

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
JULY 11, 2007 - 7:00 pm.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
  - A. May 2, 2007 Regular Meeting
  - B. June 6, 2007 Regular Meeting
4. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC) Report
  - B. Other Committee/Commission Reports
5. PLANNING COMMISSION CONSIDERATION
  - A. Initiating Resolution – Zoning Ordinance Amendment  
Heavy Equipment Sales, Service & Limited Repair in M-2 Zoning District
6. PUBLIC HEARINGS
  - A. SUP-12-07 Verizon Co-location at Brick Bat Road
  - B. SUP-17-07 Wireless Tower – Longhill Road
  - C. SUP-19-07 King of Glory Lutheran Church
  - D. Z-10-06/MP-12-06/SUP-37-06 The Candle Factory
7. PLANNING DIRECTOR’S REPORT
8. ADJOURNMENT

## **AGENDA**

### **DEVELOPMENT REVIEW COMMITTEE**

July 5, 2007  
4:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Conference Room, Building A

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1. Roll Call

2. Minutes

A. May 30, 2007

3. Public Comment

4. Cases and DRC Discussion

A.	SP-47-07	Nicewood Building Expansion	Matt Smolnik
B.	SP-25-06	Prime Outlets Phase 7 (Deferral)	Kate Sipes
C.	C-87-07	Liberty Crossing MP Consistency	Kate Sipes
D.	C-47-07	Powhatan Plantation Phase 10	Kate Sipes
E.	SP-56-07	White Hall Club House	Ellen Cook
F.	C-86-07	Ironbound Sq. Redevelopment Project Phase 1	Jose Riberio

5. Public Comment

6. DRC Recommendations

7. Adjournment

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF MAY, TWO-THOUSAND AND SEVEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Billups  
Mary Jones  
Tony Obadal  
Jack Fraley  
Shereen Hughes  
Rich Krapf

Staff Present:

Marvin Sowers, Planning Director  
Adam Kinsman, Assistant County Attorney  
David German, Planner  
Jose Ribeiro, Planner  
Jason Purse, Planner  
William Cain, Environmental Engineer  
Christy Parrish, Administrative Services Coordinator

Absent:

Jim Kennedy

2. PUBLIC COMMENT

Ms. Jones opened the public comment period.

Hearing no requests the public comment period was closed.

3. MINUTES

A. March 7, 2007 Regular Meeting

Mr. Fraley motioned to approve the minutes.

Mr. Krapf seconded the motion.

In a unanimous voice vote the minutes of the April 4, 2007 regular meeting were approved (6-0). (Kennedy Absent)

4. Development Review Committee (DRC) Report

Ms. Jones presented the report stating that the DRC met on April 25, 2007. She stated that SP-124-06 Weatherly at White Hall was deferred to verify reference points and for environmental review. Ms. Jones said a special meeting will be held on May 16 at 8:30

a.m. in the Conference of Building A in the government complex to hear the case. Ms. Jones also stated that C-31-07 was preliminarily approved pending agency comments.

Mr. Fraley motioned to approve the report.

Mr. Hughes seconded the motion.

In a unanimous voice vote, the DRC report was approved.

5. PUBLIC HEARINGS

A. SUP-12-07 Verizon Co-location at Brick Bat Road

Ms. Jones stated that the applicant has requested deferral until the June Planning Commission meeting.

Mr. Sowers stated that staff concurred with the request.

Ms. Jones opened the public hearing.

Hearing no request the public hearing was continued to the June 6 meeting.

B. SUP-1-07 Stat Restoration Services

Mr. Jason Purse presented that staff report stating that Mr. Mark Kaisand, on behalf of Powhatan Springs LLC, has applied for a Special Use Permit (SUP) to allow for business, governmental, and professional offices, on approximately 2.13 acres of land, on a parcel zoned R-8, Rural Residential. The property is located at 133 Powhatan Springs Road. The property can further be identified as Parcel No. (1-9) on the JCC Tax Map No. (46-2). The site is shown on the 2003 Comprehensive Plan Land Use Map as Low Density Residential. Recommended uses for Low Density Residential land include very limited commercial establishments, churches, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Staff recommended approval.

Mr. Obadal asked why Mr. Purse stated that this case does not represent a precedent. He stated that each SUP is unique and therefore constitutes a precedent.

Mr. Purse stated that he was referring to the inconsistency between the Comprehensive Plan and Land Use.

Mr. Obadal asked if Staff could determine if the underground gas tanks had leaked and if so if it has been cleaned up.

Mr. Purse stated that Staff was not aware of a leak and deferred that question to the applicant.



Ms. Hughes asked at what point during the approval of the previous SUP was the Five Forks Study approved.

Mr. Purse said it was approved in 2005 after the last SUP was approved by the Board of Supervisors.

Mr. Sowers agreed.

Ms. Hughes asked if there is any other way to require the applicant to clean up to site.

Mr. Purse stated that outdoor storage is a permitted use and that most of the items currently being stored on the site could remain if the SUP is not approved. He stated that the proposed fencing and enhanced landscaping would not be required.

Mr. Obadal asked how and what period of time did the site become non-conforming.

Mr. Purse said he could research the answer.

Mr. Obadal stated that the fact that it has been non-conforming for a long period of time does not mean the use is non-conforming.

Mr. Purse stated his belief that when the zoning ordinance changed the use was in existence on the site.

Mr. Sowers said Staff could research the specifics of this site. He stated that generally a change in the Zoning Ordinance changes use requirements so that something previously permitted under the use category changes and it reverts to a use that is no longer permitted. Mr. Sowers added that the current use may predate the Zoning Ordinance which was adopted in 1969 and stated that the applicant may have more information.

Mr. Obadal asked when the prohibition against outdoor storage came into effect.

Mr. Sowers stated that the ability to store things inside or outside is part of the Zoning Ordinance and that he suspects it became non-conforming with adoption of the Zoning Ordinance or a change in the use category that occurred with a Zoning Ordinance amendment.

Mr. Obadal asked if it includes specifically this prohibition to the use of land. He stated that the non-conformity may not apply to the Ordinance for the Zoning District.

Mr. Sowers stated that a use could be non-conforming due to the use itself or due to characteristics of that use such as outside storage or setbacks.

Mr. Billups stated his concern with Staff's recommendation for approval despite the number of inconsistencies indicted in the staff report. He asked if there are overriding circumstances leading to the recommendation.

Mr. Purse stated that the non-conforming use has resulted in negative conditions on the site. He stated the proposal will make the site more visually attractive for neighbors.

Mr. Billups asked if there are other benefits in addition to the visual aesthetics. He said the non-conforming use prohibits the proposed new buildings.

Mr. Purse stated that the non-conforming use pertains to the outdoor storage. He stated that other benefits include the removal of the underground fuel tanks.

Mr. Billups asked if that is significant to override the Ordinance.

Mr. Purse stated this will bring the site into conformance. He stated the applicant desires to locate his business on the site.

Mr. Obadal stated that there are previous conditions on the site.

Mr. Purse explained that current proposed conditions are the same as those that were attached to previously approved SUPs and have expired.

Mr. Obadal asked if this applicant was the parent company for whom they were approved.

Mr. Purse confirmed.

Mr. Obadal asked why they were not enforced.

Mr. Purse explained that the site plan was not approved prior to expiration of the SUP.

Mr. Obadal said that was two years ago and in the meantime the situation has gotten worse.

Mr. Purse said the site plan was not approved that would have allowed the construction for the buildings because the applicant was waiting for approval of the drainage easements for the regional storm water management facility.

Mr. Obadal stated his concern that if the situation is bad enough long enough you can be cleansed of the whole thing by the granting of the SUP.

Ms. Jones said she understood Mr. Obadal's concerns and suggested that the applicant might be able to address some of them.

Ms. Jones asked Mr. Purse for more detail on the issue of storm water management.

Mr. Purse explained that after the SUP was approved and the site plan turned in it was determined that the applicant needed an adequate off-site receiving channel for the storm water. He stated that the rezoning for the Villas at Five Forks required the granting of the necessary easements. Mr. Purse said the development plans for that project had to be approved first so that the easement could be recorded. He added that the site plan received preliminary approval by the DRC in 2005 but could not be granted final approval which would have allowed construction of the building, landscaping, and fencing.

Ms. Hughes stated her concerns about the amount of impervious surface cover and lack of LID (Low Impact Design) and Better Site Design features all of which are recommended in the Five Forks Area Study.

Mr. Woolson stated that the plan was approved prior to the establishment of the Five Forks Study Guidelines and the Better Site Design Principles. He stated that Staff did not believe it to be fair to require those items when the delay in obtaining drainage easement acquisitions was not the fault of the applicant. Mr. Woolson stated that with regard to impervious surface cover the Villas at Five Forks drainage study accounted for approximately 60% of this sites drainage and incorporated it into the design of that basin. He stated that no opportunity for LID infiltration exists due to soil conditions.

Ms. Jones opened the public hearing.

Mr. Mark Kaisand stated that he purchased the property and business five years ago after the original SUP had been approved. He said has spent approximately \$ 40,000 removing the underground gas tanks, which had not leaked, and cleaning the site. Mr. Kaisand stated that the property was in worse condition when he purchased it and that he has met with neighbors who approve of the plan. He stated that the delay was due to staff not wanting two storm water basins in the same area and requiring a regional storm water basin. Mr. Kaisand stated that by the time this was done his SUP has expired. He also added that in addition to additional filing fees he has had to rent space for his business in York County. Mr. Kaisand also stated that the site is being used for trailer storage and container storage that will be used for the business.

Hearing no other requests the public hearing was closed.

Mr. Krapf noted the lengthy history of the project and the applicant's frustration with the SUP expiring. He stated that the proposed conditions will significantly enhance property and neighborhood. Mr. Krapf stated that due to neighborhood support and bringing the site into conformance he is inclined to recommend approval.

Mr. Billups stated that the Ordinance does not allow extension of a non-conforming use and noted the building being erected on the site.

Mr. Purse stated that the non-conformity relates to the outdoor storage and that the amount of outdoor storage is not increasing.

Mr. Obadal said that is the only thing they are using the site for and asked if they can use the site for their business.

Mr. Purse said they can use the site for their business, outdoor storage and other uses permitted in the R-8 Zoning District.

Mr. Obadal asked if that is as of now.

Mr. Purse said yes.

Mr. Sowers stated the non-conformity relates specifically to the outdoor storage. He stated that that aspect can continue regardless of the approval of the SUP. S

Mr. Billups stated that the issue is inconsistency with the Comprehensive Plan. He stated his concern that he cannot find anything of substance in the staff report to support the recommendation for approval.

Hearing a request Ms. Jones reopened the public hearing.

Mr. Kaisand stated that the original use over the past forty years has been outdoor storage of heavy equipment. He stated that there are other businesses on the street that are non-also conforming. Mr. Kaisand stated that the intent is to continue the current amount of outside storage currently being used for his business. He stated that a warehouse will be added and all but one other building has been demolished.

Mr. Obadal stated that the applicant has owned the property since 2002 and asked if he has been working with the County to clean the site.

Mr. Kaisand said there are no regulations requiring the clean up. He said he is doing so on his own initiative.

Hearing no other requests the public hearing was closed.

Mr. Fraley stated that the previous application was approved and that the applicant has endured substantial delay and expense in order to address needed rework which was noted during DRC review. He noted the neighborhood support and said he will approve the proposal.

Mr. Obadal stated his support stating that the applicant has given a good faith effort to improve the site. He stated that although he shared Mr. Billups' concerns he felt the proposal was overall the best benefit to the County.

Mr. Billups stated his concerns with the presentation. He stated that an impartial review of the staff report would hold the applicant hostage to something he is not responsible for. Mr. Billups stated that he would like more concrete information as opposed to value judgments to support approval of a case with so many Comprehensive Plan inconsistencies. He stated his support.

Ms. Jones stated that this was a difficult situation. She stated that the proposal was previously approved but was held up for environmental improvements. She stated her support.

Ms. Hughes indicated her agreement with the other Commissioners.

Mr. Fraley motioned to recommend approval of the application.

Mr. Krapf seconded the motion.

In a unanimous roll call vote the application was approved (6-0). AYE: Obadal, Fraley, Hughes, Billups, Krapf, Jones (6); NAY: (0). (Kennedy absent)

C. SUP-13-07 Denley Brown Contractor's Warehouse

Mr. Jason Purse presented the staff report stating that Mr. Tim Trant of Kaufman and Canoles, on behalf of Denley Brown, has applied for a Special Use Permit to allow for a contractors office and warehouse, on approximately 8.074 acres of land, on a parcel zoned A-1, General Agricultural. The property is located at 272 Peach Street. The property can further be identified as JCC Tax Map No. 2410100015a. The site is shown on the 2003 Comprehensive Plan Land Use Map as Rural Lands. Recommended uses on property designated for Rural Lands are 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. Staff recommended approval of the application and attached conditions.

Mr. Obadal asked if the intent is to allow flexibility to an Ordinance so that any inequalities that are seen in practice can be corrected.

Mr. Purse said yes.

Mr. Obadal stated that the mitigation called for under the Comprehensive Plan has to be a full mitigation from whatever the applicant seeks to mitigate from.

Mr. Purse agreed.

Ms. Jones opened the public hearing.

Mr. Tim Trant with Kaufman and Canoles represented the applicant giving an overview of the proposal. He stated that Mr. Brown had applied for a building permit for the warehouse and was not aware of the need to apply for a special use permit until denial of his business license and home occupation applications. Mr. Trant stated that the warehouse will be used to store items associated with his business such as concrete blankets, forms, and equipment. He also stated that the 15 employees take the 6 pick-ups home with them and will visit the site infrequently and that no business will be conducted from the home other than storage and an administrative office. Mr. Trant stated that Mr. Brown has been responsible for maintenance of the shared road access with financial contributions from neighbors whom he has met with concerning his proposal.

Mr. Fraley asked if the traffic would increase with approval of the application.

Mr. Trant stated that the applicant is adamant that if the business is expanded he would move the business to another site. He stated that the warehouse will accommodate only a limited amount of storage.

Mr. Obadal stated his concerns about maintenance of the road and the possibility of manufacturing taking place on the property.

Mr. Trant stated that private restrictions require proportional shared maintenance of the driveway with an all-weather surface. He also stated that it is his belief that

manufacturing is not a permitted use in the A-1 Zoning District and that approval of the SUP limits the uses on the property.

Mr. Obadal stated that manufacturing and power equipment can be used on the site without restrictions.

Mr. Trant stated that while there are no restrictions on power equipment in practice there is no concrete manufacturing on the site

Ms. Jones asked Mr. Purse to address Mr. Obadal's concern regarding manufacturing.

Mr. Purse stated that the SUP request is for a contractor's office and warehouse; manufacturing would not be a permitted use on the site.

Mr. Sowers stated that regarding the road maintenance the Subdivision Ordinance requires the road to be maintained in an all-weather fashion meaning that at the very least it must be graveled.

Ms. Hughes stated that when loaded with equipment the applicant's vehicles will be heavier resulting in more wear and tear than other residents.

Mr. Trant said that the conditions that currently exist require Mr. Brown to contribute proportionally to the maintenance of the road; therefore if his use is greater his share will be larger. Mr. Trant stated that this is the current practice.

Ms. Carolyn Amos, 220 and 250 Peach Street, stated that she has no concerns with the application. She stated that there is little traffic and that the applicant maintains the road.

Ms. Sherry Matheney, 276 Peach Street, stated that she has no concerns with the business. She stated that rarely is there is any traffic or equipment in relation to the operation. Ms. Matheney also said that on the last two occasions the applicant has purchased the material for the road and her family helped lay it.

Ms. Laura Kirkpatrick stated that her family contributes to the maintenance of the road and she has no concerns with the application. She also stated that she has had no problems with the employees and that the warehouse is well screened.

Mr. James Howard, 8603 Richmond Road, stated that he owns 15 acres in the area and pays the property taxes for the road because it is part of his property. He stated that he is concerned about the future impacts of the proposal.

Ms. Nancy Howard added that she and Mr. Howard will be building a home on their property and are concerned about property values due to the influx of heavier traffic. She also stated that neighbors' complaints that they do not contribute to road maintenance is misleading because she and Mr. Howard pay the taxes for the land containing road.

Ms. Jones asked Mr. Purse to address the easement issue.

Mr. Purse stated that the access easement is a private agreement between the owners and no documents were found limiting access trips or types of uses.

Mr. Obadal asked if the agreement was in existence when the Howards' purchased their property.

Mrs. Howard said they purchased their property in August 1999 and that they had attempted to have restrictions added.

Mr. Obadal asked the purpose of the easement.

Mr. Purse said it is to allow access to the parcels.

Ms. Jones asked Mr. Trant to address the issue.

Mr. Trant stated that the easement was created as part of a family subdivision in 1987.

