobcats, and the noisy whine of industrial chippers. Every morning around 7:00 a.m. several employees arrive. They park their vehicles and get into dump trucks and pick up trucks hauling flatbed trailers carrying bobcats, chippers, and other heavy equipment to the job sites. During the day, dump trucks arrive carrying loads of logs to be stockpiled on the property. The "marketable" ones are sold and huge logging trucks arrive about twice a week to haul them away. A real concern is that, if the SUP is granted, this may increase to several times a week or even daily as his business grows and more dump trucks and equipment are acquired (he has five acres on which to expand the business!). Not only is this absolutely not acceptable for a quiet, rural neighborhood such as ours but it could cause damage to Jolly Pond Road.

Also, having a business of this type in our neighborhood will affect our property values. I definitely would not buy my home today because of the commercial appearance and noise of this business and the threat it poses to the neighborhood.

In closing, I would like to say that I have met Mr. Hull and he is a very nice, congenial young man and I have nothing personally against him or his business. I just feel strongly that a business of this type would be better suited in a business or commercially zoned area. It is not appropriate for our quiet, rural, residential neighborhood.

Thank you for taking the time to read about my concerns. It is my hope that you will agree that we should voice our opposition to the approval of this Special Use Permit and maintain the residential nature of our community. Please feel free to contact me at the phone number or email address above if you have any questions concerning this letter.

I wish you Happy Holidays and a happy, healthy New Year.

Sincerely,

Rachel Cole

Statement of Opposition to SUP 33-06 Johnny Timbers

This Statement is prepared by: Rachel J. Cole, 2202 Jolly Pond Road, Williamsburg, VA 23188, in the Powhatan District, James City County.

Purpose: To state opposition to the approval, with or without restrictions, of a Special Use Permit requested by John W. Hull to operate the business known as **Johnny Timbers Tree and Landscape Service, Inc.**, currently located at 2201 Jolly Pond Road in James City County.

My home, which I purchased in 1989, is located in a small, rural low-density residential area of the county known as Deerwood Hills and is directly across the road from the business owned by Mr. Hull. This business has been operating for about a year and has directly affected the character and overall quality of life in this rural community. The nature of the business is not compatible with this quiet, rural, peaceful area which is the reason myself, and probably most my neighbors, elected to purchase or build homes here.

Mr. Hull does not live in our neighborhood; however, he has established a business in our midst. On many occasions, I have had to close my windows and doors due to the noise of dump trucks, logging trucks, bobcats, and smoke from burning tree limbs, brush and debris hauled into the property. This is usually accompanied by loud yelling back and forth of the crew. On Saturday night, September 30, 2006, I was awakened at 11:15 p.m. by the sound of a bobcat running and beeping on the property. This continued until around midnight.

Daily and regular activities at this business includes:

- The loud engine noise of bobcats, industrial wood chippers and chain saws;
- Dump trucks and pickup trucks in and out of the property during the day;
- The dumping of large logs, and bobcats piling them in designated areas;
- Bobcats loading logs onto 18-wheeler type logging trucks;
- Logging trucks regularly in and out of the property;
- Trucks towing flatbed trailers carrying bobcats and other industrial equipment in and out of the property daily, sometimes several times a day;
- And other activities associated with this type of business, including the work crew yelling loudly back and forth in order to be heard over engine noises.

The **County Code, Chapter 15-20, "Noises Prohibited in Residential Zones"**, states that, "It shall be unlawful for any person to, within the limits of the county, make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise on any premises of such a character as to either disturb, injure, or endanger the quiet, comfort, repose, health, peace or safety of others....." The noise and disruption generated by the daily activities of this type of business will continue and increase as the business grows and expands. The business has significantly increased the traffic of heavily loaded dump trucks and logging trucks on Jolly Pond Road which in our area, is very narrow and winding, unmarked, with limited sight distance, no shoulders, and tree canopies over the pavement.

A very important concern I have is a decrease in property values due to the close proximity of a commercial business. The **County Code , Sec 24-9, Special Use Permits** states that, when considering special use permits, due consideration should be given to whether it "will likely reduce or impair the value of buildings or property in the surrounding areas."

Based on these objections and concerns, I request that you do not grant this Special Use Permit, even with restrictions. Please take into account the existing rural character of our neighborhood and community. I believe it should be maintained as one of the few remaining unique and irreplaceable rural areas of our county.

Thank you.

Rachel J. Cole

December 18, 2006

RE: SUP- 003-06 Johnny Timbers

Dear Mr. O. Marvin Sowers, Jr.:

We live at 2105 Jolly Pond Road the nearest home on the same side of the road as Mr. Hall's property, approximately 250 to 300 yards away.

Officially known as: Parcel Identification Number: 2930100006

Legal Description: Pt of J N Richardson

Owner of Record: G. B. and M. O. Richardson

Property Address: 2105 Jolly Pond Road

Two days ago I was made aware by a neighbor that Mr. John Hall was operating a business on his property. We could see from outside his gate that he had stored some heavy equipment and trucks on his property. Occasionally we would hear clearing but assumed like some of us he was doing the best he could to work on his land, to improve it, to eventually build a house. We both work so, we were not aware of what was happening during the work week until our neighbor informed us of Mr. Hall's business and his application for an SUP. How much noise his business makes, and how many heavily loaded dump trucks and construction type vehicles travel this quaint road. Which is currently in disrepair and in negotiations (I hope) as to who should be responsible for its repair. That the business operates from 7:00 a.m. to 7:00 (ish) p.m. and some weekends. That he has had open fires (oh! that's where the occasional smell of smoke has been coming from this summer) and has received a citation from the fire department for leaving an open-air fire unattended.

My concerns are that I feel he knew what type of neighborhood this was when he bought the property, and operated in a covert manner. The people in the neighborhood have been here for years, and some like ourselves have built their homes themselves, and or put a lot of themselves in personal work on their property. We may not get together as neighbors who live closer together but during emergencies such as Isabelle, and power out ages we pull together, help each other out and work as a community. Mr. Hall does not live on this property, he did not want this in his back yard, and we do not want it in ours. Two neighbors across the street from his property have lived here for over seventeen years and more, others down the street towards Deer Wood Hills for over twenty, we have been here for twenty-five years and built our home with our own hands. We just don't think it is right that he should be able to muscle his way in with a business like this in this area. It just sounds like it's too big for here. The road is too narrow for large heavy construction vehicles. He apparently makes too much noise for the neighbors. I'm afraid of how much noise and open fires he will make if he has permission, if he has done all of this while trying to hide his activity. We are extremely concerned over the unattended open fire he left and that there is no one there at night. We are also concerned that it is legal for the county not to notify someone living this close to an action of this importance and not notify him or her.

Sincerely,

Gerald B. Richardson

Mrs. Mona O. Richardson

Mr. Gerald B. Richardson

Mrs. Mona O. Richardson



Free Estimates & Risk Assessments

Strong thunderstorms, ice storms, and even hurricanes are a fact of life for folks in the Tidewater area. In the summer of 1998 Hurricane Floyd washed out roads and flooded entire towns. Two years ago Hurricane Isabel caused massive structural damage due to high winds and fallen trees. Winter ice storms are also notorious in Tidewater for tree and property damage.