Mr. Obadal asked for confirmation that the Howards purchased their property after that date.

Mr. Trant said that was correct. He stated that the applicant notified the Howards at their address of record about the neighborhood meeting and had not heard from them before tonight.

Mr. Obadal asked the definition of access under the law.

Mr. Trant stated that it is for ingress and egress.

Mr. Obadal asked if there is any inherent limitation.

Mr. Trant said no.

Mr. Obadal asked if the applicant could run a fleet of trucks from the parcel on the access easement.

Mr. Trant stated that ingress and egress to and from the parcel is unrestricted.

Mr. Billups said the owner has a right to have customers visit his business.

Mr. Trant said the applicant's home occupation license does not allow retail customers to visit the site.

Mr. Billups questioned the restriction.

Mr. Trant said it would be a zoning violation. He stated that the SUP allows for a storage facility only.

Mr. Billups asked if the commercial aspect has any bearing on the ingress and egress issue.

Mr. Trant stated that the ingress and egress limitations are private land use agreements between the owners' of the benefited parcels with no restrictions in the chain of title on ingress and egress to the various properties.

Mr. Billups stated that there have been class action cases involving private establishments on private property concerning the right to enter the property to conduct business.

Ms. Jones asked Mr. Kinsman about the legal impact of the easement on the application.

Mr. Kinsman stated that Staff looked at the documents and concluded that the easement was a private land use matter with respect to who can use the road, who owns it, and the types of use. He stated that the Commission may consider the adequacy of the road and can place conditions limiting of the amount of traffic if they desire.

Mr. Obadal asked if research had been done to determine if ingress and egress could be limited to the owners of the parcels to the exclusion of their agents.

Mr. Kinsman stated that the documents show the easement on the plat as a private matter so that no research was done to determine whether it is limiting in any fashion. He stated that the applicant has stated his belief that they can use it and that other homeowners' can engage a private suit to protect their interests if they believe the applicant to be overstepping his ability.

Mr. Obadal stated that the Commission can limit the number of trips. He also said the applicant can be questioned about his expectations to see an agreement reached with the owners of road.

Mr. Kinsman stated the Commission can consider the impact of the use on neighbors and can draft a condition limiting the amount of traffic to an amount they find acceptable.

Mr. Sowers said the current conditions attached to the proposal indirectly limit traffic by limiting the business in terms of the size of the building, and the amount of storage and parking. He added that the Commission can add other more direct conditions.

Mr. Obadal said he is still concerned about the number of trips.

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

Mr. Fraley said the applicant has stated that he does not anticipate more than ten additional vehicle trips per day as part of the business. He suggested that that figure can be used as a basis for an additional condition.

Ms. Jones said she is comfortable with the current conditions and amount of oversight.

Ms. Hughes stated her concern about access from a private road. She stated that according to the Comprehensive Plan businesses should be located, if in a rural area, on a public road. Ms. Hughes said she is not comfortable approving a proposal that impacts



parties that do not approve where that party would be responsible to mitigate the situation and assume legal fees. She stated her support for limiting the number of vehicles if the parties could agree.

Mr. Obadal asked if the applicant could request an increase in the numbers trips if his business expands and the Commission has set a limit on the number of trips.

Mr. Kinsman said he could apply for an amendment to the SUP.

Mr. Fraley said the applicant has stated that this is his home and that he would move the business elsewhere if it expanded.

Mr. Obadal asked if the applicant would be amenable to such a condition.

Ms. Jones re-opened the public hearing.

Mr. Trant stated that the applicant committed to a number of trips generated but had not perceived a condition limiting the number. He requested a recommendation for approval with an indication for the applicant to work with staff to develop the number of trips before the application is considered by the Board of Supervisors.

Mr. Fraley asked if the applicant is amenable to working with the other property owners.

Mr. Trant answered yes.

Ms. Hughes stated her approval as long as all parties could agree.

Ms Jones asked Mr. Sowers the procedure for adding the recommendation.

Mr. Sowers clarified that the Commission would be adding a recommendation as opposed to a condition so that staff could craft an SUP condition at a later time.

Mr. Obadal stated his agreement.

Mr. Fraley asked for the Commissioners' agreement to request the applicant work with staff and property owners to craft a more direct SUP condition.

The Commissioners stated their agreement. Ms. Hughes stated her concerns should the parties not come to an agreement.

Mr. Fraley motioned to approve the application with the appropriate recommendation. He also confirmed with Mr. Sowers that if there is no agreement between parties and no condition is added then the final decisions rests with the Board of Supervisors who have heard the Commission's recommendations.

Mr. Kinsman confirmed that the Commission would be recommending approval of the SUP and attached conditions and with a separate recommendation that the applicant work with the other owners and staff to draft a more direct condition. He added that if there is no agreement between the parties and therefore no condition then the Planning Commissions

would still be recommending approval by the Board of Supervisors of the SUP and currently attached conditions.

Ms. Hughes expressed her desire that the wording of the recommendations be included in the packet that the Board receives so that they are aware of the concerns.

Mr. Krapf seconded the motion.

Mr. Billups asked if the owners would be seeking agreement on all of the conditions currently attached or only the traffic issue.

Ms. Jones stated that the recommendation is only an amenable traffic level.

Mr. Obadal stated that the principals who must agree are the ones whose property the road runs through.

Ms. Jones said that would be passed on with the recommendation to the Board of Supervisors.

The Commissions discussed who would need to agree.

Mr. Sowers stated that if the parties are unable to reach an agreement then the recommended condition is no longer applicable.

In a unanimous roll call vote the Planning Commission recommended approval of the application and attached conditions with a recommendation concerning traffic (6-0). AYE: Obadal, Fraley, Hughes, Billups, Krapf, Jones (6); NAY: (0). (Kennedy absent)

Ms. Jones requested a 5 minute break.

D. Z-10-06/MP-12-06/SUP-37-06 The Candle Factory

Mr. Jose Ribeiro presented the staff report stating that Mr. Vernon M. Geddy, III has applied rezone approximately 64.45 acres of land from A-1, General Agricultural District and M-1, Limited Business/Industrial District, to MU, Mixed Use zoning district, with proffers. The development proposed with this rezoning application will allow the construction of up to 219 residential units and up to 18,900 square feet of commercial uses. The properties are located at 7551, and 7567, Richmond Road and can be further identified as Parcel Nos. (11-1D), and (11-1E), on JCC RE Tax Map No. (23-2). Mr. Ribeiro also stated that the applicant requests a special use permit to allow the construction of two mixed use, commercial buildings totaling 45,000 square feet on property located at 7521 Richmond Road and further identified as Parcel No. (11-1C) on JCC Tax Map RE No. (23-2). The properties are designated Low Density Residential, Mixed Use and Limited Industry on the Comprehensive Plan Land Use Map. Low Density Residential areas are suitable for development with gross densities of one to four dwelling units per acre. Mixed Use areas are centers within the Primary Service Area (PSA) where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Limited Industry

areas are centers within the PSA for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding areas. Staff recommended denial of the application.

Mr. Sowers stated that the County's traffic consultant from Kimley-Horn and Associates is present.

Mr. Fraley commended Mr. Ribeiro for his work on the staff report. He stated that the area designated mixed use where Staff indicates a concern with density is at the lower end of the density recommendations. Mr. Fraley stated his concern that the residential component should be secondary and that is not the case with this proposal. He also added that regarding the limited industry portion of the site the Economic Development Authority (EDA) has determined that the area is probably not useful given its physical features and surrounding land uses.

Mr. Obadal stated his concern that the Commission is being asked to address an application that is based upon a proposed amendment to the Mixed Use Ordinance. He asked Mr. Kinsman's opinion about a decision based upon a proposed Ordinance.

Mr. Fraley explained that the Planning Commission has forwarded a recommendation for an Ordinance Amendment to the Board of Supervisors that the Board will hear at their next meeting.

Mr. Kinsman stated that if the Board of Supervisors did not approve the amendment and this application was approved then any affected items would have to be changed.

Mr. Obadal suggested deferring the case until the next Planning Commission meeting.

Mr. Kinsman deferred to Staff as to what changes would have to be made pursuant to those proposed amendments to the Mixed Use Ordinance not being approved.

Mr. Obadal said one change is that setbacks would be required. He said the case should be deferred until the next meeting by which time the Board of Supervisors will have acted on the Ordinance Amendment.

Ms. Jones said the applicant has requested setback reductions. She stated that should the Ordinance Amendment not be approved there are still ways that the existing Ordinance can be applied to this case.

Mr. Kinsman conferred with the applicant and stated that if the case is approved by both Planning Commission and the Board of Supervisors and the proposed amendment is not then it is incumbent on the applicant to comply with the Ordinance as it stands. Mr. Kinsman also indicated that further clarity will be gained when the applicant addresses the Commission.

Ms. Jones opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant giving an overview of the proposal. Mr. Geddy stated the applicant's belief that the light industrial designation was added to the parcel pursuant to an expectation that there would be a connector route road between Route 60 and Centerville Road. He stated that that designation failed to be removed when the road was deleted from the Comprehensive Plan. Mr. Geddy also compared that proposal to other mixed use projects with respect to the ratio of residential to business uses. He stated the public benefits of the proposal include affordable and mixed costing housing, unusual environmental protections, and open space design. Mr. Geddy requested deferral until the next Planning Commission meeting in order to address outstanding issues.

Ms. Jones stated her concern about commenting on cases when the applicant is requesting a deferral.

Mr. Obadal commended the applicant on the presentation and stated his support for the deferral request. He also stated his concerns relative to environmental and density issues. He asked Mr. Cain to comment on the run-off from the western side of the property.

Mr. William Cain confirmed that Mr. Obadal was referring to the southeastern edge of the site. He stated that staff would have to address that at the development plan stage.

Mr. Obadal said the applicant would have to reduce number of single family houses if a swell were installed.

Mr. Cain said it may be possible to install a swell and maintain the number of houses. He said whether or not that can be accomplished would have to be evaluated when the site plan is submitted.

Mr. Obadal asked if the master plan is binding.

Mr. Cain stated that the master plan would have to comply with the County's 10-point system and feasibility of the BMP (Best Management Pond) locations. He stated that additional components such as adequacies of channels and discharge locations and the area of concern Mr. Obadal pointed to would be reviewed with the site plan.

Mr. Geddy added that the storm water plan is conceptual at the rezoning stage. He stated that they have included a proffer requiring approval of a detailed plan by the Environmental Division before the site plan can be submitted.

Mr. Obadal stated that if the Mixed Use Ordinance is amended by the Board of Supervisors the applicant can increase the number of townhouses and reduce the number of single families and still maintain the same density.

Mr. Geddy said that was not correct. He stated that there are specific land uses for each of the areas.

Mr. Fraley pointed out that the site plan would have to be approved by the DRC.

Ms. Jones added that the DRC would evaluate the site plan against the master plan.

Mr. Obadal said DRC approval would not be required if the Board approves the Ordinance amendment.

Mr. Fraley stated that changing the location of the houses would be approved by the DRC and setback concerns would be approved by the Board.

Mr. Sowers agreed with Mr. Fraley that the location of the housing is very specific and that they cannot be commingled under this current master plan.

Mr. Obadal confirmed that they will have an opportunity to discuss their concerns further at the next meeting.

Ms. Jones said yes and asked members to forward comments in the interim to the appropriate parties.

Mr. Fraley stated the role of the EDA and asked the applicant about the lack of proffers for a soft second mortgage. He asked the applicant to consider including such a provision.

Mr. Geddy said the applicant will consider and explained their reluctance to do so since they are already proffering affordability. He said the program no longer allows the developer a charitable deduction and represents a straight lose.

Mr. Fraley suggested enhancing the proffers to include specific sustainable building standards.

Ms. Hughes asked if the 19.35 acres of developable area includes the RPA (Resource Protection Area) buffers.

Mr. James Peters explained how the non-developable area was calculated.

Ms. Hughes expressed her concern with claiming an open space design concept when the area in question must be preserved by law. She stated that the applicant should

not get credit for that. She stated that she is pleased with the LID (Low Impact Design) features and the 25 foot setback from the RPA buffer. Ms. Hughes also asked the amount of impermeable surface.

Mr. Geddy said 31%.

Mr. Fraley asked with respect to the low density residential areas if any lot lines are on steep slopes.

Mr. Geddy said no. He stated that any steep slopes contiguous to an RPA have been avoided and that one or two lots were lost due to that.

Ms. Linda Rice, 2394 Forge Road, represented Friends of Forge Road in Toano and referred to a letter submitted to the Commission stating the group's concerns about rezoning without substantial public benefit, inadequate proffers, overall fiscal impacts of approved development in the area that is yet to be built, environmental impacts, lack of connectivity, and lack of specificity about green building techniques. Ms. Rice also stated that the case information was not available for public review until Monday giving little time to prepare for the meeting.

Mr. Wayne Nunn, 238 Loch Haven, stated that this is one of better plans he has ever seen. He stated that the Limited Industrial Comprehensive Plan Designation on this parcel was created in 1990 and was dependent on a Route 60 Bypass that was never installed and therefore should not dictate how the property is developed today. Mr. Nunn also stated that a farming operation in A-1 is not feasible because one cannot make a living farming in James City County.

Mr. Gerald Johnson, 4513 Wimbledon Way, represented James City County Concerned Citizens and asked if any on-site investigation was conducted. He stated that environmental studies occur after the proposal is approved and spoke about the environmental issues such as inadequacy of proffers, increase in pervious area, and adequacies of the BMPs. Mr. Johnson supported the request for deferral.

Mr. Timothy Johnston, 610 Colonial Trail, stated his positive experience with the applicant. He expressed his concerns with the Limited Industrial designation of the parcel stating that as an adjacent owner he would not like to see that use for the property. Mr. Johnston stated that the Comprehensive Plan is only a guideline.

Mr. John Wilson, 6304 Glen Wilton Lane, stated that he is a commercial and residential real estate broker whose office is located in this same corridor. He stated that the Limited Industry designation predates the current growth of the area.

Mr. Jeff Barrow, stated that he will be doing some of the architectural work on the project. He stated that his office is located in area. Mr. Barrow said he has been involved with recent Comprehensive Plan updated and thought that the industrial

designation had been the result of the previous owner's vision that did not take. He also stated that during the two community meetings a lot of interest was expressed in the project as presented and not in industrial use.

Mr. John Speegle, 206 Chair Rail Court, stated that he attended the community meetings and was impressed with the proposal and response from citizens. He also stated his positive experiences with the applicant.

Ms. Kay Kelly, 302 Farmville Lane, stated her support of the proposal. She stated that all of the feedback from the communities was positive.

Ms. Jones notified Commissioners that the County's traffic consultant may not be available at the next meeting and advised addressing any specific traffic concerns tonight if possible.

Mr. Sowers added that any traffic concerns could be forwarded to the consultant after the meeting if necessary.

Hearing no other requests to speak the public hearing was continued to the June 6, 2007 meeting.

Ms. Jones stated her support for the phasing of the project, environmental features and the affordability. She stated concerns relative to traffic, significant inconsistencies with the Comprehensive Plan, and significant impacts on schools. Ms. Jones also suggested that a soft second mortgage be proffered and that the Community Character Corridor Buffer be returned the 50 feet.

Mr. Krapf stated his concerns with the plan's inconsistency with the Comprehensive Plan. He stated that a previously mentioned case, Charlie's Antiques, was different in that it offered unusual public benefit. He also stated that 189 of 219 units will still be at market price and that in mixed use areas the Comprehensive Plan calls for residential uses to be secondary in nature. Mr. Krapf agreed with Ms. Hughes that much open space is developed and also recommended a cap on the maximum number of residential units to be constructed in any one year as well as a baseline study of the Yarmouth Creek erosion.

Ms. Hughes expressed concerns that the number of residential units proposed is excessive, that she would like to see more open space if the applicant is claiming an open space design, that the project will increase traffic by 6,000 car trips a day, the lack of connectivity, and the need for more LID measures in light of the 31% impervious surface cover. Ms. Hughes also agreed that the proffer for stream restoration is inadequate.

Mr. Billups stated his concerns with amending the Zoning Ordinance, the proposed density, and lack of public benefit. He asked for a study of the average income of County employees relative to the cost of housing. Mr. Billups also stated his concern

with ignoring the Comprehensive Plan stating that a lot of peoples' time and energy goes into each update of the plan.

Mr. Obadal said his concerns are high density, impacts to the character of the area, lack of public benefit, and environmental issues. He said he also agrees with Ms. Hughes', Mr. Krapf's, and Mr. Billups' statements.

Mr. Fraley reminded the audience that the environmental plans will be addressed again by the DRC. He stated his pleasure with the affordable housing component, LID features, developmental phasing and his support for rezoning from limited industry. Mr. Fraley recommended the applicant meet with citizens groups on environmental issues, offer a soft second mortgage or some other solution to avoid flipping, increased connectivity, restoration of the community character buffer, traffic mitigation, decreased number of units, more creativity in the design and proffers for stream restoration.

Ms Hughes motioned to defer the application to June 6, 2007.

Mr. Krapf seconded the motion.

In a unanimous voice vote the application was deferred (6-0). (Kennedy absent)

E. Z-2-07/MP-3-07 Chestnut Grove

Mr. David German presented the staff report stating that Mr. Joel Almquist has applied to rezone a 9.018-acre parcel from a split-zoning of R-8, Rural Residential and LB, Limited Business, to R-5, Multi-Family Residential, with proffers, to allow for the construction of forty townhouse units. The property is located at 104 Wisteria Garden Drive, and is further identified on the JCC Tax Map as Parcel # 5910100024. The property is designated Moderate Density Residential on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Moderate Density Residential include residential developments with a gross density of four to twelve dwelling units per acre, and that offer particular public benefits to the community, such as mixed-cost housing, affordable housing, or unusual environmental protection. Staff recommended approval of the application and attached conditions.

Mr. Fraley confirmed with Mr. German that his comments had been forwarded to the applicant and then stated his concern that proffered LID (Low Density Impact) features are not specified on the storm water plan.

Mr. Cain stated that the LID features will have to comply with County systems regarding those areas designated for LID and will be evaluated during site plan review.

Mr. Fraley stated that the Commission does not have the opportunity to consider the layout and design to determine if it represents the most productive use of the site.

Mr. Cain stated that the Environmental Division would work with the applicant through the development of the plan.



Ms. Hughes asked Mr. Cain's opinion of the location of the proposed open space.

Mr. Cain stated that the soils, native vegetation, and proximity to buffers would have to be considered. He stated that with the density of the proposal preservation in the middle of the project is probably not possible.

Ms. Hughes stated her opinion that the most valuable open space location from an environmental and open space perspective is the area adjacent to the RPA (Resource Protection Area) buffer due to the mature forest and overlying A-B soils.

Ms. Hughes asked if the applicant would meet recreation area requirements if they increased the proposed Community Character Corridor Buffer to 100 feet in front of the property.

Mr. German said they might.

Mr. Fraley asked what the requirement is and the location of the recreation facilities.

Mr. German stated that the applicant is proposing 2 ½ to 3 times more than required.

Mr. Fraley stated that only ¾ of an acre is being proposed for recreation facilities so that allowing 100 feet for the buffer would bring them below the requirement.

Mr. Sowers suggested asking the applicant about the feasibility of increasing the proposed buffer.

Ms. Jones opened the public hearing.

Mr. Vernon M. Geddy, III of Geddy, Harris, Franck and Hickman introduced the applicants.

Mr. Joel Almquist presented the proposal stating that 40 % of the project is proffered to be affordable. He highlighted the proposed recreation facilities and stated that the affordable units will be mixed together with market-priced units in the development, and that all pricing is well below the JCC average. Mr. Almquist also stated that the location of the BMP is due to the depth of the area, allowing run-off from the site without interfering with the RPA buffer, and that the requested Community Character Corridor Buffer reduction to 50 feet is consistent with the surrounding area. Mr. Almquist explained the Health-E Homes Design aspects of the proposal.

Mr. Michael Ware stated that their sales prices target 60%-80% of average mean income in James City County. Mr. Ware noted that the different affordable options for buyers depended on their particular situations, and explained how forgivable second

deeds of trusts benefit the buyer and help to avoid resale-for-profit scenarios.

Mr. Fraley stated that the LID proffer is not specific enough.

Mr. Almquist showed the location of the LID features on a map and stated that approval by the Environmental Division will be required.

Mr. Fraley asked about the LID proffer regarding saving existing trees whenever possible.

Mr. Sowers deferred the question to Environmental since it concerns an LID feature.

Mr. Fraley said he did not consider it an LID feature.

Mr. Almquist stated their agreement to add stronger language within the proffers concerning LID.

Mr. Fraley stated his concerns that the project has negative fiscal impacts. He stated his appreciation of the affordability and building techniques.

Mr. Ware stated that they suffered a \$1,000,000 reduction in profit revenue on their previous project (referring to Pocahontas Square), and that they expect a \$400,000 reduction in profit revenue on this project due to the second mortgages offered. He also pointed out that 40% of the project will be affordable.

Mr. Fraley said the affordable units represent 20% of the project under the County's definition, and questioned why the per-unit proffer contributions were lower on this project than on the Pocahontas Square project.

Mr. Jay Epstein explained the definition of affordability. He stated that increased proffer contributions would reduce the number of affordable units.

Ms. Jones stated that the applicant is requesting rezoning from LB Limited Business which has greater potential to produce a positive fiscal impact for a project that is negative fiscally. She stated her support for expanding the Corridor Buffer and detailed what the County was being asked to contribute to the project in exchange for eight affordable units.

Mr. Epstein disagreed with the number of affordable units, stating that the correct number of affordable units is sixteen.

Ms. Jones asked if any of the units in Pocahontas Square have been resold.

Mr. Epstein said no. He stated that prices do not typically increase until the developer has completed the project.

Mr. Obadal stated that the Community must recognize the need to compromise in order to achieve affordable housing. He stated that it is an attractive proposal and that he is comfortable with the reduced buffer. He asked the applicant's profit margin.

Mr. Epstein said it is not easy to determine until the project is complete due to land and environmental costs.

Ms. Hughes asked if the applicant can meet recreational requirements without reducing the buffer. She said the property is across the street from Carter's Grove, a historical property, and that building an urban setting adjacent to it is not desirable.

Mr. Epstein said it would hurt in terms of the recreation required.

Ms. Hughes asked if the buffer area could be increased and used for recreation. She stated her concern that preserving trees is an LID features and that she would like the trees preserved near the RPA buffer.

Mr. Epstein stated that reduced building area by 20 feet means reducing the number of affordable units by one.

Mr. Krapf asked Mr. German about his statement that the County has been consistently favorable to reducing the Corridor Buffer along Route 60.

Mr. German noted some parcels in the area with zero or reduced Corridor Buffers. He also stated that concerning the landscape proffer the County's landscape planner would go out with the developer prior to submission of the site plan to establish which existing trees and vegetation would be preserved.

Mr. Almquist stated that a 150 foot buffer reduces the number of units by 5 units which means one entire eight-unit would be lost.

Ms. Barbara Pheiffer, 103 Links of Leith, stated her concern about the reduced buffer. She stated her desire for this project to be better than surrounding uses. Ms. Pheiffer stated her support for increasing the buffer area and incorporating the recreational area. She also questioned the types of plantings to be used in the buffer.

Mr. Epstein asked if the 150 foot buffer could be used to satisfy recreation requirements.

The Commissioners discussed the proposal.

Mr. Fraley said they would be concerned with locating recreation by the road.

Mr. Epstein proposed to incorporate the picnic area into the buffer which would create a 150 foot buffer on that side of the project's entry road, and 50 feet on the other

side.

Mr. Sowers and the Commissioners discussed keeping existing trees and adding additional ones.

Hearing no other requests the public hearing was closed.

Mr. Obadal motioned to approve the application as amended with a recommendation to include a 150 Community Character Corridor Buffer on one side of the project's entry road, and more specific proffers regarding LID and sustainable building techniques.

Mr. Krapf seconded the motion.

Ms. Hughes asked about Staff's recommendation.

Mr. Sowers said Staff's recommendation is for approval.

Mr. Fraley said the reduced proffer contribution amounts would be considered by the Board of Supervisors.

In a unanimous roll call vote the application was recommended for approval (6-0). Obadal, Fraley, Hughes, Billups, Krapf, Jones (6); NAY: (0). (Kennedy absent)

## 6. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the Planning Director's Report stating that the report is on page 91 of the Commissioners' packets. He said he had no additional comments.

Mr. Fraley mentioned that the traffic study for the Candle Factory application is one of two applications that have included a full corridor study. He stated that improving transportation studies is a part of the Planning Division's work projects list. Mr. Fraley stated his desire to take advantage of those studies to map and layer those corridors as build-out continues.

Mr. Sowers stated that the Division will do more detailed analysis in conjunction with the Comprehensive Plan update.

Ms. Hughes said she would like to discuss the issue of developable area. She stated that if RPA buffer is non-developable according to state mandate then it should not be considered as developable.

Mr. Fraley stated that wetlands, flood plains, and steep slopes should be subtracted to determine net developable area.

Ms. Jones said that will also be addressed with the Comprehensive Plan update.

Mr. Billups asked that research be conducted on the legal implications of dealing with non-conforming uses. He also commended Ms. Jones for chairing the meeting.

Mr. Sowers thanked Christy Parrish for stepping in at last minute to assist with the meeting.

7. ADJOURNMENT

There being no further business the Planning Commission was adjourned at 12:15 a.m.

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James Kennedy, Chairman

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O. Marvin Sowers, Jr., Secretary

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SIXTH DAY OF JUNE, TWO-THOUSAND AND SEVEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Billups  
Mary Jones  
Tony Obadal  
Jack Fraley  
Shereen Hughes  
Rich Krapf  
Jim Kennedy

Staff Present:

Marvin Sowers, Planning Director  
Adam Kinsman, Assistant County Attorney  
David German, Planner  
Kathryn Sipes, Planner  
Leanne Reidenbach, Planner  
Michael Woolson, Environmental Engineer  
Christy Parrish, Administrative Services  
Coordinator  
Luke Vinciguerra, Planner

Absent:

None

2. PUBLIC COMMENT

Mr. Kennedy opened the public comment period.

Hearing no requests the public comment period was closed.

3. COMMITTEE/COMMISSION REPORTS

A. Development Review Committee (DRC) Report

Ms. Jones presented the report stating that the DRC met on May 30, 2007 to consider S-101-03 Ford's Colony Section 35 that was denied due to inconsistency with the master plan. She also stated that SP-45-07 Rawls Byrd Parking Lot Expansion, SP-124-06 Weatherly at White Hall Design Guidelines and SP-27-07 Handel's Ice Cream and Yogurt were unanimously approved pending agency comments. Ms. Jones said SP-47-07 Nicewood Building Expansion was deferred to allow staff to respond to concerns from an adjacent property owner. The DRC will hold a special meeting June 8, 2007 at 9 a.m. in the conference room of building A in the government complex to review SP-143-06 White Hall Section 1 – Rochambeau Village.

Mr. Fraley motioned to approve the report.

Ms. Hughes seconded the motion.

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

B. Policy Committee

Mr. Fraley presented the Policy Committee report stating that the Committee met on several occasions to consider the creation of a public land district. He stated that on May 22, 2007 the Committee approved the Public Land Ordinance that will be presented later in the meeting.

Mr. Obadal stated that after consulting with Mr. Kinsman his concerns have been addressed and that he is in support of the proposal.

4. PUBLIC HEARINGS

A. SUP-12-07 Verizon Co-location at Brick Bat Road

Mr. Sowers stated that the applicant has requested deferral of the application until the July meeting and stated Staff's concurrence.

Mr. Kennedy opened the public hearing.

Hearing no requests to speak the public hearing was continued until the July 11<sup>th</sup> meeting.

B. Z-10-06/MP-12-06/SUP-37-06 The Candle Factory

Mr. Kennedy stated that the applicant has requested deferral and that the public hearing is open.

Hearing no requests to speak the public hearing was continued until the July 11<sup>th</sup> meeting.

C. SUP-15-07 Precious Moments Playhouse Renewal

Mr. David German presented the staff report stating that Ms. Evangelina Crump has applied for a renewal of an existing Special Use Permit (SUP-0018-2004) which will expire on August 10, 2007. This SUP renewal would allow for the continued operation of a 30-child day care center, to be operated out of Ms. Crump's home, located at 103 Indigo Terrace. The property is also known as Parcel 3840200002, and is zoned R-2, General Residential. The parcel is designated as Low Density Residential in the Comprehensive Plan. Parcels so designated are primarily to be used for single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments. Staff recommended approval of the application and attached conditions.

Mr. Kennedy opened the public hearing.

Hearing no requests to speak the public hearing was closed.

Mr. Fraley motioned to approve the application.

Mr. Billups asked about the inconsistency between the SUP and the license concerning the hours of operation.

Mr. German stated that Department of Social Services has re-issued the license to be consistent with the SUP hours of 7 a.m. until 6 p.m. He stated that although the hours of operation are 7 a.m. until 5 p.m., there may be children on-site until 6 p.m. that are waiting to be picked up by their parents.

Mr. Fraley restated his motion for approval.

Ms. Jones seconded the motion.

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

D. SUP-14-07 Anderson's Corner Animal Care Facility

Ms. Kathryn Sipes presented the staff report stating that Mr. Matthew Burton has applied for a Special Use Permit on the parcel located at 8391 Richmond Road, which is zoned A-1, General Agriculture. An SUP was previously approved for the construction of a veterinary hospital on this site; this application proposes an increase in the building square footage. The property can be further identified as JCC RE Parcel No.1240100001 and is designated as General Industrial by the JCC Comp Plan. Recommended uses for General Industrial land include industrial uses while secondary uses include office uses and a limited amount of commercial development to support the primary use. Staff recommended approval of the application and attached conditions.

Mr. Obadal asked about the effect on impervious surface cover should portions of the property be sold.

Ms. Sipes stated that if a subdivision application is submitted all proposed lots would be reviewed for consistency with Ordinance regulations including the Chesapeake Bay Ordinance requirement that no more than 60% of the lot contain impervious cover.

Mr. Obadal said his concern is that the project site would no longer meet the Ordinance requirement.

Ms. Sipes stated that any new smaller parcel containing the facility that would be created would be required to meet the impervious cover requirement.

Mr. Obadal said it would not need to cover the 60% for the original animal hospital site itself.



Mr. Sowers said this is not a unique situation where portions of property are subdivided for other developments. He stated Staff's opinion that any future subdivision would be adequately covered under current Ordinance requirements and that an additional condition is not necessary.

Mr. Obadal said an additional condition would not hurt. He said it would just make certain that impervious cover ratios would be maintained.

Ms. Jones said it is covered in the Ordinance so that subdivision can only be done with the assurance that it does not violate the Chesapeake Bay Ordinance. She stated that the additional condition would be redundant.

Mr. Sowers said Staff does not usually recommend conditions that are redundant with the Ordinance and that Staff feels that there is adequate protection. He also stated that if it is the Commission's desire Staff could draft a condition prior to Board of Supervisors' review of the case.

Ms. Hughes asked about a statement in the staff report allowing staff to recommend adjusting the building site during site plan review to allow single access should the remainder of the property be developed in the future. She asked in which direction it would be adjusted.

Ms. Sipes stated that given the narrow part of the parcel that has road frontage onto Richmond Road staff may want to consider talking to the applicant at the site plan stage about accommodating a possible future subdivision of the back parcel so that a single driveway access could be used as a shared driveway for both the animal care facility and to provide access to the rear of the lot.

Ms. Hughes stated that someone would have to bridge the RPA (Resource Protection Area) and wetlands.

Ms. Sipes stated this was identified as a possible solution that could be implemented at the site plan stage to ensure that future subdivision of the parcel is not prevented because of access issues.

Ms. Hughes said the driveway location is closer to an existing residential driveway than previously proposed. She asked if landscaping between the two driveways would create visibility issues for the adjacent property owner.

Ms. Sipes said Staff did not receive comments concerning visibility and deferred the question to the applicant. She also stated that the driveway was moved to align the entrance with White Hall across the street as required by a condition of the previous SUP.

Mr. Sowers said a perimeter buffer would be required and would be reviewed at site plan stage.

Ms. Hughes asked if visibility would be addressed.

Mr. Sowers said it would.

Mr. Billups asked if there is an agreement between White Hall and this property owner concerning the crossover.

Ms. Sipes said she does not know if there is a written agreement. She stated that VDOT (Virginia Department of Transportation) commented on both projects that alignment of the two entrances would provide better traffic circulation.

Mr. Sowers said he is not aware of a written agreement.

Mr. Billups asked if the location of the crossover would have to be considered as build-out occurred.

Mr. Sowers said the crossover still has to be designed. He stated that a subdivision plan in for White Hall is currently under review by VDOT and staff.

Mr. Billups asked about the primary and secondary uses and general industries referred to on the land use map.

Mr. Sowers stated that general industries are principally heavier industry such as manufacturing and secondary uses could include a retail component that would serve the employees such as a restaurant or office space for the manufacturing use.

Mr. Krapf stated his concerns about the number and size of mature trees that will be removed and the lack of a mandate for the use of low impact design (LID) features.

Ms. Sipes stated that she did share Mr. Krapf's concerns with the applicant.

Mr. Kennedy confirmed that the property is zoned A-1, General Agriculture and asked if timbering is allowed.

Ms. Sipes and Mr. Sowers answered yes.