What can you do to minimize storm damage from trees and protect your property? We recommend you inspect your trees for damage after a storm.

What to look for...

- Hanging limbs,
- Leaning trees,
- Stress cracks and other signs of damage.

If you have any further questions or concerns, call Johnny Timbers Tree Service. We provide a complimentary risk assessment as well as recommendations regarding what you can do to reduce the risk of damage to your property from future tree damage.

Any large tree within range of a structure can potentially cause significant damage. However, through awareness and planning you can lower your risk yet enjoy the benefit of having trees.

Schedule your Risk Assessment today!
www.johnnytimbersreeservice.com
757-784-3026



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Williamsburg, VA 23188
www.johnnytimbers.com

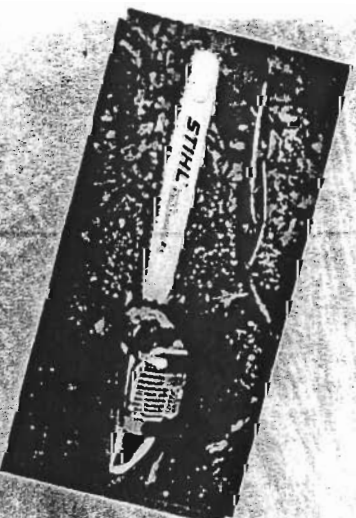
Johnny Timbers
Tree Service, Inc.



Professional
Pruning

Tree Removal
Stump Grinding

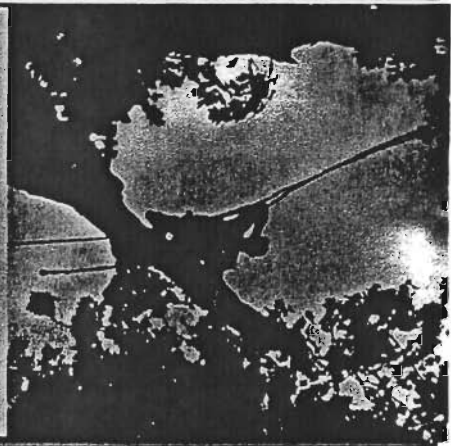
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Selective and skilled
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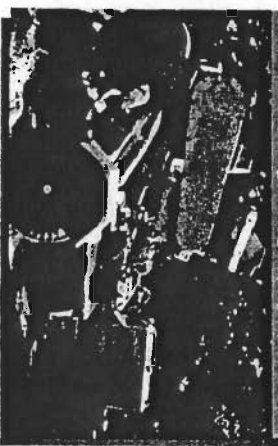
Experience at work



Quality

A locally owned and operated business, Johnny Timbers Tree Service offers our customers accountability and flexibility along with a personal touch. We provide a variety of top-quality tree care and removal services. From specific needs to large operations, Johnny Timbers Tree Service is a one-stop shop for large and small jobs. We are a top-notch reputable tree service serving the greater Williamsburg area with certified arborists on staff along with highly experienced climbers.

Removing unsightly stumps



Efficiency

Johnny Timbers Tree Service is a full service operation. We combine extensive experience and quality equipment at every job, big or small. We will work with your busy schedule in mind. Estimates are provided to you directly by John Hull, the owner. Our small size results in decreased overhead and increased flexibility in scheduling and completing jobs.

Efficiency Equals Results



Bobcat quickly moves large trees

Safety

Safety is a priority at every Johnny Timbers Tree Service job site. We understand safety is the cornerstone of our success. At Johnny Timbers, we compete with quality, not by cutting corners! Our staff brings a combination of extensive experience and training to every job. Every job is carefully evaluated for potential risks and needs. John assesses and plans every job personally, so you can rest assured that from start to finish, the job will be done right.

QUALITY + EFFICIENCY + SAFETY =
Top of the line service and competitive prices
right at your doorstep!

Call Johnny Timbers for free woods chips!



John Hull, owner of Johnny Timbers Tree Service, prides himself in interacting with each customer directly on every job. With extensive climbing and business experience, he wants you to have peace of mind regarding your tree work and will consult directly with you. John will answer your questions and make sure that all of your tree work needs are taken care of and that all jobs are professionally completed from start to finish. We understand that removing a tree can be a big decision. We gladly provide references.

Serving residential and commercial tree service needs.
Emergency tree service available.

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**SPECIAL USE PERMIT CASE NO. SUP-34-06 Bus Loop Rawls Byrd Elementary School
Staff Report for the January 10, 2007 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 7:00 p.m.; Building F Board Room; County Government

Complex

Planning Commission:	January 10, 2007	7:00 PM
Board of Supervisors:	February 13, 2007	7:00 PM (tentative)

SUMMARY FACTS

Applicant: Mr. Bruce Abbott, AES Consulting Engineers

Land Owner: Williamsburg-James City County Public Schools

Proposal: Applicant is requesting to modify the island in front of the school to create 14 bus parking spaces and extending the side parking lot adding 43 parking spaces.

Location: Rawls Byrd Elementary School- 112 Laurel Lane

Tax Map/Parcel: (48-1)(6-171A)

Parcel Size: 12.63 Acres

Existing Zoning: R-2, General Residential District

Comprehensive Plan: State, Federal, County Land

Primary Service Area: Inside

STAFF RECOMMENDATION

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

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6685

PROJECT DESCRIPTION

Mr. Bruce Abbott, on behalf of Williamsburg and James City County Public Schools (WJCC), has applied for a special use permit for the existing public school located at 112 Laurel Lane. In 1999, the R-2 district was amended to make schools a specially permitted use making the school a legally non-conforming use. Under the zoning ordinance, non-conforming uses cannot be expanded; therefore a SUP is needed in order for the proposed parking spaces to be added. The current configuration only allows buses to park parallel to the curbing. Buses are forced to stack in parallel lines, thus forcing students to enter and exit their bus while walking in-between other buses. There is almost no visibility for drivers and staff to see what is happening. This safety concern was cited by the School Safety Audit last year, highlighted by the school Principal. The project is strongly supported by the School District's Director of Transportation and the WJCC Review Committee, which reviews safety and capital improvement cases. The new design will allow buses to park diagonally, giving staff, drivers and students much better visibility and access. The change also will allow emergency vehicles to access the school without getting blocked by buses. The 43 additional parking spaces will be created in an area that is currently a paved play area that is also used as an overflow lot. Staff's site visit during school operating hours revealed a congested parking lot and many vehicles parked in the play area. This plan would solely designate this area for parking and provide a new area for children to play preventing children from mingling in a parking lot.

PUBLIC IMPACTS

Environmental

Watershed: Mill Creek

Staff Comments: The Environmental Division has no comments at this time.

Public Utilities

The construction of additional parking spaces would not generate additional needs for the use of public utilities.

Staff Comments:

JCSA Staff does not have any comments as this project will not require any service.

Transportation

The current traffic flow patterns into or out of the site will not be impacted. Furthermore, no additional vehicle trips will be generated with the proposed parking spaces.

Traffic Counts:

Currently unavailable at this location.

COMPREHENSIVE PLAN

Land Use Map

Designation	State, Federal, and County Land (Page 130): Land uses in this designation are publicly owned and include County offices and facilities in addition to larger utility sites and military installations.
	Staff Comment: Staff believes that the school meets the intent of the State, Federal, and County Land designation.
Development Standards	<i>General Standard #5-Page 134-35:</i> Minimize the impact of development proposals on overall mobility, especially on major roads by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances...Provide for safe, convenient, and inviting bicycle, pedestrian, and greenway connections to adjacent properties and developments in order to minimize such impacts and to provide adequate access between residential and nonresidential activity

	centers and among residential neighborhoods.
	Staff Comment: While this proposal does not necessarily correspond with General Standard #5 in terms of minimizing access points on major roads, current on-site traffic conditions require that some mitigating action is taken to relieve the high demand for parking spaces, especially during arrival and dismissal of school. Additional parking spaces should help alleviate this problem.
Goals, strategies and actions	<i>Strategy #6-Page 138:</i> Promote the use of land consistent with the capacity of existing and planned public facilities and services and the County's ability to provide such facilities and services.
	Staff Comment: As the demand for the facility increases, (i.e. more parents driving their children to school) the need for parking spaces increases.

Transportation

Goals, strategies and actions	<i>Strategy #2-Page 80:</i> Continue to encourage landscaped roadways and roadway designs that enhance the County's image and reduce the visual impact of auto-related infrastructure.
	Staff Comment: The school will continue to be the dominant feature on the site. A landscaping plan would be required by ordinance (if the expansion is permitted) for the island in front of the school. This will further mitigate the visual impact of parked buses and cars in front of the school. As of current, there is no screen between the Laurel Lane and the bus loop.

Comprehensive Plan Staff Comments

Overall, staff believes that this application, as proposed, is in compliance with the Comprehensive Plan. The limited nature of this project helps to limit the impact it has on the community and surrounding development.

Given the SUP Conditions attached to this project, staff believes that the adverse effects on the community have been mitigated to the extent possible.

RECOMMENDATION

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

1. This Special Use Permit (SUP) shall be valid for the operation of a public school and accessory uses thereto, as shown on the conceptual plan titled "Conceptual Plan Rawls Byrd Elementary Bus Loop and Additional Parking for WJCC Public Schools" dated 12/21/06, and prepared by AES Consulting Engineers (Master Plan). Development of this property shall be generally in accordance with the Master Plan as determined by the Development Review Committee of the James City County Planning Commission (DRC). Minor changes may be permitted by the DRC as long as they do not change the basic concept or character of the development.

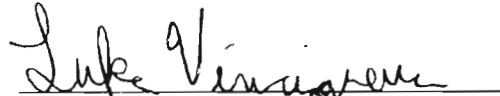
2. Any new exterior site or building lighting shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light trespass, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

3. If construction has not commenced on this project within thirty-six (36) months from the issuance of this SUP, this SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

4. Existing perimeter vegetation along the south property line shall not be removed, unless prior written approval has been obtained from the Planning Director. Dead, diseased, and dying trees or shrubbery or

poisonous or invasive plants may be removed if approved by the Planning Director and a plan to replace said vegetation is submitted to the Planning Director for his approval. Prior to final site plan approval, the Planning Director shall review and approve the proposed landscaping plan for the project and surrounding area. Enhanced landscaping shall be provided that screens the bus parking area with evergreen trees that are no less than eight feet tall. The evergreen trees shall be planted in a manner in which at maturity will completely screen the bus parking from the street.

5. This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

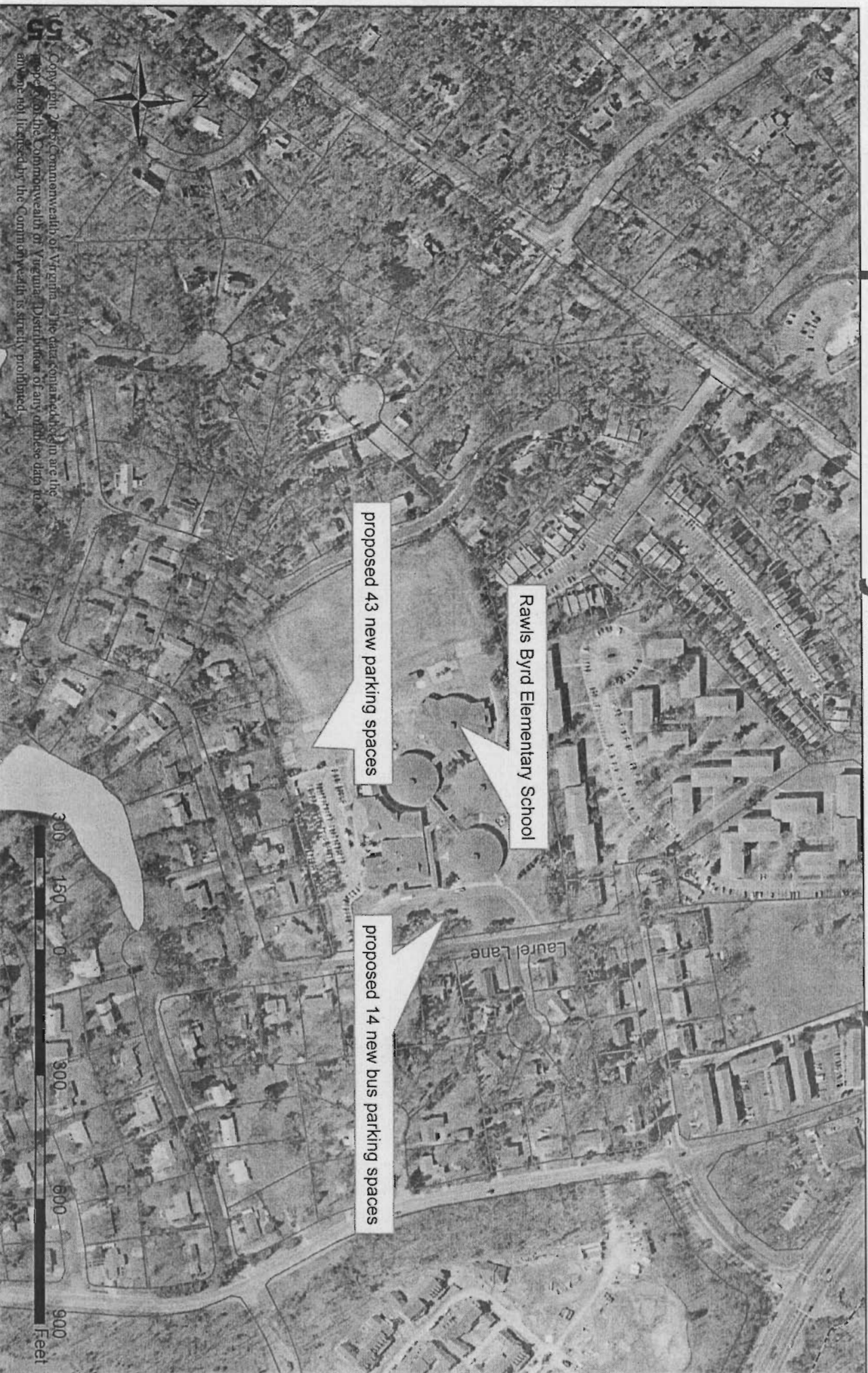

Luke Vinciguerra, Planner

ATTACHMENTS:

1. Location Map
2. Conceptual Plan

JCC--SUP-34-06

Bus Loop Rawls Byrd Elementary School



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**SPECIAL USE PERMIT-35-06. Kenneth Brooks' Contractor's Warehouse
Staff Report for the January 10, 2007, 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

January 10, 2007 7:00 p.m.
February 13, 2007 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Timothy Trant of Kaufman & Canoles, on behalf of Kenneth and Diana Brooks

Land Owner: Kenneth and Diana Brooks

Proposal: To allow for, and properly permit, an already constructed contractor's warehouse/office. Contractors' warehouses, sheds and offices are specially permitted uses in the A-1, General Agricultural zoning district.

Location: 101 Brady Drive

Tax Map/Parcel Nos.: (36-2) (1-22)

Parcel Size: 5.413 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

Planning Staff finds that this proposal is generally compatible with the surrounding area, and creates no new significant burdens on neighboring properties or uses. Further, Staff finds the proposal to be in accordance with the 2003 James City County Comprehensive Plan, and recommends that the Planning Commission recommend approval of this application, with the conditions listed at the end of this report, to the James City County Board of Supervisors.

Staff Contact: David W. German

Phone: 253-6685

PROJECT DESCRIPTION

Mr. Timothy Trant of Kaufman and Canoles has applied, on behalf of Kenneth and Diana Brooks, for a Special Use Permit (SUP) to allow a 3,840 square-foot existing building to be used as a contractor's warehouse and office. The applicant has represented that the building was originally constructed in 2003 as an agriculturally-related pole barn, which required no permitting or review. The structure was erected where some of the existing wooded area on the property had been extensively damaged by Hurricane Isabel in 2003. In 2004, the pole barn was enclosed, and converted into a vehicle and material storage building. Electrical, ventilation, and plumbing systems were installed in the building. In 2006, the James City County Codes Compliance Division notified the property owner that the changes that had been made to the pole barn had disqualified the structure as an agricultural building, and that proper approval and permitting would be required to allow for continued use of the building. To this end, the applicant has applied for an SUP, as contractors' warehouses, sheds, and offices are a Specially Permitted Use in the A-1 Zoning District. Currently, the building is primarily used for

the storage of materials and vehicles associated with the electrical and mechanical business owned by Mr. Brooks' son, Todd Brooks. The building also houses a small workbench area where electrical and mechanical (heating and air conditioning) equipment is assembled and repaired, a kitchen / break area, and a bathroom. The project is located at 101 Brady Drive, also identified as Parcel No. (1-22) on Tax Map No. (36-2), northwest of the intersection of Centerville Road (Route 614) and News Road (Route 613). The subject property, and all surrounding properties in the immediate area, is zoned A-1, General Agricultural, and is designated Rural Lands in the 2003 Comprehensive Plan. Also located on the subject property are a shed (approximately 625 square feet in size), and seven duplex housing units, which are all owned by the applicant.

Environmental Division

Watershed: Gordon Creek

Conditions:

- Water Quality Points (Condition #5)

Staff Comments: Environmental staff has reviewed the application and offered the following comments:

- If the SUP is approved, the project will need to obtain the following permits at the Site Plan phase: Land Disturbing Permit, Water Quality Impact Assessment (WQIA) and /or Wetland Permits (through the Army Corps of Engineers and /or Department of Environmental Quality);
- The applicant must provide a perennial stream determination and wetland delineation to the Environmental Division. Further comments / requirements may be generated by the Environmental Division at the Site Plan phase of this project based on these determinations;
- The Environmental Division provided the language for the Water Quality Points condition; (see Condition #5, below.)

Public Utilities

As this project lies outside of the Primary Service Area (PSA) of the James City Service Authority (JCSA), no public water or sewer facilities will be used to serve the proposed use. The contractor's warehouse is currently served by an existing private well system, and by a sanitary septic tank.

Staff Comments: The Commonwealth of Virginia Department of Health has reviewed the application and offered the following comment:

- The provisions made for tying the building into the existing well system (which currently serves the duplex homes located on the parcel) and for establishing the septic tank system for the building will need to be documented, analyzed, and reported by a Professional Engineer. This formal report will need to be submitted to the Health Department at the Site Plan phase for further review, and appropriate permitting action.

Transportation

Road Improvements: The subject site is accessed off of a paved private drive (Brady Drive) off of a paved private road (Thompson Lane), which connects to Centerville Road (Route 614). No road improvements are proposed for Brady Drive, Thompson Lane, or Centerville Road.

VDOT Comments: The Commonwealth of Virginia Department of Transportation had no concerns with this project, noting that no work was being proposed in the State's Right-of-Way. No traffic improvements were recommended or proposed by VDOT.

Staff Comments: As the contractor's warehouse is only used by Kenneth and Todd Brooks and one assistant, traffic to and from the facility is unlikely to exceed ten-to-fifteen trips-per-day. The applicant indicated that outside deliveries of materials to the warehouse are made by a small box truck only two or three times a month. Based on this, the proposal should have minimal traffic impact on Centerville Road and other area roadways. Conditions proposed by Staff are attached to this application to ensure that traffic impacts do not increase.