Mr. Kennedy said the trees could be timbered.

Mr. Obadal asked if there will be an LID condition.

Mr. Sipes said the BMP (best management pond) that was previously proposed is an infiltration facility. She said she has discussed with Mr. Krapf the possibility of adding language requiring additional measures.

Mr. Obadal stated his thought that a condition was being prepared prior to tonight's meeting.

Ms. Sipes stated that although it is not part of Staff's recommendation, a condition with language concerning the use of LID has been prepared should the Commission desire to add it.

Mr. Obadal stated that he and Ms. Sipes had discussed the use of pervious concrete on the parking lot and driveway and the possible expense of that in comparison to the use of LID on the property. He stated his support of a condition requiring LID.

Mr. Krapf stated his thought that after the applicant and public spoke they could have a discussion on an LID condition.

Mr. Obadal indicated his agreement.

Mr. Kennedy opened the public hearing.

Mr. Dan De Young with DJG represented the applicant. He referred to graphics of the vegetation plan and preliminary site configuration and showed the trees that would be removed and those being preserved. Mr. De Young stated the applicant's agreement to the use of LID and additional landscaping. He also stated that they will consider visibility concerns and will select lower growing plantings in the driveway buffer area.

Mr. Obadal asked about the use of pervious concrete.

Mr. De Young stated his opinion that it would not be a good application of that product in this location due to the amount of leafy vegetation that can clog the pervious pavement and take root. In his opinion, a better application for that product is in larger areas with less debris. He stated there may be opportunities for other LID measures to be used and preferred the Commission not mandate a specific solution that may burden the owner by requiring a lot of maintenance.

Mr. Obadal stated that pervious concrete has gone through a series of improvements that may eliminate some of the applicant's concerns and objections and asked the applicant to look into it.

Mr. De Young agreed to look into it.

Mr. Kennedy asked if Mr. Krapf's concerns had been adequately addressed.

Mr. Krapf answered yes. He said Ms. Sipes has the proposed additional condition as well as an amendment to a previously approved condition.

Mr. De Young stated their agreement with the proposed additional condition and amended condition.

Mr. Billups asked if the applicant is experiencing difficulty with the transfer of the entrance from Route 60 to the new proposed entrance.

Mr. De Young stated he understood that VDOT asked for the entrance to be aligned with White Hall and that the request was not a problem.

Mr. Allen Owens, 8395 Richmond Road, stated his concern about his privacy, safety and the proximity of the proposed driveway to his driveway. He also stated his concern that the applicant did not approach the neighbors earlier in the process about the proposal.

Ms. Jones asked if Mr. Owens received notice of the public hearing from the County.

Mr. Owens said yes.

Ms. Hughes asked if Mr. Owens is aware that an SUP already exists permitting the facility.

Mr. Owens said yes. He said they understood it was a smaller facility.

Ms. Hughes asked if it was the expansion itself that concerned Mr. Owens.

Mr. Owens said his concern is also the traffic, and the new location of the driveway.

Ms. Hughes said the traffic is not expected to be greater than the original proposal. She said the internal space has been increased to keep more animals inside and the fenced area has been decreased so that it is farther away from the property boundaries.

Mr. Owens said he appreciated the landscaping between the driveway and Mr. De Young's offer to show them the landscaping plan.

Ms. Jones told Mr. Owens that Ms. Sipes would be happy to meet with him to discuss the specifics of the proposal.

Mr. Sowers stated that assuming the Board (Board of Supervisors) approves the case it will go through the County's site plan approval process. He said Ms. Owens will receive notice when the site plan is filed and they will have an opportunity to participate in that process as well.

Ms. Michelle Owens, 8395 Richmond Road, stated her concern that she had envisioned living in the county and raising her children without neighbors looking through

their windows. She said she does not want the project and feels as though she is going to be living in an industrial zone. Mr. Owens stated that their house is for sale and asked that the final product be aesthetically pleasing for a future buyer.

Ms. Elizabeth McKenna, 123 Old Stage Road, stated her support for the application. She said there needs to be more choices for veterinary care.

Ms. Kendall McCaw, 123 Old Stage Road, stated her support for the application.

Ms. Meredith Averitt of Toano Animal Care stated her objection. She said she has a large, strong practice and this will bring competition less than a quarter mile down the street.

Mr. Rob Murphy, 113 Astrid Lane, stated that he and his father are the property owners. He stated that the project will be multi-phased with the first phase being 6,000-7,000 square feet. Mr. Murphy stated that it is not his goal to cause conflict with neighbors or colleagues. He said that the Stonehouse area is growing quite fast and that studies show a big demand for more veterinarians. He also stated that the exterior will look like a house, is compatible to surrounding uses, and will have fencing around the perimeter.

Mr. Obadal asked the reason for the expansion request so soon after approval of the original SUP.

Mr. Murphy stated that once a certain level of profit is reached they can expand the kennel and grooming facilities and office space. He stated that they are requesting approval for the future expansion in order to have peace of mind as they move forward.

Hearing no other requests; the public hearing was closed.

Mr. Krapf addressed Mr. and Mrs. Owens concerns and stated that growth does not come without a price and that there are various degrees of trade-off. He stated that the Commissioners' roles are to manage growth as best as they can consistent with the Comprehensive Plan. Mr. Krapf said the parcel is designated for general industries and can be a lot more invasive in terms of traffic and noise than what the applicant is proposing. He stated that he is in favor of the proposal with the two additions discussed previously.

Ms. Jones stated her agreement with Mr. Krapf and motioned for approval with the attached conditions.

Mr. Krapf seconded the motion.

Mr. Obadal asked for inclusion of the applicant's agreement to look into pervious pavement.

Mr. Kennedy said the applicant has addressed the issue and said he will look into it.

Ms. Jones said she does not want to add it as a condition.

Mr. Kennedy asked Ms. Sipes to ensure that Mr. Obadal's concerns are addressed.

Ms. Sipes stated that as the conditions are currently worded pervious pavement has the potential to be utilized and asked for confirmation from Mr. Woolson of the Environmental Division.

Mr. Woolson agreed.

Ms. Sipes confirmed that the motion included the amended conditions discussed by Mr. Krapf mentioned earlier.

Mr. Kennedy answered yes.

In a unanimous roll call vote the application and amended conditions were recommended for approval AYE: (7) Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy; NAY (0).

E. Z-3-07 3435 Old Stage Rezoning

Mr. Luke Vinciguerra presented the staff report stating that Mr. Todd Koob has applied to rezone a 1.23 acre parcel from B-1, General Business, to R-1, Limited Residential to build a home on the site. The property is located at 3435 Old Stage Road, is further identified as JCC RE Tax Map No. 1220100011A, and is designated Low Density Residential on the Comprehensive Plan. Parcels so designated are primarily to be used for single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments. Mr. Vinciguerra recommended approval of the application and asked the Commission to consider whether cash proffers are warranted.

Mr. Fraley stated that regarding public utilities the staff reports states that the property can support a septic system adequate to support a single three bedroom house. He asked how that related to the implication of two residences.

Mr. Vinciguerra stated that as of now the applicant can only construct one house on the site. He stated that the applicant has an agreement with White Hall to connect to their sewer when the community is developed which would mean he can have smaller lot sizes and can create two lots for the construction of two houses.

Mr. Fraley asked about the process for the applicant to get approval to have two houses.

Mr. Vinciguerra stated that if the R-1 rezoning is approved the applicant can subdivide by-right if the lot is large each.

Mr. Sowers added that this is an administrative process. He said the applicant would

only have to apply for a minor subdivision and various utility and building permits.

Ms. Jones confirmed that the Commission is being asked to consider the rezoning not the subdivision in addition to being asked to provide guidance on the public impact.

Mr. Vinciguerra said that was correct. He stated that the Commission is being asked to consider the need for cash proffers.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Mr. Billups stated his concern that the rezoning proposal is based on unforeseen projections concerning White Hall. He stated that it is the second SUP tonight dependent on alignment with White Hall. Mr. Billups said he is not sure the Commission should approve applications when they are not sure everything is in place at the time of approval. He also stated his concern about Staff contacting other property owners in the area saying he does not think it is good protocol to go around trying to get owners to apply for a zoning change.

Ms. Jones reminded the Commissioners that two months ago another parcel on Old Stage Road was rezoned from B-1 to R-1 and said Staff is moving along to change the overall zoning in that area from B-1. She stated her concerns about losing B-1 in James City County and also stated that in this case Staff is under the opinion that if the parcel is subdivided the public benefit is that it is a lower impact than other potential developments. Ms. Jones stated her support of the rezoning and recommended the applicant be required to pay school cash proffers if they chose to subdivide in the future for a second home.

Ms. Hughes concurred with Ms. Jones that if the applicant wishes to subdivide there should at least be a proffer towards schools. She stated that she does not consider the addition of another residence a public benefit consistent with a rezoning.

Mr. Fraley stated that the density for R-1 zoning is one unit per acre and asked what would permit the parcel to be subdivided through administrative review for the placement of two residences.

Mr. Sowers stated that the Comprehensive Plan says no more than one unit per acre without certain public benefits, while the Zoning Ordinance for R-1 requires a lower number of square feet per dwelling unit based on individual lot sizes. Mr. Sowers said the parcel under consideration has enough square footage to be subdivided.

Mr. Fraley said it seems like a back door method for increasing density.

Mr. Billups asked if the applicant must have enough square footage for a second septic line to be installed should the first line fail.

Mr. Sowers said that if they are relying on septic they must have enough space for

a primary and a secondary drain field on each of the lots. He said this particular lot does not have enough space so they can only subdivide if they tie into public sewer which will become available when White Hall, directly behind the parcel, is developed.

Mr. Obadal asked when White Hall is expected to come on line.

Mr. Sowers said the development plan is currently under review and might be finished by the end of the year. He guessed construction might start late this year with residences being built sometime next summer.

Mr. Obadal asked how much property is normally needed with a septic system.

Ms. Hughes said she believes it is an acre. She said she believes that the intent of R-1 is larger lot sizes. She said an applicant can have lots smaller than an acre if they have the overall gross acreage.

Ms. Jones asked if Staff is requesting the Commission's recommendation regarding the subdivision in addition to the cash proffers or if the subdivision is a discussion for another time.

Mr. Fraley said it may be a discussion for another time but it affects his decision on the case. He asked Mr. Kinsman to comment on the matter.

Mr. Kinsman stated that for this particular District Section 24-234 states that all subdivisions shall have a maximum gross density of one unit per acre except for minor subdivision. Mr. Kinsman went on to say that Section 24-235 sets out the area requirements on a sliding scale depending on the type of public facilities. He said that generally the intent of the Comprehensive Plan for this Zoning District is to have larger lots sizes of generally a maximum gross density of one unit per acre; however, the Code does make exceptions for minor subdivisions.

Ms. Jones asked if Staff is in the position to deny a subdivision request.

Mr. Fraley said Staff cannot unreasonable withhold approval.

Mr. Kinsman stated that if they comply with all the components of the Zoning and Subdivision Ordinances then only administrative approval is required and cannot be withheld because the Commission's preference is to have one lot instead of two. Mr. Kinsman stated that the applicant could proffer that they would not further subdivide the lot which would eliminate the Commission's concern that there would be two houses on the lot rather than one.

Mr. Sowers added that the Commission could recommend cash proffers if the applicant is allowed to divide into two lots. He said they could also recommend to the Board a proffer that would prohibit further subdivision of the lot.



Mr. Billups confirmed that White Hall is zoned R-2 not R-1.

Mr. Sowers said it is R-2, Cluster.

Mr. Billups said his concern is not the potential for two houses. He stated that since it is dependant on White Hall's sewer system it should not be approved until the sewer system is available. Mr. Billups asked what constitutes a minor subdivision versus a major subdivision.

Mr. Kinsman explained that in the R-1 District a minor subdivision is a division of a tract into not more than five lots. He also stated that White Hall has been approved so some development will occur on that property and with that development there will be public water and sewer. Mr. Kinsman said the relationship between White Hall and this property is that if this property can connect to the White Hall public water and sewer system it can then take advantage of the reduced lot widths that are set forth in the Code that allows a minimum lot area of 15,000 square feet so that with public water and sewer they could get two lots. He stated that if they are not able to take advantage of the White Hall public system then the minimum lot size would then be 30,000 square feet so they could only have one lot.

Ms. Jones asked if the applicants for the Sheldon rezoning on this street intend to subdivide that parcel.

Mr. Sowers said there was no attempt to do so.

Mr. Billups asked if the Commission can legally approve two lots before public facilities are available.

Mr. Kinsman said the Commission will only be making a recommendation for the rezoning of the property from B-1 to R-1 not approving the number of dwellings units. He said it is Staff's intent only to give the Commission notice of the potential for there to be two dwellings on the parcel.

Mr. Billups asked what justification the applicant has to show for rezoning from B-1 to R-1.

Mr. Kinsman said the Commission will be basing its decision upon the findings Staff has presented including surrounding uses and the Comprehensive Plan as well as their thoughts on what could ultimately happen on the property.

Mr. Kennedy confirmed that any citizen has the right to apply to rezone any piece of property although that does not mean it's going to be approved.

Mr. Kinsman said that is correct.

Mr. Kennedy restated the facts of the request concerning the number of lots

possible in relation to private and public water and sewer systems. He said any piece of property located within the PSA (Primary Service Area), as this site is, has the option to tie into public water and sewer. Mr. Kennedy stated that although there are long term possible ramifications he suggested not continuing to dwell too deeply into what ifs and look more at what is being presented.

Mr. Krapf stated that due to the neighboring properties being used for residential purposes and the precedent set with the Sheldon property rezoning he is inclined to support the application. He also stated that R-1 could be less invasive in some cases than B-1. Mr. Krapf stated his support for recommending to the Board a proffer eliminating the possibility to subdivide the parcel in the future.

Mr. Obadal stated his agreement to limit the parcel to one unit.

Mr. Kennedy said the Commission cannot approve a proffer condition limiting the number of units and can only advise the Board of their wishes since the proposal being presented does not include a limitation to one unit.

Mr. Fraley said the other discussion was to encourage the Board to pursue cash proffers if no restriction is placed on the number of units.

Mr. Kennedy said that would include contributions towards schools, water and such.

Mr. Fraley said he would be in favor of that as opposed to restricting the number of lots or units.

Mr. Kennedy asked if Mr. Obadal would also be in support of the proffer consideration.

Mr. Obadal said he is more inclined to placing a limit on the number of lots.

Mr. Billups said he can only see one unit on the lot until there is confirmation that White Hall will allow connection to their system. He said he will not vote for a change in zoning without more information.

Ms. Hughes stated her concern that if it is standard operating procedure in the County to grant someone the right to subdivide their property, is it right to place a condition on this applicant.

Hearing a request from the audience the public hearing was reopened.

Mr. Todd Koob, 8913 Oaklawn Way, stated that they are only asking to rezone. He said they are not asking for permission to subdivide or tie into water and sewer lines.

Mr. Billups asked if the purpose is to build two homes.

Mr. Koob indicated that that is correct if they are able to tie into the water and sewer lines.

Mr. Billups said his concern is having a second home on a 1.23 acre parcel. He said he does not support proffers if it is something the applicant is legally allowed to do if public water is available.

Mr. Kennedy asked if Mr. Billups is concerned about the septic system.

Mr. Billups said yes.

Mr. Kennedy stated that the applicant could not build more than one unit with a septic system. He said that even with the rezoning he is still only entitled to one unless he has water and sewer.

Mr. Bert Geddy, 3200 Rochambeau, stated that he granted the Service Authority an easement to run water and sewer to the White Hall development with the condition that Mr. Koob have the ability to connect when and if White Hall builds the system.

Mr. Kennedy said the Commission is not approving two parcels. He said they are approving one parcel with a rezoning predicated on the fact that the parcel does not have water or sewer. Mr. Kennedy said they are only entitled to one parcel until such time that water and sewer is run to the property and is connected.

Mr. Fraley added that subdivision approval would be an administrative decision.

The public hearing was closed.

Mr. Fraley stated his opinion that the case should be voted on without additional recommendations and motioned to approve the application as presented.

Ms. Jones seconded the motion.

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

F. ZO-4-07 Zoning Ordinance Amendment – Public Land Ordinance

Ms. Leanne Reidenbach presented the staff report stating that in response to an initiating resolution passed by the Board of Supervisors on April 24, 2007 staff has drafted an ordinance to create a public land district. She stated that the purpose of this district is to establish a special classification for all significant publicly owned land which is used for a public purpose. Ms. Reidenbach stated that a public land district will make the Zoning Ordinance more consistent with the Comprehensive Plan and more clearly identify on the Zoning Map the intended uses for the property. The current zoning

of most public land allows for a wide range of uses on the given parcel but the creation of a public land district can permit the greatest certainty regarding the character of potential uses of those parcels based on the Comprehensive Plan designation and surrounding land uses. The next step in the process would be for the Planning Commission, followed by the Board of Supervisors, to hold public hearings to consider rezoning appropriate parcels. On May 22, 2007 the Policy Committee voted 4-0 to recommend approval subject to resolution of an outstanding question by the County Attorney's office. Staff noted that these issues had been resolved prior to the public hearing. Staff recommended approval of the Ordinance.

Ms. Hughes stated that there are certain sections of the Ordinance that address the Community Character Corridor Buffer. She said there is not language about the buffer in terms of setbacks in the proposal and asked if that would still be in affect.

Ms. Reidenbach said yes and stated that those regulations fall under the Landscape Ordinance that applies to all parcels regardless of zoning classification.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Ms. Jones motioned to approve the application.

Mr. Krapf seconded the motion.

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

5. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented the report pointing out that the Commission's annual work session with the Board of Supervisors is scheduled for Tuesday, July 24 at 4 p.m. in the work session room. He explained that the Chairman via Staff normally collects items of interest from Commissioners by email or telephone which are then compiled into a draft agenda.

Mr. Kennedy stated that it is good idea for the Commission to come to a consensus on the main issues they would like to discuss beforehand due to the limitations on time.

6. ADJOURNMENT

There being no further business the Planning Commission meeting was adjourned at 8:45 p.m.

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James Kennedy, Chairman

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O. Marvin Sowers, Jr., Secretary

## MEMORANDUM

**DATE:** July 11, 2007  
**TO:** The Planning Commission  
**FROM:** Melissa C. Brown, Deputy Zoning Administrator  
**SUBJECT:** Initiation of Consideration of an Amendment to Article 5. Districts, Division 12.  
General Industrial District, M-2.

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Staff has received a request to review the zoning ordinance for possible amendment to include heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties in the M-2, General Industrial District. Currently, the Zoning Ordinance allows this use by-right in the M-1, Limited Business / Industrial District.

Adoption of the resolution would serve to initiate consideration of the request at the staff level with findings being presented to the Planning Commission for consideration at a later date.

Staff recommends adoption of the attached resolution initiating consideration of the change.

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Melissa C. Brown, CZA  
Deputy Zoning Administrator

Attachment: Initiating Resolution

## **RESOLUTION**

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

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2223 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, on August 12, 2003, the Board of Supervisors adopted the 2003 Comprehensive Plan; and

WHEREAS, in order to make the Zoning Ordinance more consistent with the Comprehensive Plan, public review and comment of draft amendments is required, pursuant to Virginia Code §15.2-2285; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Article V. Districts Division 12. General Industrial District, M-2, for the consideration of adding the use of heavy equipment sales and service, with repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties. The Planning Commission shall hold at least one public hearing on the consideration of the amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

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James Kennedy  
Chair, Planning Commission

ATTEST:

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O. Marvin Sowers, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 11th day of July, 2007.

**SPECIAL USE PERMIT CASE NO. SUP-12-07 Verizon Tower Co-location at Brick Bat Road**

**Staff Report for the July 11, 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.*

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**PUBLIC HEARINGS**

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

Planning Commission:	May 2, 2007 (deferred)	7:00 PM
	June 6, 2007 (deferred)	7:00 PM
	July 11, 2007	7:00 PM
Board of Supervisors:	August 14, 2007 (tentative)	7:00 PM

**SUMMARY FACTS**

**Applicant:** Ms. Jessica Wright, Verizon Wireless

**Land Owner:** Ms. Donna M. Morgan

**Proposal:** To construct a 30 foot extension on an existing 185 foot tower-mounted wireless communication facility.

**Location:** 3470 Brick Bat Road

**Tax Map/Parcel:** (44-2)(1-18)

**Parcel Size:** 8.083 acres

**Existing Zoning:** A-1, General Agricultural

**Comprehensive Plan:** Rural Lands

**Primary Service Area:** Outside

**STAFF RECOMMENDATION**

The applicant has requested deferral of this case to the August 1, 2007 Planning Commission meeting. Staff concurs with the request.

Staff Contact: Leanne Reidenbach

Phone: 253-6685

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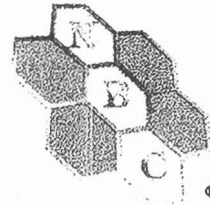
Leanne Reidenbach

**ATTACHMENTS:**

1. Deferral request letter



NETWORK  
BUILDING &  
CONSULTING, LLC



June 27, 2007

James City County  
101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187  
Attn: Leeanne Reidenbach

RE: SUP-12-07, Verizon Wireless Collocation at Brick Bat Rd/Amend JCC SUP-11-96

Dear Ms. Reidenbach,

Verizon Wireless respectfully requests that is case, JCC Case Number SUP-12-07, please be deferred to the August 1<sup>st</sup> planning commission meeting.

If you should have any questions please let me know.

Sincerely,

Jessica Wright  
Consultant to Verizon Wireless  
Network Building & Consulting  
1831 Rady Court  
Richmond, VA 23222  
804-201-3264

**SPECIAL USE PERMIT-0017-2007. Wireless Tower – Longhill Road  
Staff Report for the July 11, 2007, Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

July 11, 2007                      7:00 p.m.  
August 14, 2007                7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:                              Ms. Diane Borchardt

Land Owner:                           Thomas Wells, Andrew Cronan & Donald Agett, Trustees of Christian Life Center

Proposal:                                To permit an existing 128 foot tall monopine telecommunications tower.

Location:                                4451 Longhill Road

Tax Map/Parcel Nos.:                3230100003

Parcel Size:                             18.87 acres

Zoning:                                  R-8, Rural Residential

Comprehensive Plan:                Low Density Residential

Primary Service Area:                Inside

**STAFF RECOMMENDATION**

Staff believes that the existing camouflaged Wireless Communication Facility is generally compatible with the 2003 Comprehensive Plan and the Performance Standards for Wireless Communication Facilities as outlined in the staff report. Staff recommends that the Planning Commission recommend approval of this special use permit application to the James City County Board of Supervisors with the acceptance of the attached special use permit conditions.

Staff Contact:   Matthew J. Smolnik

Phone: 253-6685

**PROJECT DESCRIPTION**

Section 24-354(3) of the Zoning Ordinance administratively permits camouflaged wireless communication facilities (WCF's) to be erected up to a height of 120 feet above grade. On December 19, 2006, SP-130-05 was administratively approved to allow for the construction of a 120 foot tall camouflaged communications tower at 4451 Longhill Road behind the Christian Life Center. A detail sheet from SP-130-05 dated November 30, 2005 is included as an attachment to the staff report indicating the approval was for a camouflaged monopole telecommunications tower extending 120 feet above grade. However, due to an engineering error the camouflaged WCF was erected on the property to a height of 123 feet, which is in excess of the permitted by-right height for structures of this nature in the R-8, zoning district. Staff became aware of this issue during the spring of 2006 when an article was published in the Virginia Gazette highlighting the engineering error. In May 2006 the County contacted SBA Properties and informed them that the tower would have to be reduced in height or SBA Properties would have to apply for a SUP to bring the tower into compliance with the Zoning Ordinance. Ms. Diane Borschardt has applied for a special use permit to allow for the existing 123 foot tall tower and to allow for the installation of the 5 feet of branches atop the existing tower that would aid in camouflaging the antennae for a total height of 128 feet above grade. The five foot tall section of branches was never installed once the engineering error was realized by the applicant and the pictures of the existing tower attached to the staff report indicate a 123 foot tall tower.

Staff asked the applicant if the tower could be reduced in height to bring it into conformance with a by-right use in accordance with the Zoning Ordinance. While reducing the height of the structure is possible, it would result in a reduction in the overall height of the tower by 12 feet resulting in lower antenna heights. The antenna mounting locations for the carriers on the modified structure would be reduced to 108 feet, 98 feet, 88 feet and 78 feet respectively. SBA Properties, Inc has received feedback from those carriers considering the bottom two spots on the tower stating that a reduction in height would limit coverage from the site to the point that the use of the tower would no longer be feasible from a technology standpoint. SBA Properties, Inc. believes that reducing the tower by 12 feet would ultimately limit this facility to only two users. Currently, Nextel Communications of the Mid Atlantic, Inc. is operating antennas on the camouflaged WCF. T-Mobile Northeast, LLC has leased the second available spot and has submitted plans to James City County for review. Richmond NTELOS has submitted an application to lease the third spot, but has expressed concerns about its ability to accept the third spot if the height of this spot is reduced any further. The last spot on the tower is likely to be reserved in the near future, and the applicant indicates that it is unlikely that any carrier would be able to provide service at or below 78 feet.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Powhatan Creek

**Staff Comments:** The Environmental Division has reviewed this application and has no comments.

### **Public Utilities and Transportation**

The additional height would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area beyond what was reviewed and approved at the site plan stage of development.

### **Visual Impacts**

A balloon test was not required for this SUP application as the tower is already constructed. Photographs of the existing 123 foot tall tower are attached to the staff report for your review. The current tower is visible from two different locations from Lafayette High School and is also visible in Longhill Gate on Barron's Court. The tower is not visible from Ford's Colony.

## **Tower Policy**

On May 26, 1998 the James City County Board of Supervisors adopted performance criteria for Wireless Communications Facilities (a copy of these standards are attached) that require a SUP. The standards seek to minimize the impacts of towers by encouraging co-location on other towers, minimizing new areas where towers are located, and reducing their height or visual impact.

#### A. Co-location and Alternatives Analysis

**Standards A1 and A2** call for the applicant to investigate and provide verifiable evidence of having investigated all possible alternatives for locating prior to making a request to construct new facilities.

**Staff Comments:** The current tower was erected as a by-right use; therefore the applicant was not required to provide verifiable evidence of having investigated all possible alternatives for locating prior to constructing the tower. The applicant has submitted coverage maps with the special use permit application indicating existing coverage gaps along the Longhill Road corridor and service improvements with the tower in operation. While Staff believes the SUP application does not technically meet this standard, this application is for an existing tower that adequately meets other standards.

**Standards A3 and A4** call for a new tower to be sited to allow for the construction of a second tower and that all towers be designed to accommodate as many co-locations as possible.

**Staff Comments:** There are no plans for a second tower on this site. The applicant has indicated that the tower was built to accommodate four users. While Staff believes that the existing tower does not meet this standard, this is an SUP for an existing tower as opposed to a new structure.

#### B. Location and Design

**Standard B1** states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. Towers should be compatible with the use, scale, height, size design and character of surrounding existing and future uses while protecting the character of the County's scenic resource corridors and their view sheds.

**Staff Comments:** Staff believes the existing tower is generally consistent with this standard due to the camouflaged design coupled with the surrounding buffering, which is detailed below.

**Standard B2** states that towers located within a residential zone or residential designation on the Comprehensive Plan should use a camouflaged design or have minimal intrusion on surrounding residential areas and on scenic resource corridors (i.e. the tower is not visible offsite above the treeline and should only be visible off-site when viewed through surrounding trees that have shed their leaves).

**Staff Comments:** The photographs submitted by the applicant and confirmed by Staff indicate that portions (25-50%) of the tower are visible from Lafayette High School, Baron's Court in Longhill Gate and Longhill Road, a Community Character Corridor. The tower is not visible from Ford's Colony. Staff believes the existing tower meets this standard given the combination of its monopine design and limited visibility through existing trees and gaps between the treeline.

**Standard B3** states that the tower should be less than 200 feet to avoid lighting. Taller heights may be acceptable where views of the towers from residential areas and public roads are very limited.

**Staff Comments:** Staff believes the existing tower meets this requirement.

**Standard B4** states that towers should be freestanding and not supported with guy wires.

**Staff Comments:** Staff believes the existing tower meets this requirement.

#### C. Buffering

**Standard C1 and C2** state that towers should be placed in a manner that maximizes buffering from existing trees, including maintaining a recommended 100 foot wide buffer around the site, and that access roads should be designed in a manner that provides no off-site view of the tower base and facilities.

**Staff Comments:** The existing tower is located approximately 600 feet from Longhill Road and approximately 550 feet from the nearest residence in both Longhill Gate and Ford’s Colony. A majority of the distance between the tower and Longhill Road is comprised of building, parking lot, landscaping and a wooded buffer fronting Longhill Road. Mature trees with dense underbrush are located between the tower and the nearest residences in both Longhill Gate and Ford’s Colony. This area is protected against future development because it is a Resource Protection Area and a vast amount of the land is held in a Conservation Easement. The combination of natural vegetation and built environment (buildings and landscaping) provide a generally equivalent buffer to that stated in the policy. Staff believes the existing tower generally meets this standard.

## **COMPREHENSIVE PLAN**

### **Land Use Map**

Designation	The James City County Comprehensive Plan Land Use Map designates these properties for Low Density Residential development. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments. Both the Comprehensive Plan and tower policy seek to minimize the presence of towers and other structures in areas where they would depart from existing and future development in terms of height and use.
	<b>Staff Comment:</b> While a tower is not a recommended use within the Low Density Residential Land Use designation, the camouflaged design and tree cover limits the visual impacts of the tower on the surrounding residential neighborhoods, such as Longhill Gate and Ford’s Colony.

### **Community Character**

General	<i>Longhill Road Community Character Corridor-Page 83-84: The predominant visual character of the suburban CCC should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.</i>
Goals, strategies and actions	<p><i>Strategy #2-Page 95: Ensure that development is compatible in scale, size, and location to surrounding existing and planned development.</i></p> <p><i>Strategy #6Page 95: Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery and scenic views.</i></p> <p><b>Staff Comment:</b> The tower associated with this application is camouflaged, generally well screened and is located approximately 600 feet from the Community Character Corridor.</p>

## **RECOMMENDATION**

Staff believes that the existing camouflaged Wireless Communication Facility is generally compatible with the 2003 Comprehensive Plan and the Performance Standards for Wireless Communication Facilities as outlined in the staff report. Staff recommends that the Planning Commission recommend approval of this special use permit application to the James City County Board of Supervisors with the acceptance of the following special use permit conditions.

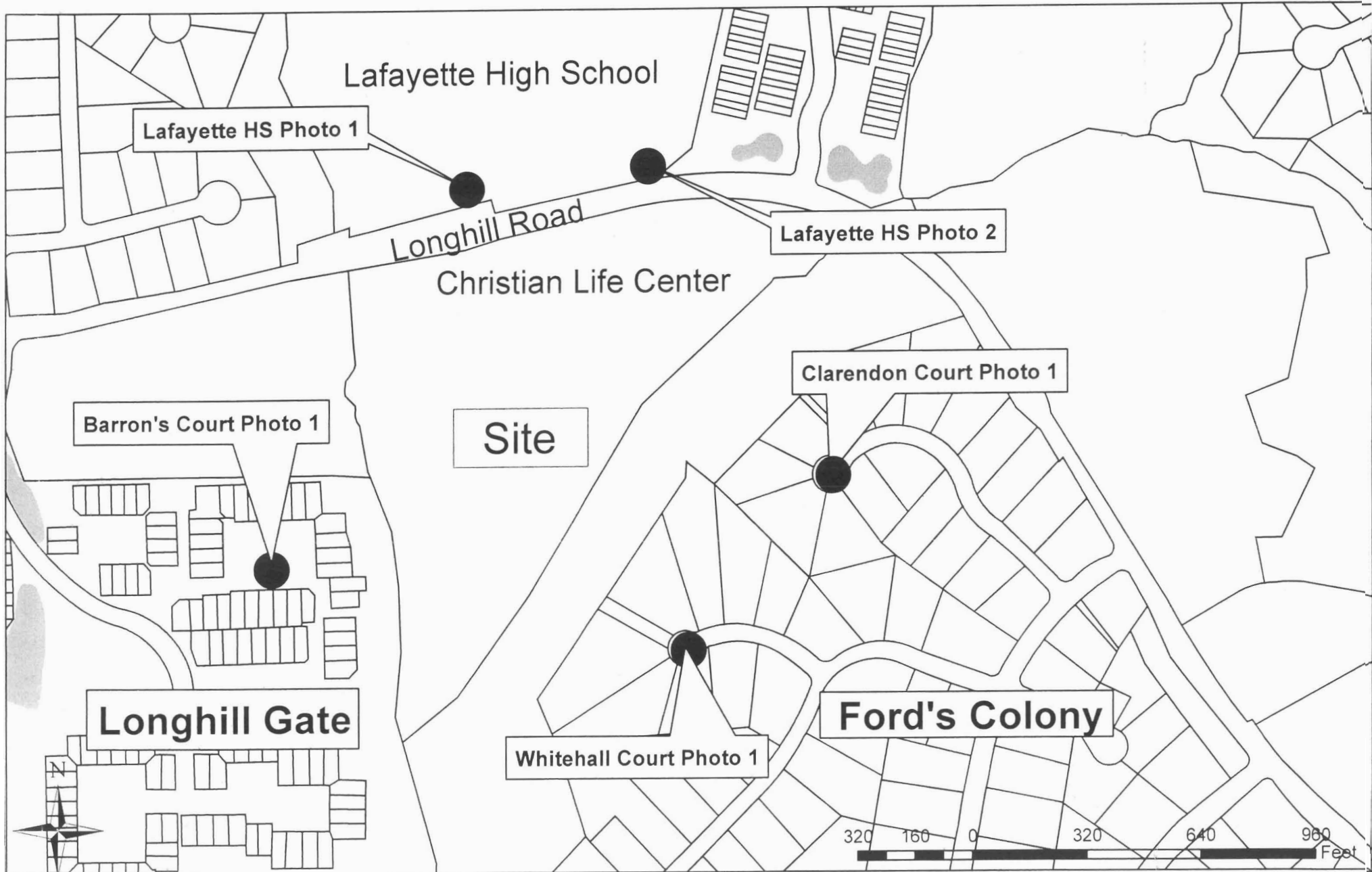
1. This special use permit shall be valid for a total of one camouflaged monopine telecommunications tower on the Property as depicted on the “Elevation and Antenna Schedule” dated November 14, 2006. The maximum height of the tower shall not be greater than 128 feet.
2. All antennas shall be painted the same color as the tower’s branches as approved by the Planning Director.
3. No advertising material or signs shall be placed on the tower.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTACHMENTS:

1. Location map
2. Performance Standards for Wireless Communication Facilities – May 26, 1998
3. Photographs of the existing camouflaged tower
4. 120 foot tall tower detail from SP-130-05 dated November 30, 2005
5. 128 foot tall tower detail dated November 14, 2006
6. Letter from John Hayes dated June 28, 2007

JCC-SUP-17-07

# Wireless Tower-Longhill Road



**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES**  
**MAY 26, 1998**

In order to maintain the integrity of James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, tower mounted wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
  - a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
  - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.