COMPREHENSIVE PLAN

Land Use Map

Land Use Designation	<p><i>Rural Lands (Page 119-120): Primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. A few of the smaller direct agricultural or forestal-supported uses, home-based occupations and certain uses which require very low intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area and in accordance with the Development Standards of the Comprehensive Plan. It is preferential to locate commercial uses that serve Rural Land areas inside the Primary Service Area, rather than in Rural Land areas.</i></p> <p>Staff Comment: The current application proposes a very low intensity use that should not generate dust, noise, or vibration, and which avoids disturbing the current fabric of the area by placing the structure in a screened area. The level of intensity of the proposed use is compatible with surrounding uses and will not adversely affect adjacent properties. While the Comprehensive Plan stresses that commercial activity should be minimized outside of the Primary Service Area, (page 115 and 119), Staff believes that this application is acceptable given that it adds no additional impact to public water or sewer facilities, and that it only allows for a low-intensity, low-impact use that should not generate significant traffic or other impacts on surrounding uses. Additionally, the Master Plan and Use Condition proposed for this SUP will ensure that development on the subject property will remain low in intensity, as further development is limited to what is depicted on the Master Plan.</p>
Rural Land Use Standards	<p><i>Standard #1 (Page 135): Preserve the natural, wooded, and rural character of the County. Particular attention should be given to locating structures and uses outside of sensitive areas; maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and between uses; discouraging development on farmland, open fields and scenic roadside vistas... limiting the height of structures to an elevation below the height of surrounding mature trees...and utilizing lighting only where necessary and in a manner that eliminates glare and brightness.</i></p> <p>Staff Comment: No agricultural or forestal activities have been disrupted by the proposed use, given that the wooded area used had previously sustained extensive storm damage, and had already required considerable clearing. The building, which is seventeen feet tall at its highest point, is physically located in an area that is screened by a natural ridgeline and other topography, as well as the many mature trees that surround the structure. Lighting shall be limited by Condition #2, which works to reduce glare, light spillage, and light pollution.</p>
Goals, strategies and actions	<p><i>Strategy #2 (Page 138): Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control and other methods.</i></p> <p>Staff Comment: The contractor's warehouse is located in a secluded area of the parcel, well-screened by topography and mature vegetation from surrounding uses and public rights-of-way. Because of its placement, the building is more than three hundred feet from Thompson Lane, and more than one thousand feet from Centerville Road. The use of the building does not disrupt the routine or the harmony of nearby development, and the intensity of the use is compatible with its surroundings.</p>

RECOMMENDATION

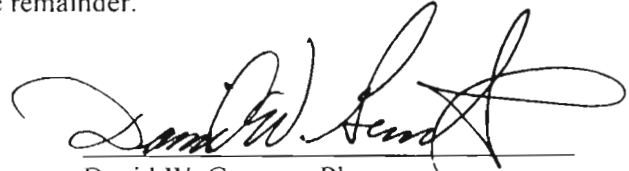
Planning Staff finds that this proposal is generally compatible with the surrounding area, and that the proposed use creates no significant impacts on neighboring properties or uses. While Staff finds the proposal to inconsistent with the intended uses for Rural Lands areas, it does meet some of the standards and strategies identified in the 2003 James City County Comprehensive Plan. The application provides an opportunity to clean up the site, improve stormwater management on the site, and, potentially, to mitigate environmental damage caused by Hurricane Isabel. Therefore, Staff recommends that the Planning Commission recommend approval of this application, with the conditions listed below, to the James City County Board of Supervisors:

- 1.) **Master Plan and Use:** This Special Use Permit (SUP) shall be valid for the operation of contractors' warehouses, sheds, and offices, and accessory uses thereto. Development of the site shall be generally in accordance with, and as depicted on, the SUP Master Plan drawing, entitled "Special Use Permit Exhibit for Kenneth Brooks," prepared by LandTech Resources, Inc., and dated 16 November 2006, as determined by the Planning Director of James City

County (Planning Director). Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.

- 2.) **Lighting:** Any new exterior site or building lighting shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.
- 3.) **Site Plan Approval:** Final site plan approval, for the use proposed in this application, must be obtained within one year of issuance of this SUP, or the SUP shall become void.
- 4.) **Certificate of Occupancy:** A Permanent Certificate of Occupancy, for the use proposed in the application, must be obtained within eighteen (18) months of issuance of this SUP, or the SUP shall become void.
- 5.) **Water Quality Points:** The water quality points needed to meet environmental standards on this site shall be achieved for all areas associated with the installation of the contractor's warehouse, including any effects to the parcel as a whole, subject to the approval of the Environmental Director of James City County (Environmental Director).
- 6.) **Junk Removal:** The applicant shall remove all junk from the property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, wood, lumber, concrete or construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material. This junk shall be properly disposed of in a state-approved facility. The James City County Zoning Administrator (Zoning Administrator) shall verify, in writing, that all junk has been properly removed from the property.
- 7.) **Signage:** No signage related to the contractor's warehouse or any businesses associated with the contractor's warehouse shall be permitted anywhere on the site.
- 8.) **Outside Storage:** No outside storage of electrical, mechanical, or other building materials shall be permitted anywhere on the site.
- 9.) **Outside Work:** No outdoor operations associated with the contractor's warehouse shall be permitted, except for routine loading and unloading of materials and supplies into and out of the warehouse.
- 10.) **Hours of Operation:** Commercial hours of operation for the warehouse, including the loading or unloading of vehicles, shall be limited to 6:00AM to 6:00PM, Monday through Saturday. Private property not connected to any commercial operation (e.g., personal automobiles, household items, etc.) may be placed in or removed from the warehouse without restriction.
- 11.) **Outdoor Parking of Vehicles:** No more than five vehicles may be parked outside of the contractor's warehouse at any given time. Vehicles parked outside of the warehouse shall park in the area designated as "Parking" on the Master Plan drawing. Requests to amend this parking restriction shall be submitted to the Planning Director in writing for his consideration to approve or deny the request.

12.) ***Severance Clause:*** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

A handwritten signature in black ink, appearing to read "David W. German", is written over a horizontal line.

David W. German, Planner

ATTACHMENTS:

1. Location Map
2. Master Plan (under separate cover)

JCC-SUP-035-06

Kenneth Brooks' Contractor's Warehouse



REZONING CASE NO. Z-07-06. New Town Sections 3 and 6 Proffer Amendment
Staff Report for the January 10, 2007, 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:	January 10, 2007	7:00 p.m.
Board of Supervisors:	February 13, 2007 (tentative)	7:00 p.m.

SUMMARY FACTS

Applicant:	Mr. Timothy Trant, Kaufman and Canoles
Land Owner:	New Town Associates, LLC
Proposal:	To amend a 2004 proffer requiring a minimum of two lanes departing Ironbound Road on Watford Lane to require only one departing lane.
Location:	4201 Ironbound Road
Tax Map/Parcel Nos.:	(39-1)(1-157)
Parcel Size:	65.410 acres
Proposed Zoning:	MU, Mixed Use with amended proffers
Existing Zoning:	MU, Mixed Use with proffers
Comprehensive Plan:	Mixed Use
Primary Service Area:	Inside

STAFF RECOMMENDATION

Staff feels that amending the proffers to require only one lane on Watford Lane departing Ironbound Road is consistent with the proposed plans for widening Ironbound Road and still meets appropriate levels of service. The proposed change will not adversely affect traffic capacity at the Watford Lane/Ironbound Road intersection. Staff recommends that the Planning Commission recommend approval of the amended proffers for New Town Sections 3 and 6 to the Board of Supervisors.

Staff Contact: Leanne Reidenbach

Phone: 253-6685

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

Project Description:

On October 26, 2004, the Board of Supervisors approved the rezoning of New Town Sections 3 and 6 from R-8, Rural Residential, with proffers and MU, Mixed Use, with proffers to MU, Mixed Use with proffers. Section 4(c) of the adopted proffers provided that the owner shall construct/install the following entrance and road improvements to VDOT standards and specifications for the Watford Lane intersection with Ironbound Road:

A minimum of two lanes approaching Ironbound Road and **two lanes departing** Ironbound Road on Watford Lane in New Town Section 3.