The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.

3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.



## B. Location and Design

1. Towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) Towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the tower would be located; and (2) towers should be located and designed in a manner that protects the character of the County's scenic resource corridors and historic and scenic resource areas and their view sheds.
2. Towers should be located and designed consistent with the following criteria:

<u>Proposed Location of Tower</u>	<u>Impact Criteria</u>
a. Within a residential zone or residential designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resource areas or roads in such areas, or scenic resource corridor  For areas designated rural lands in the Comprehensive Plan that are within 1500 feet from the tower, the same standards apply. For rural lands more than 1500 feet from the tower, no more than the upper 25% of the tower should be visible
b. Within a historic or scenic resource area or within a scenic resource corridor	Same criteria as above
c. Within a rural lands designation in the Comprehensive Plan	Same criteria as above
d. Within a commercial or in an industrial designation in the Comprehensive Plan	Same criteria as above

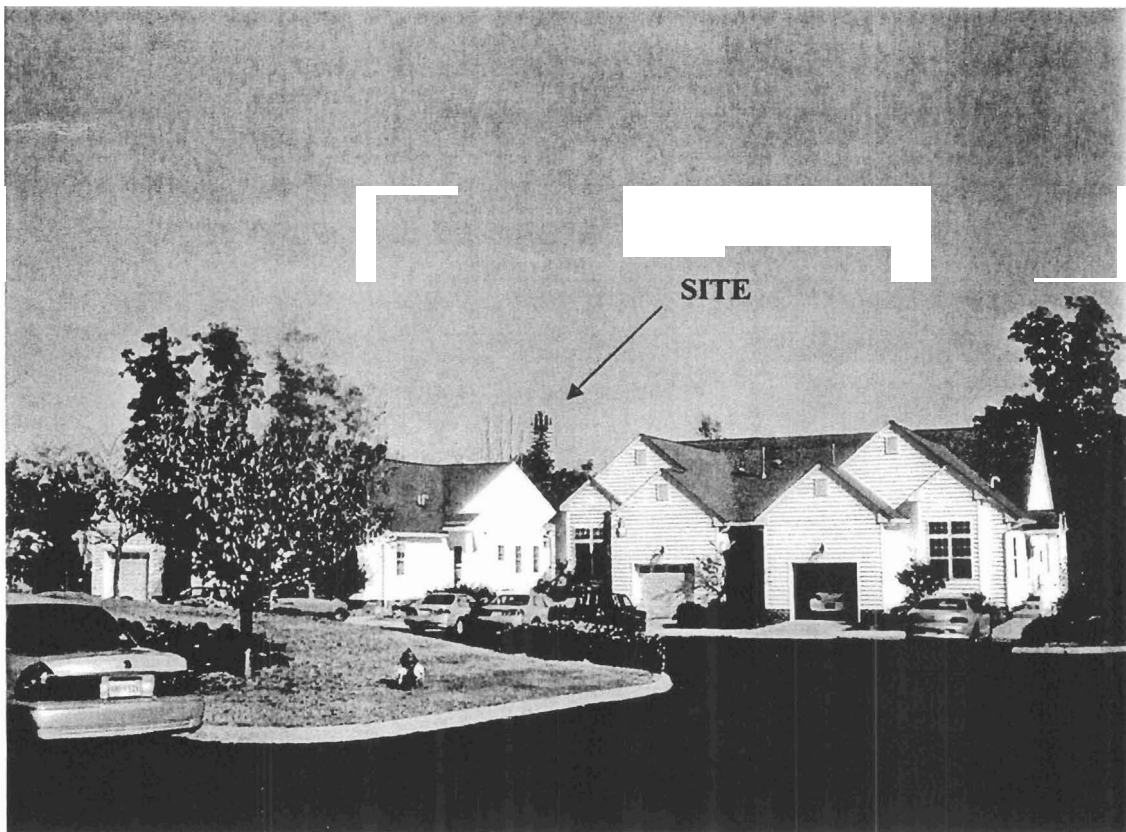
### Notes for the above table:

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed tower is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.
2. A tower will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.

4. Towers should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the tower from residential areas and public roads are very limited. At a minimum, towers 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.

C. Buffering

1. Towers should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower base or related facilities.
2. Towers should be buffered from adjacent land uses and public roads as much as possible. The following buffer widths and standards should be met:
  - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the WCF.
  - b. In or adjacent to all other areas, at least a 50 foot wide-vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.



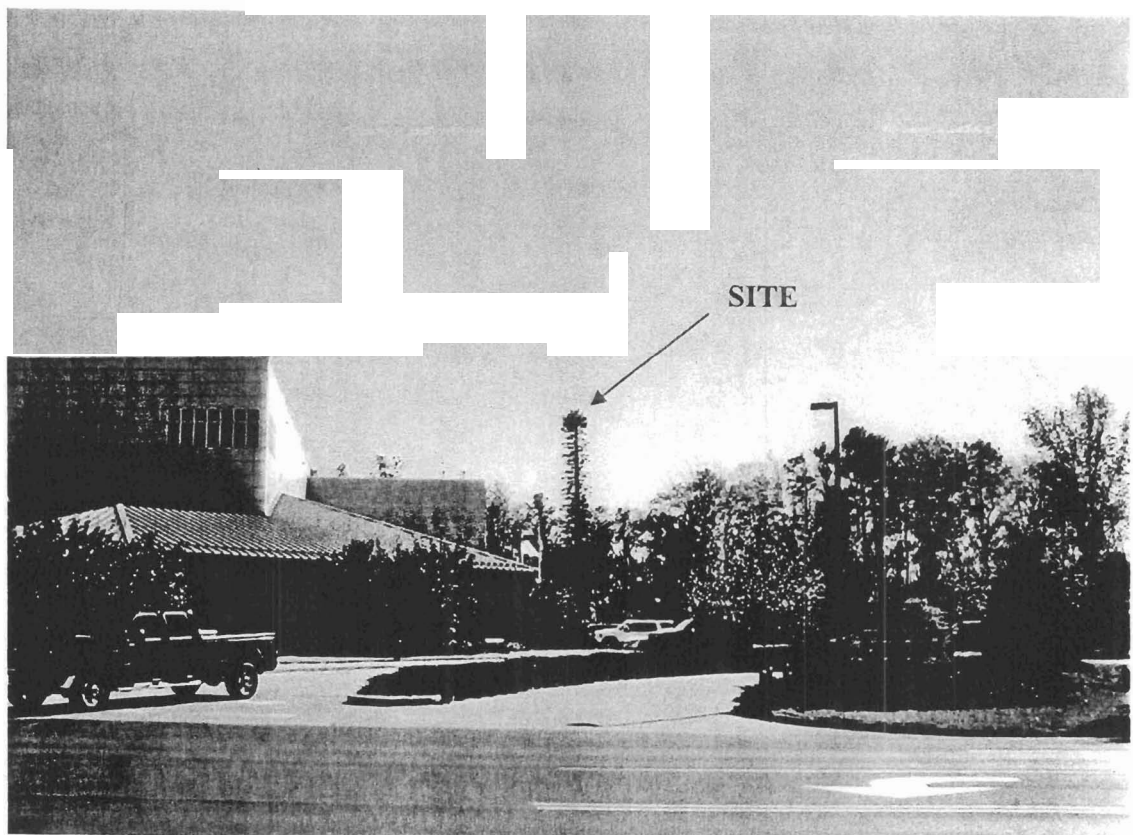
Barron's Court Photo 1



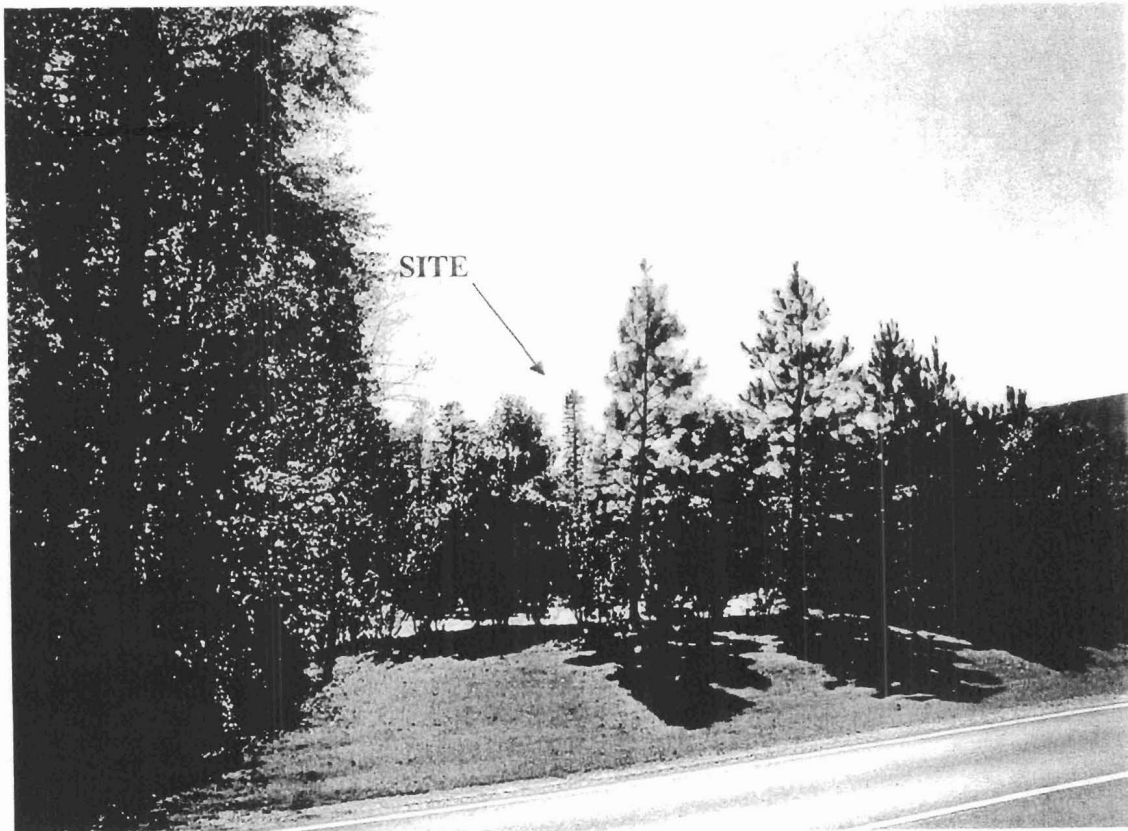
Whitchall Court Photo 1 (Tower not visible)



Clarendon Court Photo 1 (Tower not visible)



Lafayette H.S. Photo 1



Lafayette H.S. Photo 2

120'-0" (AGL)  
T/TOWER

160.5' (AMSL)  
T/TOWER

ANTENNA / COAX SCHEDULE								
ANT	SECTOR	MANUFACTURER (MODEL #)	AZIMUTH	MOUNTING HEIGHT	COAX SIZE	COAX LENGTH	ELEC. D-TILT	MECH. D-TILT
A1	ALPHA	ANDREW DB876G90A-XY	10°	☉ @ 120'	1 1/2"	TBD	0°	1°
A2	ALPHA	ANDREW DB876G90A-XY	10°	☉ @ 120'	1 1/2"	TBD	0°	1°
A3	ALPHA	ANDREW DB876G90A-XY	10°	☉ @ 120'	1 1/2"	TBD	0°	1°
A4	ALPHA	ANDREW DB876G90A-XY	10°	☉ @ 120'	1 1/2"	TBD	0°	1°
B1	BETA	ANDREW DB876G90A-XY	120°	☉ @ 120'	1 1/2"	TBD	0°	2°
B2	BETA	ANDREW DB876G90A-XY	120°	☉ @ 120'	1 1/2"	TBD	0°	2°
B3	BETA	ANDREW DB876G90A-XY	120°	☉ @ 120'	1 1/2"	TBD	0°	2°
B4	BETA	ANDREW DB876G90A-XY	120°	☉ @ 120'	1 1/2"	TBD	0°	2°
C1	GAMMA	ANDREW DB876G90A-XY	240°	☉ @ 120'	1 1/2"	TBD	0°	2°
C2	GAMMA	ANDREW DB876G90A-XY	240°	☉ @ 120'	1 1/2"	TBD	0°	2°
C3	GAMMA	ANDREW DB876G90A-XY	240°	☉ @ 120'	1 1/2"	TBD	0°	2°
C4	GAMMA	ANDREW DB876G90A-XY	240°	☉ @ 120'	1 1/2"	TBD	0°	2°

NOTE:  
1. PROPOSED TOWER SHALL  
BE PAINTED WITH PAINT SPEC.  
"PUMICE STONE" S84010  
BY SHERWIN WILLIAMS  
INDUSTRIAL AND MARINE  
COATINGS.

2. COAX TO BE RUN UP THE  
TOWER WITH THE TOWER  
USING NOTISING GRIPS

PROPOSED STEALTH  
MONOPOLE

PROPOSED TOWER  
FOUNDATION

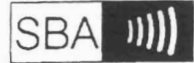
0'-6" (AGL)  
T/CONCRETE  
40.5' (AMSL)  
EXIST. GRADE

PROPOSED BUILDING  
BY OTHERS

TOWER ELEVATION  
SCALE: 1" = 10'

SCALE IN FEET  
0 10 20

PLANS PREPARED FOR:



SBA PROPERTIES, INC.  
ONE TOWN CENTER • 3rd FLOOR  
BOCA RATON, FL 33486  
OFFICE: (561) 995-7670

PROJECT INFORMATION:

**FORD'S COLONY**

4451 LONGHILL ROAD  
WILLIAMSBURG, VA 23188  
(JAMES CITY COUNTY)

PLANS PREPARED BY:

TOWER ENGINEERING PROFESSIONALS  
3703 JUNCTION BOULEVARD  
RALEIGH, NC 27603-5263  
919.661.6351

SEAL:



REV	DATE	ISSUED FOR:
4	11-30-05	REVISED FOR CLIENT
3	11-03-05	REVISED FOR COUNTY
2	10-03-05	REVISED FOR CLIENT
1	01-31-05	CONSTRUCTION
0	01-11-05	PRELIMINARY

DRAWN BY: GMA CHECKED BY: ATH

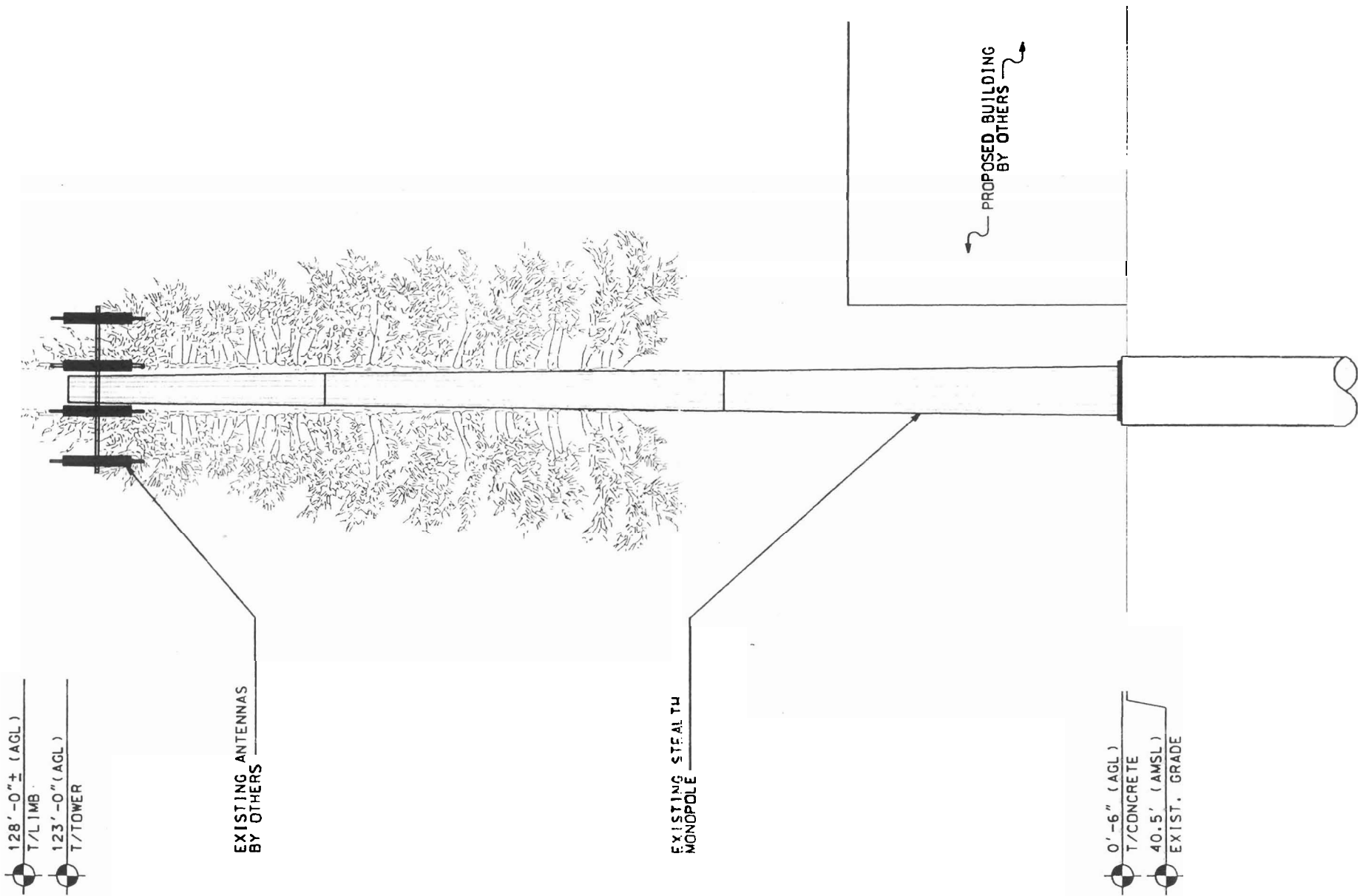
SHEET TITLE:

**ELEVATION AND  
ANTENNA SCHEDULE**

SHEET NUMBER:	REVISION:
<b>C-3</b>	4
	TEP #: 04612



- NOTE:
1. PROPOSED TOWER SHALL BE PAINTED WITH PAINT SPEC. "PUMICE STONE" SW4010 BY SHERWIN WILLIAMS INDUSTRIAL AND MARINE COATINGS.
  2. COAX TO BE RUN UP THE INSIDE OF THE TOWER USING HOISTING GRIPS.
  3. TOWER DESIGN SHALL BE IN COMPLIANCE WITH IBC SECTION 3108.
  4. PROPOSED TOWER SHALL BE EQUIPPED WITH STEP BOLTS TO PROVIDE ACCESS FOR INSPECTION.
  5. TOWER SHALL BE CONSTRUCTED OF APPROVED CORROSION-RESISTANT NON-COMBUSTIBLE MATERIAL.
  6. TOWER SHALL BE DESIGNED IN ACCORDANCE WITH EIA/TIA 222-E.
  7. TOWER SHALL BE PERMANENTLY AND EFFECTIVELY GROUNDED.



TOWER ELEVATION  
SCALE: 1" = 10'

SCALE IN FEET  
0 10 20

PLANS PREPARED FOR:

SBA PROPERTIES, INC.  
ONE TOWN CENTER - 3rd FLOOR  
BOCA RATON, FL 33486  
OFFICE: (561) 995-7670

PROJECT INFORMATION:

**FORD'S COLONY**

4451 LONGHILL ROAD  
WILLIAMSBURG, VA 23188  
(JAMES CITY COUNTY)

PLANS PREPARED BY:

**TOWER ENGINEERING PROFESSIONALS**  
3703 JUNCTION BOULEVARD  
RALEIGH, NC 27603-5263  
919.661.6351

SEAL:

REV	DATE	ISSUED FOR:
6	11-14-06	REVISED PER COUNTY
5	12-08-05	REVISED PER COUNTY
4	11-30-05	REVISED PER CLIENT
3	11-03-05	REVISED PER COUNTY
2	10-03-05	REVISED PER CLIENT
1	01-31-05	CONSTRUCTION
0	01-11-05	PRELIMINARY

DRAWN BY: GMA CHECKED BY: ATH

SHEET TITLE:

**ELEVATION AND ANTENNA SCHEDULE**

SHEET NUMBER:	REVISION:
<b>C-3</b>	<b>6</b>
TEP #: 04612	

James City County Planning Commission  
101A Mounts Bay Road  
PO Box 8784  
Williamsburg, VA 23187-8784

6/28/07



Subject: Case no.SUP-17-07 Wireless Tower Longhill Road

Dear Commissioners:

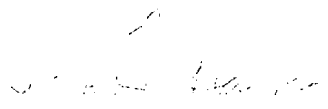
There is no justification for granting this SUP and I request that it be denied

I was told by a Planning staff member that the applicant's engineers "made a mistake" in their original design, but the residents of James City County should not be made to suffer the consequences of their mistake by being forced to live with the illegal height of the tower in perpetuity. Rather, those who made the mistake should be required to endure the consequences.

We in Longhill Gate live with the tower in our view everyday. Every inch of the tower is offensive and I see no reason to be subjected to further abuse. The tower as built well exceeds the surrounding tree line, so any reduction in its height would be a welcome improvement.

I was also informed that up to three additional antenna arrays are to be placed on the tower. These have never been shown in any of the applicant's current or former "simulations". If this is true, then the effort to camouflage the tower will be severely compromised as the antennas are external to the artificial branches. It will be even more conspicuous.

Unfortunately, as adjacent owners received only 10 days notice of this hearing, I will be out of town and unable to attend the July11 meeting in person. Therefore I am writing to respectfully urge you to deny this SUP and require that the tower be brought into compliance.

  
John F. Hayes  
8324 Barons Ct.  
Longhill Gate  
258-4658

**SPECIAL USE PERMIT-19-07. King of Glory Lutheran Church**  
**Staff Report for the July 11, 2007 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

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

Planning Commission:

July 11, 2007

7:00 p.m.

Board of Supervisors:

August 14, 2007

7:00 p.m. (tentative)

**SUMMARY FACTS**

**Applicant:**

Mr. Matt Burton, Project Manager, DJG, Inc.

**Land Owner:**

King of Glory Lutheran Church

**Proposal:**

To replace an existing 1,407 square foot modular building with a 2,800 square foot modular building

**Location:**

4897 Longhill Road; Berkeley District

**Tax Map/Parcel:**

(32-4)(1-33)

**Parcel Size:**

5.96 acres

**Existing Zoning:**

R-2, General Residential

**Comprehensive Plan:**

Low Density Residential

**Primary Service Area:**

Inside

**STAFF RECOMMENDATION**

Staff finds the proposed addition consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this case with the conditions listed in the staff report.

Staff Contact:

Jose Ribeiro, Planner

Phone: 253-6685

**PROJECT DESCRIPTION**

Mr. Matt Burton, on behalf of King of Glory Lutheran Church, has applied for a special use permit to allow the replacement of an existing modular building of approximately 1,407 square feet with a larger modular building of approximately 2,800 square feet. In addition to the modular building, 861 square foot of sidewalk will be provided to connect the proposed modular building with the rear of the church building, the Fellowship Hall, and the existing playground area. The larger modular building will be placed in the same area currently occupied by the smaller modular building which is located behind the church structure and beside the existing playground. The proposed structure will provide two classroom

spaces for preschool students with capacity for 30 children and will operate during daytime hours, Monday to Friday. This addition will increase the overall preschool student capacity at the church site from the current sixty students (distributed in four existing classrooms) up to ninety students. A special use permit is necessary for the proposed modular building addition since it is an expansion to a specially permitted use. Please note that the proposed use of the modular space, preschool classroom is not binding under the proposed condition.

### *History of the Site*

The existing 7,698 square foot church structure and the parking area located at the southern region of the site were built in 1995 (SP-7-95). At the time it was originally constructed, a house of worship was a permitted use in the R-2, General Residential, zoning district. In 1998, a site plan (SP-147-98) for the existing modular building was submitted and approved by the County as a by-right use. On May 25, 1999, the Board of Supervisors approved an amendment to the zoning ordinance which made houses of worship a specially permitted use in the R-2 zoning district. On October 24, 2000, the Board of Supervisors approved a special use permit request (SUP-21-00) which allowed for the construction of approximately 16,059 square feet of additions to the church site. The approved additions included a 10,843 square foot fellowship hall and a 5,216 square foot classroom addition.

### *Surrounding Zoning and Development*

Crossroads Youth Home and Wellspring United Methodist Church, both zoned R-2, General Residential, are located to the north of the church site. A portion of Ford's Colony zoned R-4, Residential Planned Community, is located to the west of the site. South of the site is Bazzle's Apartments, zoned R-2. Williamsburg Plantation, zoned R-2, and Regency at Longhill Apartments, zoned R-5, Multi-family Residential, are located across Longhill Road east of the site. Staff finds that the proposed modular building addition is compatible with the surrounding zoning and development.

### *Physical Characteristics of the Site*

The site is relatively flat and open, with wooded buffers along the northern, western and southern perimeter of the property. A planted berm, which was installed at the time of the existing church's construction, exists along the Longhill Road Frontage. The natural wooded on-site buffers which surround the majority of the site protect nearby residential uses and the character of the surrounding area. According to the 2003 Comprehensive Plan, Longhill Road is designated a Community Character Road.

## **PUBLIC IMPACTS**

### **Archaeology Impacts:**

**Staff Comments:** The subject site has been previously disturbed and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment.

Staff believes that given the size and nature of the proposal no archaeological studies are necessary.

### **Fiscal Impacts:**

**Staff Comments:** A fiscal impact analysis was not required for this project.

### **Public Utilities:**

**Staff Comments:** The site is located within the Primary Service Area (PSA) and is served by public water and sewer. At the time of site plan submittal, the James City Service Authority (JCSA) will require calculations to be submitted showing the adequacy of the water meter and capacity of the grinder pump station, and any required improvements. The grinder pump station may require additional

approvals. Further, JCSA has requested that the applicant develop and submit water conservation standards to be reviewed and approved by JCSA. Staff has added conditions (SUP conditions Nos.3 and 4) requiring the submittal of these items prior to final site plan approval.

### **Transportation:**

**2005 Traffic Counts:** From Olde Town Road (Route 658) to Route 199, 20,916 average daily trips.

**2026 Volume Projected:** From Olde Town Road (Route 658) to Route 199, projected 21,000 average daily trips. This segment of Longhill Road is not under the “watch” category listed in the 2003 Comprehensive Plan.

**VDOT comments:** VDOT has completed the review for this Special Use Permit application and has no comments to offer at this time.

**Staff Comments:** Staff notes that the church property fronts on Longhill Road (Route 612) and the existing entrance would continue to be utilized. There is a narrow driveway located in the northern area of the site. This road, partially located inside the church property and partially inside the Crossroads Youth Home site, functions as an access road for Crossroads Youth Home and as a service road to the King of Glory site. During the previous SUP review for this site (SUP-21-00) a special use permit condition was designed requesting a joint access agreement for the above referenced driveway between King of Glory Lutheran Church and Crossroads Youth Home prior to final site plan approval. At the time of the SUP review, the intent of the church was to utilize this service road to access the Fellowship Hall from the rear. However, an agreement was not secured between both parties and the King of Glory church modified the development plans so that access to the Fellowship Hall from the service road would not be required and final site plan approval was granted. Currently, the service road is primarily used by the Crossroads Youth Home and sporadically by King of Glory.

Staff notes that according to information provided by the applicant, the proposed 2,800 modular building addition will generate four peak hour trips to and from the site, a minor increase to the 31 peak hour traffic generated by the current conditions found on the site. This trip generation has been calculated using the square footage of the proposed modular building. However, staff notes that, the ITE (Institute of Transportation Engineers) uses other variables, besides square footage, to calculate trip generation. Another independent variable that can be used is the number of students created by this expansion. With a proposed addition of 30 new students, it is expected that the trip generation to and from the site will increase by 12 peak hour trips, totaling 50 peak hour trips for the entire site. Staff notes that a traffic study for the site is not necessary since the entire site does not trigger a total of 100 or more additional trips to and from the site during the peak hour of the operation. In regards to parking, the site currently contains 161 total spaces provided (151 standard spaces and 10 handicap spaces), although 107 parking spaces are required per the Zoning Ordinance. The proposed 2,800 modular building addition will not trigger the necessity for additional parking spaces in the site.

### **Environmental:**

Watershed: Powhatan Creek

There is an existing BMP facility located at the southern area of the church site capturing stormwater runoff for the entire site. At the southwest corner of the larger parking area there is a rain garden (i.e. bioretention basin) developed voluntarily and in conjunction with the property owner and the Environmental Division in order to resolve localized erosion issues. A stormwater management plan for the site was submitted for County review and approved as part of Site Plan SP-118-00.

**Environmental Comments:** At the time of site plan submittal, the Environmental Division will require an erosion and sediment control plan to be submitted for County review. Further, at the site plan stage, the

Environmental Division will request evidence that the existing downstream structural BMP is adequate for the increase in pervious area and that the BMP is currently in good working order and performing at the design level of service. Staff notes that Special Stormwater Criteria (SSC) does not apply to this project.

**Staff Comments:** Planning staff also notes that, with the addition of the proposed modular building and sidewalk, the percentage of impervious surface for the entire site will increase from existing 40.7% to 41.7 %. The existing open space area for the site is 59.3% and after the proposed additions the total open space for the site will be approximately 58.3%. The gross impervious area addition to the site corresponds to 0.8%.

## COMPREHENSIVE PLAN

### Land Use Map

Designation	<p><b>Low Density Residential (Page 120):</b> Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p><b>Staff Comment:</b> Staff finds that the proposed modular building addition to the church site consistent with the Comprehensive Plan land use designation.</p>
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### Environment

Goals, strategies, and actions	<p><i>Action # 5- Page 66:</i> Encourage the use of Better Site Design, Low Impact Development, and the best management practices (BMPs) to mitigate adverse environmental impacts</p> <p><b>Staff Comment:</b> There is an existing BMP facility and LID feature (i.e. bioretention basin) located at the southern area of the site which treats on site run off from stormwater.</p>
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### Transportation

General	<p><i>Longhill Road-Page 78:</i> It is recommended that Longhill Road from Seasons Trace to Olde Towne Road not be improved to four lanes despite its projected 2026 volume of 22,000. Despite the opening of the Route 199 expansion, existing volumes remain well above the capacity of a standard two-lane road. Although classified as a two-lane facility, Longhill Road acts like a three-lane facility because of numerous turn lanes. However, it will be important to monitor the actual delay in this segment. Additional residential or commercial development along this corridor beyond that currently planned should be allowed only if acceptable levels of service can be maintained.</p> <p><b>Staff Comment:</b> According to information provided by the applicant, the existing Level of Service to the entrance of the site/exit to the roadway is “B”. The proposed 2,800 modular building addition to the church site will not involve any work on VDOT’s right-of-way and no road improvements will be necessary to accommodate the addition. It is expected, according to staff’s calculations, that the proposed expansion will increase traffic during the peak hours from existing 38 peak hour trips to 50 peak hour trips. Staff notes that this figure was calculated using the number of students being generated by the expansion. The applicant has provided a trip generation that was calculated using the square footage of the proposed building which results in a total of 35 peak hour trip with the proposed additions.</p>
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### Community Character Corridor

Goals, Strategies. And actions	<i>Goal # 1-Page 95:</i> Improve the overall appearance of the County’s urban and rural environment.
	<i>Strategy # 2-Page 95:</i> Ensure that development is compatible in scale, size, and location to surrounding existing and planned development.
	<b>Staff Comment:</b> When the original site plan for the church and the parking lot expansion (SP-7-95) was approved in 1995, the required landscape buffer along Longhill Road was 30 feet. With the revised landscape ordinance in 1999, the requirement for a landscape buffer along Community Character Corridors was increased to 50 feet. Currently, this site does not meet the suggested 50 foot Community Character Corridor buffer. However, the church has provided berms with plantings along the Longhill Road frontage which screens the parking area from the road. Staff notes that this proposed addition to the site would not impact the existing buffer. Further, staff finds that this is a small addition to the site and compatible in scale, size, and location with the church site and adjacent properties.