This amendment proposes to change this proffer to read:

A minimum of two lanes approaching Ironbound Road and **one lane departing** Ironbound Road on Watford Lane in New Town Section 3.

PUBLIC IMPACTS

1. Environmental Impacts: None.

Watershed: Powhatan Creek

Environmental Staff Conclusions: The Environmental Division has reviewed and approved the amended proffers for case Z-07-06: New Town Sections 3 and 6 Proffer Amendment.

2. Public Utilities: The site is served by public water and sewer.

JSCA Staff Comments: The James City Service Authority (JCSA) has reviewed and approved the amended proffers for case Z-07-06: New Town Sections 3 and 6 Proffer Amendment.

3. Traffic: No additional traffic will be generated through this proposal.

VDOT Comments: VDOT concurs with the traffic analysis performed by DRW Consultants dated December 4, 2006. The reduction in the number of ingress lanes from two to one onto westbound Watford Lane from Ironbound Road as requested will have no impact on the level of service (LOS) of the overall intersection or individual lane groups. The intersection is forecasted to operate at an acceptable LOS C during the PM peak hour of the 2015 design year with the requested amended lane configuration. It is not anticipated that the second ingress lane will be required at this location at any time beyond the 2015 design year.

Staff Comments:

The 1997 proffers required an updated Traffic Impact Study to be submitted with the rezoning of each section from R-8 to MU and specified the methodology and criteria for the studies. These proffers required the provision of road improvements to maintain an overall LOS C for the design year of 2015 at all New Town intersections. Additionally, included in the 1997 proffers was a relaxed level of service standard that permits lane groups to have LOS D if they are part of a coordinated traffic signal system and the overall intersection maintains LOS C.

The last traffic forecast reviewed by James City County was the Section 9 rezoning traffic study in early 2006, which included only the Monticello Avenue corridor and did not address Ironbound Road or Watford Lane. Since then, VDOT required a revised traffic forecast for the Ironbound Road corridor to address the request for a right-in/right-out driveway located between Watford Lane and Tewning Road to serve the Oxford Crescent apartments (Block 17) and Block 18. Based on trip redistributions with the approved addition of this driveway, the Watford Lane/Ironbound Road intersection achieves an overall LOS C and a LOS C for each turning movement at the intersection in the 2015 PM peak hour and therefore meets the qualifications set forth in the 1997 proffers. Additionally, since Watford Lane is forecasted to receive peak hour trips of substantially fewer than 800 vehicles per day, the road does not necessitate widening to include a second receiving lane as

proffered.

Due to the fact that the official layout of each section of New Town had not yet been finalized at the time of their rezonings, the standard proffer language for all roads internal to New Town provided for the construction of two lanes approaching and two lanes departing Ironbound Road or Monticello Avenue. Upon further examination, this requirement is not necessary for the Watford Lane/Ironbound Road intersection to meet minimum LOS requirements. Additionally, there is currently only a single lane of traffic on the three approaches to the Watford Lane/Ironbound Road intersection, including the northbound left turn lane on Ironbound Road, the westbound through lane on Watford Road, and the southbound right turn lane on Ironbound Road. The configuration of this intersection and number of approaching lanes are not proposed to be expanded with the Ironbound Road widening project. Additionally, the reduced roadway width is more consistent with the pedestrian nature of New Town.


Comprehensive Plan:

♦ Land Use Map Designation.

The Comprehensive Plan designates this property as Mixed Use. Staff feels that the amended proffers do not significantly impact the surrounding area's development as a Mixed Use community.

RECOMMENDATION:

Staff feels that amending the proffers to require only one lane on Watford Lane departing Ironbound Road is consistent with the proposed plans for widening Ironbound Road and still meets appropriate levels of service. The proposed change will not adversely affect traffic capacity at the Watford Lane/Ironbound Road intersection. Staff recommends that the Planning Commission recommend approval of the amended proffers for New Town Sections 3 and 6 to the Board of Supervisors.

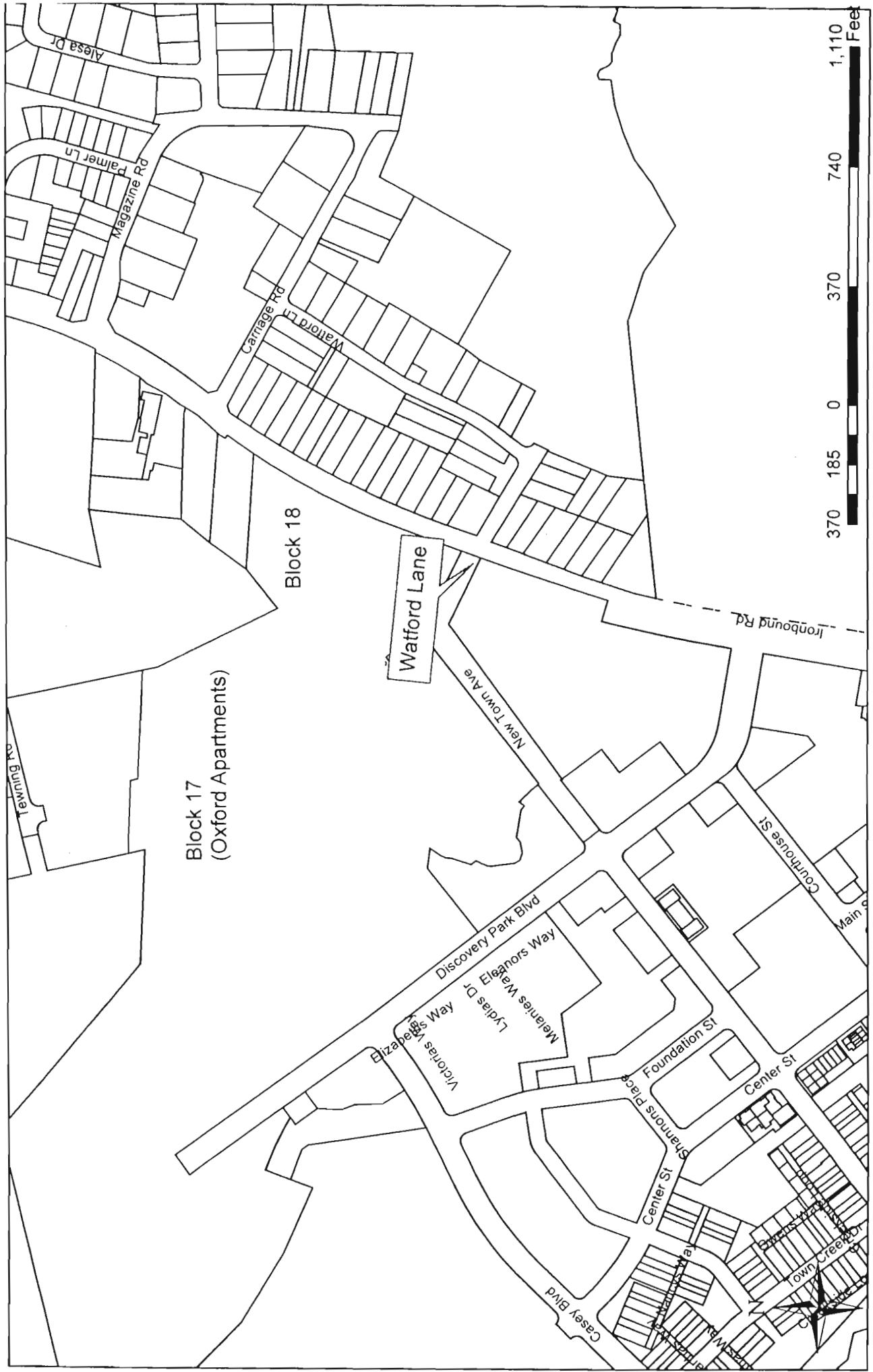

Leanne Reidenbach

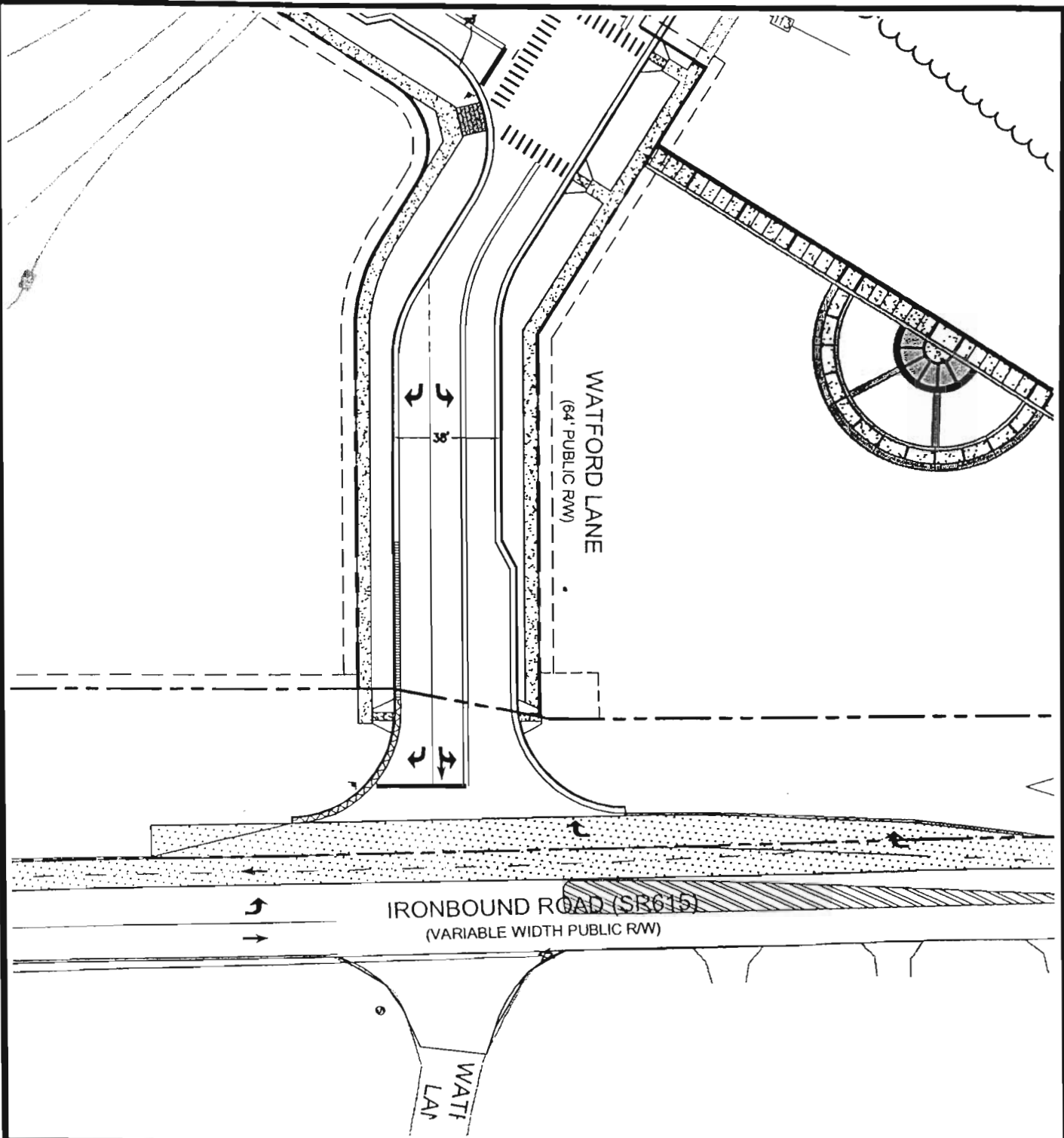
Attachments:

1. Location map
2. Watford Road detail
3. Summary of changes to traffic impact study
4. Amended proffers



New Town Sec. 3 & 6 Proffer Amendment





WATFORD LANE AND IRTONBOUND ROAD INTERSECTION

NEW TOWN SECTION 3&6

Drawn By: REC

Scale: 1"=50'

Date: 11/22/06

Job No: 6632-6-01A



CONSULTING ENGINEERS
WILLIAMSBURG • RICHMOND • GLOUCESTER

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



December 11, 2006

Mr. Tim Trant, Esq.
Kaufman & Canoles
Post Office Box 6000
Williamsburg, VA 23188

REF: Watford Lane Crossection At Ironbound Road

Dear Mr. Trant:

The previous proffers for Sections 3 and 6 of New Town stipulated that the new Watford Lane connection to Ironbound Road in New Town would have two lanes on the approach to Ironbound Road and two lanes departing Ironbound Road. However, there was no requirement in the Section 3 and 6 traffic study for two lanes departing Ironbound Road. Then and now, only one lane departing Ironbound Road on the new Watford Lane connection is necessary for traffic capacity. This is because there is only a single lane of traffic on the three approaches to this departure as follow:

1. The northbound left turn on Ironbound Road is a single lane.
2. The westbound through on Watford Lane is a single lane.
3. The southbound right turn Ironbound Road is a single lane.

This lane configuration with a single departure lane on westbound Watford Lane leaving Ironbound Road provides adequate capacity at the intersection. My December 4, 2006 memo on this subject showed that there is overall level of service (LOS) C for the intersection and LOS C for each turning movement at the intersection in the 2015 PM peak hour. This calculation includes the single lane on westbound Watford Lane departing Ironbound Road. Adding the second departure lane will not change or improve this LOS calculation.

Mr. Tim Trant, Esq.
December 11, 2006

In summary, LOS C at Ironbound Road/Watford Lane is achieved with an intersection design that includes the single lane on westbound Watford Lane departing Ironbound Road. Therefore, changing the original Sections 3 & 6 proffer from two lanes on Watford Lane departing Ironbound Road to one lane departing Ironbound Road will not adversely affect traffic capacity at the Ironbound Road/Watford Lane intersection.

Sincerely,

A handwritten signature in black ink that reads "Dexter R. Williams". The signature is written in a cursive style with a large, stylized 'D' and 'W'.

Dexter R. Williams, P. E.

SUPPLEMENTAL PROFFERS
NEW TOWN - SECTIONS 3 and 6

THESE SUPPLEMENTAL PROFFERS are made as of this 21st day of December, 2006, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Associates") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

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

R-2. The Property is subject to the New Town – Sections 3 & 6 – Proffers (the "Sections 3 & 6 Proffers") dated October 25, 2004 of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 040027471.

R-3. Section 4(c) of the Sections 3 and 6 Proffers ("Proffer 4(c)") provides that Associates shall construct/install the following entrance and road improvements to Virginia Department of Transportation ("VDOT") standards and specifications for the Watford Lane (as designated in the traffic study entitled "TRAFFIC STUDY FOR SECTIONS 3 & 6 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA," dated June 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County Planning Director) intersection with Ironbound Road:

A minimum of two lanes approaching Ironbound Road and two lanes departing
Ironbound Road on Watford Lane in New Town Section 3.

R-4. Associates has determined that only one (1) lane departing Ironbound Road on Watford Lane in New Town Section 3 is required to appropriately accommodate the traffic generated by the development of Property.

R-5. Associates has submitted a rezoning application (the "Application") with the County requesting the amendment of Proffer 4(c) to require only one (1) lane departing Ironbound Road on Watford Lane in New Town Section 3. The Application has been designated by the County as Case Number Z-07-06. The amendment of Proffer 4(c) is consistent both with the land use designation for the Property on the County Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County Zoning Ordinance, Section 24-1 *et seq.* of the County Code of Ordinances, in effect on the date hereof (the "Zoning Ordinance").

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the proffer amendment set forth above and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the County Zoning Ordinance and these Supplemental Proffers, Associates agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. Amendment. Proffer 4(c) is hereby amended and restated to read as follows:

"A minimum of two lanes approaching Ironbound Road and one lane departing Ironbound Road on Watford Lane in New Town Section 3; and"
2. Supplemental Proffers. These Supplemental Proffers amend the Sections 3 and 6 Proffers only as stated herein. No other amendment to the Sections 3 & 6 Proffers is intended or accomplished hereby. The Section 3 & 6 Proffers remain in full force and effect, subject to this amendment.

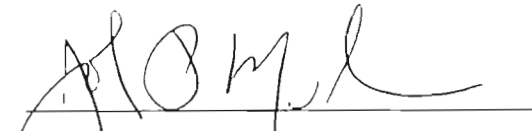
4. Recitals. The Recitals set forth above shall be included and read as a part of these Supplemental Proffers and are incorporated by reference.

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By:

Title:


EXECUTIVE DIRECTOR

STATE OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 21st day of DECEMBER, 2006 by JOHN P. McCANN, EXECUTIVE DIRECTOR of New Town Associates, LLC, a Virginia limited liability company, on its behalf.


NOTARY PUBLIC

My commission expires:

DOC'SWMB-#6130317

EXHIBIT A

All those certain pieces, parcels, or tracts of land owned by New Town Associates, LLC as of the date of recordation hereof and shown as "Section 3" and "Section 6" on that certain plan entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated April 26, 2004, prepared by AES Consulting Engineers, a copy of which is on file with the County Planning Director.

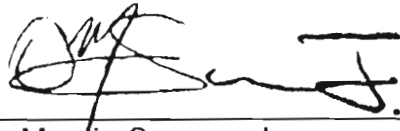
PLANNING DIRECTOR'S REPORT
January 2007

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

- Rural Lands Study. The Rural Lands Technical Committee made preparations for its public forum meeting scheduled for January 29, 2007 at 6:30 p.m. Legacy Hall in New Town is the tentative location. Citizens, land owners, and developers are encouraged to attend this meeting to hear about the draft narrative ordinance and to provide feedback to the committee. The committee will then consider all input prior to making final revisions.
- Commission Meeting Schedule. For 2007, the Commission decided to hold its monthly meeting on the first Wednesday of the month rather than the first Monday in order to provide additional time to review the meeting packet and ask staff questions.
- New Town. The New Town Design Review Board reviewed four projects. One was a resubmission of a previously reviewed project (Bonefish Grill), two were new projects (two retail buildings and ATM and information kiosk), and one was a sign application. They also discussed improving the appearance of the rear of the Main Street retail building with the buildings' architect and are anticipating a submission in January.
- Virginia Capital Trail. Staff continued to work with VDOT on right of way issues.
- Corridor Enhancement Program. Route 60 was chosen as a multi-jurisdictional project and Carlton Abbot has been hired as the consultant to design a master plan for phase two of the Jamestown Road project.
- Better Site Design. The Better Site Design Implementation Committee met once during the month of December. The Committee reviewed proposed brochures on Porous Pavement and on Buffer and Open Space Maintenance for Homeowners. The Committee also discussed Principle 10, Open Space Design, coming to a conclusion on one of the recommendations and agreeing to discuss another via e-mail. The next meeting will be January 24th, and the Committee will thereafter meet every six weeks (instead of every two weeks, as previously).
- Online Comment Database. The new online version of CaseTrak is scheduled to be operational for internal County users in early February. It is anticipated to be opened up to the public in mid to late February. Staff has set up training sessions at the end of January to learn how to use the new system and to run more advanced data queries and case reports.
- Parks & Recreation Master Plan Update. The public outreach component of the master plan was completed in late November and data is currently being compiled and analyzed. Staff from Planning and Parks and Recreation is in the process of reviewing proposals to hire a consultant to aid in the remainder of the update.
- Direct Discharge Septic Systems. Planning staff has been directed by the Board of Supervisors to research a request to amend the Zoning Ordinance to permit single-family residential direct-discharging septic systems.
- The Preserve at Uncle's Neck. Development Management and JCSA staff worked with a land owner of a parcel at 1805 Forge Road on a proposal for a very low density (9.9 acres per unit) subdivision. The proposed development,

which sets aside 55 percent of the developable land area as permanent open space, was granted a waiver from County central well requirements by the Board of Supervisors on November 28. Approval of the subdivision is pending.

- FY07 VDOT Revenue Sharing. Staff prepared an application seeking \$1 million from VDOT's competitive Revenue Sharing Program. If approved the funding will be used toward the Ironbound Road widening project and additional landscaping projects throughout the County.
- Planning Commission Annual Organization Meeting. Under the Bylaws, the annual meeting for the election of officers (Chair and Vice Chair) is to be held at the Commission's regular monthly meeting in February. The newly elected officers then preside over the February meeting.
- Board Action Results December 12.
 1. Case No. AFD-09-86-6. Gordon Creek Withdrawal (Adopted 4-1)
 2. Case No. SUP-29-06. WJCC 8th Elementary School Amendment (Adopted 5-0)
 3. Case No. Z-5-06 & MP-7-06. New Town Section 7 & 8 (Continued to next regular BOS meeting, anticipated to be January 9, 2007)
 4. Case No. SUP-28-06. VFW Post 8046 Meeting Facility (Adopted 5-0)



O. Marvin Sowers, Jr.