### Staff Comments

Staff finds that the proposed 2, 800 square foot modular building and the 861 square feet of sidewalk are minor additions to the church site and that impacts to traffic and to the environment will be minimal. Further, staff notes that the proposed addition will not disturb any of the natural wooded buffers which surround the site and protects nearby residential uses and the character of the surrounding area.

### RECOMMENDATION:

Staff finds the proposed addition consistent with surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of SUP-19-07 with the following conditions:

- 1. Master Plan:** This Special Use Permit (SUP) shall be valid for the replacement of an existing modular building of approximately 1,407 square feet with another modular building of no more than 2,800 square feet and 861 square foot of new sidewalk located on JCC Tax Parcel Number 3240100033, more commonly known as 4897 Longhill Road (the “Property”). Development of the Property shall be generally in accordance with the Master Plan entitled “Master Plan-King of Glory Lutheran Church-New Modular Building” prepared by DJG Inc, dated May 30, 2007 (the “Master Plan”) with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
- 2.. Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. “Glare” shall be defined as more than 0.1 footcandle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
- 3. Water Conservation:** The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (the “JCSA”) and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitation on the installation and use of approved landscaping design and materials to promote water

conservation and minimize the use of public water resources.

4. **Engineering Study:** Prior to final site plan approval, an engineering study shall be submitted to and approved by JCSA showing the adequacy of the water meter and capacity of the grinder pump station, and any required upgrades, if required by JCSA.
5. **Building Materials:** The building materials, design, scale, and colors of the proposed modular building shall be compatible with that of the existing structures. The colors, design, and building materials for the modular building shall be submitted to, and approved by, the Planning Director prior to final site plan approval.
6. **Landscaping:** A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. Further, to supplement existing landscaping and vegetation along the northern property line, evergreen trees and shrubs shall be provided in accordance with a reforestation plan approved by the Planning Director. The reforestation plan shall meet the requirements of the Virginia Department of Forestry.
7. **Commencement of Construction:** If construction has not begun on the property within thirty-six months of the issuance of the SUP, it shall become void. Construction is hereby defined as the removal of the existing modular building and the installation of the proposed modular building and sidewalk.
8. **Severance Clause:** This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Jose Ribeiro, Planner

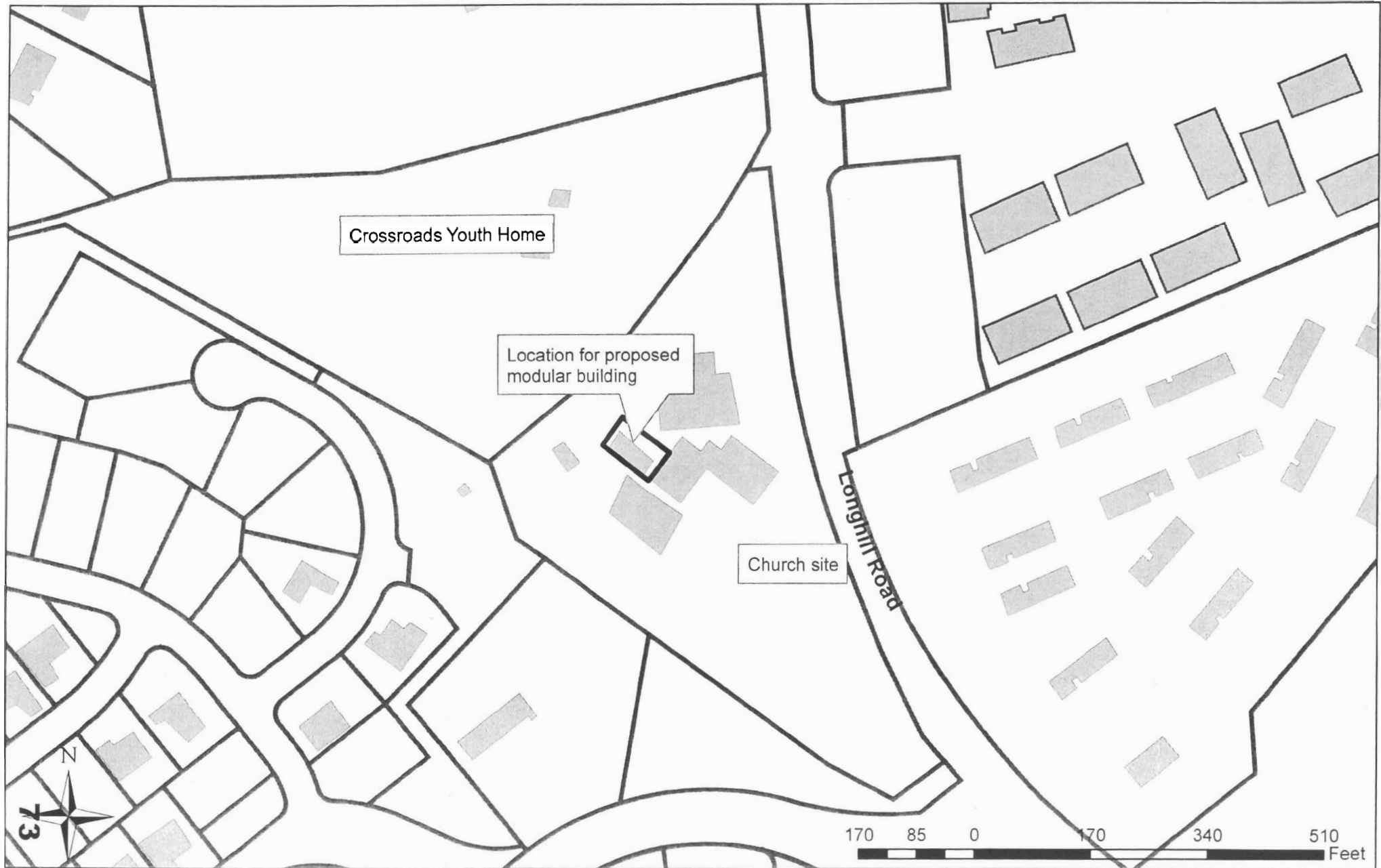
ATTACHMENTS:

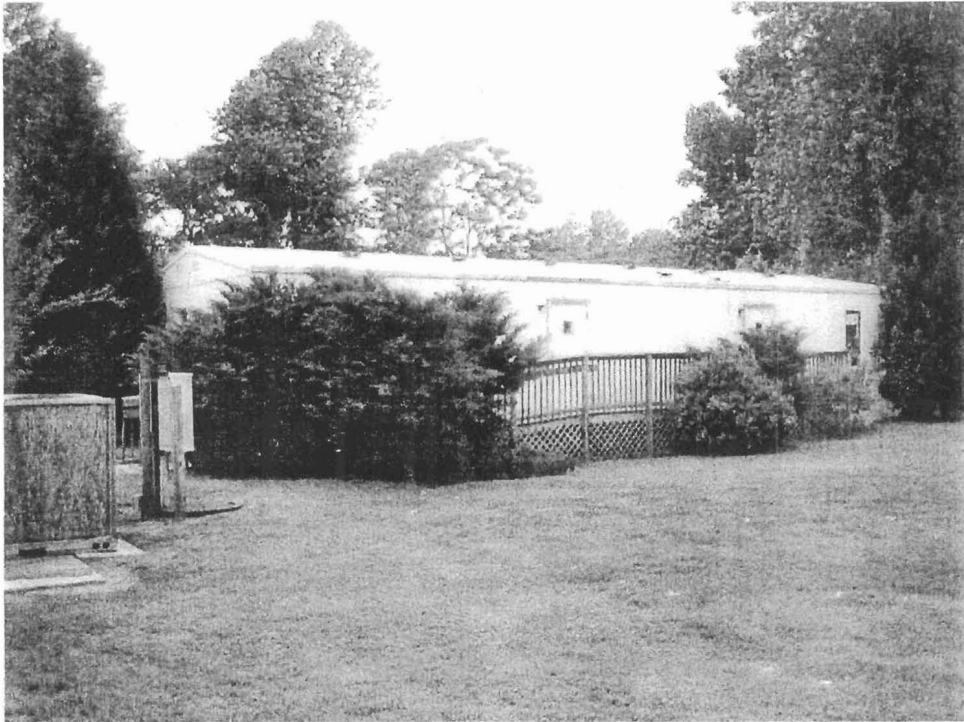
1. Location Map
2. Master Plan (under separate cover)
3. Picture of existing modular building and proposed modular building



SUP-19-07

# King of Glory Lutheran Church





Existing Modular Building to be Replaced



Similar Example of Proposed New Modular Building. Siding and roofing materials will match the existing main church building

**REZONING CASE NO. Z-10-06 / MASTER PLAN CASE NO. MP-12-06 The Candle Factory  
SPECIAL USE PERMIT CASE NO. SUP-37-06 The Candle Factory  
Staff Report for the July 11, 2007 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

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

Planning Commission:	March 07, 2007	7:00 p.m. (deferred by the applicant)
Planning Commission:	April 04, 2007	7:00 p.m. (deferred by the applicant)
Planning Commission:	May 02, 2007	7:00 p.m. (deferred by the applicant)
Planning Commission:	June 06, 2007	7:00 p.m. (deferred by the applicant)
Planning Commission:	July 11, 2007	7:00 p.m.
Board of Supervisors:	August 14, 2007	7:00 p.m. (tentative)

**SUMMARY FACTS - Z-10-06/MP-12-06 (Rezoning and Master Plan)**

**Applicant:** Mr. Vernon Geddy, III, of Geddy, Harris, Franck & Hickman, L.L.P on behalf of Candle Development, LLC

**Land Owner:** Candle Development, LLC

**Proposed Use:** To rezone approximately 64.45 acres of land from A-1, General Agricultural District, M-1, Limited Business/Industrial District, and MU, Mixed Use zoning district to MU, Mixed Use Zoning district, with proffers. The development proposed with this rezoning application will allow the construction of up to 180 residential units and up to 98,900 square feet of new non-residential uses.

**Location:** 7551 and 7567 Richmond Road

**Tax Map and Parcel No.:** 2321100001D and 2321100001E

**Parcel Size:** Approximately 64.45 acres

**Existing Zoning:** A-1, General Agricultural District, M-1, Limited Business/Industrial Districts, and MU, Mixed Use District

**Comprehensive Plan:** Low Density Residential, Mixed Use, and Limited Industry

**Primary Service Area:** Inside

**SUMMARY FACTS –SUP-37-06 (Special Use Permit)**

**Applicant:** Mr. Vernon Geddy, III, Geddy, Harris, Franck & Hickman, L.L.P on behalf of KTP Development, LLC

**Land Owner:** KTP Development, LLC

**Proposed Use:** To allow the construction of two mixed use, commercial buildings totaling 44,690 square feet. The site contains 183,330 square feet of existing non-residential uses (the Soap and Candle Factory Commercial Complex.) The addition of the proposed two mixed-use buildings to the site will increase the total site's non-residential square footage to 228,020. Further, KTP Development, LLC also proposes to renovate the façade of the existing commercial buildings on the site.

**Location:** 7521 Richmond Road

**Tax Map and Parcel No.:** 2321100001C

**Parcel Size:** Approximately 14.34 acres

**Existing Zoning:** M-1, Limited Business/Industrial District

**Comprehensive Plan:** Mixed Use

**Primary Service Area:** Inside

**STAFF RECOMMENDATION:**

Staff finds this mixed-use development, as currently proposed, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of the rezoning, master plan and special use permit applications.

**CHANGES MADE SINCE THE LAST PLANNING COMMISSION MEETING:**

At its May 2, 2007 meeting, staff recommended denial of both applications. Below are the major changes made to this application since the Planning Commission meeting on May 2, 2007.

*Master Plan :( Applies to both rezoning and special use permit areas)*

- The overall number of residential units was reduced from 219 units to 180 units. As a result of the reduction of the residential units, the gross density for the entire rezoning area decreased from 3.4 dwelling units per acre to 2.79 dwelling units per acre; and
- This revised application has reduced the number of residential units in the 15 acre area designated Limited Industry in the Comprehensive Plan area to 18 units (whereas previously there was a range of 41-60 units) and increased the non-residential square footage to 80,000 square feet; and
- At staff's request, the applicant has separated the "binding" master plan from the "non-binding" and illustrative master plan to provide for better clarification. Staff notes that the binding master plan indicates the proposed land uses for each of the Land Bay areas. However, staff notes that the exact type of uses (either residential or non-residential) per Land Bay have not been specified; providing the applicant the ability to determine the uses, at the development plan stage. For example, in Land Bay 2B, there could be a mix of residential "B" (attached structures containing two to four dwelling units) and "C" (attached structures less than three stories and containing more than four dwelling units) or any one or the other at the applicant's discretion. Please note that the non-binding

illustrative plan also depicts other features that are non-binding in the development such as the building type and locations, some roads, alleys and other features.

*Proffers: (Applies to only rezoning area)*

- Proffer No.2- Water Conservation: The following language “*drought resistant landscaping materials and warm season turf on lots and common areas*” has been incorporated into this proffer. Please note that as written, JCSA may or may not require use of these grasses (i.e. Zoysia or Bermuda turf); and
- Proffer No.3-Affordable and Mixed Costs Housing: The percentages and sale prices for affordable and mixed cost housing have changed. Whereas previously 5% of residential units were proffered for sale at or below \$160,000 (“affordable units”) and 5% of residential units were proffered for sale at or below \$ 200,000 (“restricted units”) the current proffers reads, “*a minimum of 10% of the residential units shall be reserved and offered for sale at a sales price at or below \$160,000.*” Staff notes that under the current proffers there are no longer “restricted units” and the percentage (5%) of residential units to be offered at a price at or below \$250,000 (“below market units”) has not changed; and
- Proffer No.4-Cash Contributions for Community Impacts: The applicant has revised this proffer to comply with the Cash Proffer Policy for Schools and with JCSA requirements for water and sewer contributions; and
- Proffer No.5-Entrances and Traffic Improvements: The applicant has revised this proffer and will provide the recommended improvements to the intersection of Route 60 and Croaker Road (i.e. the extension of the existing left turn lane from eastbound Route 60 onto northbound Croaker Road and the construction of a southbound left turn on Croaker Road/Route 60 intersection); and
- Proffer No.6-Connection to Adjacent Properties: The applicant has revised this proffer and will install a sidewalk five feet and 800 feet in length on the south side of Croaker Road. The intent of the sidewalk is to facilitate pedestrian movement around the vicinity of the proposed project;
- Proffer No.19 (b) & (d)-Economic Development: The applicant has revised this proffer to include the following-“No more than 15% of the floor area of any building in Land Bay 2D shall be used for retail uses” and “Each building in Land Bay 2C shall contain a mix of commercial and residential uses.” On the binding master plan, Land Bay 2C is reserved for mixed-uses (i.e. residential and non-residential) and Land Bay 2D is entirely reserved for non residential uses (commercial, offices, wholesale and warehouse uses).

Staff notes that the applicant has provided a letter in response to suggestions and concerns raised by members of the Planning Commission at its meeting on May 2, 2007. This letter has been attached to this staff report (attachment No.7).

**Proffers:** Are signed and submitted in accordance with the James City County Proffer Policy. Table 1.0 below identifies all cash proffers offered by the applicant as a means to mitigate the physical impact of the proposed development. These are discussed in more details later in the report. Please note that since the actual number of types of housing is not binding the total cash payment to the County may vary from what is implied in Table 1.0.

**Table 1.0**

Housing Category: <sup>1</sup>	Housing Type:	Total Quantity:	Pricing Type:	CIP: Schools:	CIP: Other:	Water:	Sewer:	Stream Restoration:	Totals:
SFD	Single Family Detached	54	Affordable (\$160,000)	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00	\$500.00
			Below-Market (\$ 250,000)	\$4,011	\$1,000	\$1,125.80	\$443.50	\$500.00	\$7,080.30
			Market	\$4,011	\$1,000	\$1,125.80	\$443.50	\$500.00	\$7,080.30
SFA	Duplex	32	Affordable (\$160,000)	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00	\$500.00
			Below-Market (\$ 250,000)	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00
			Market	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00
SFA	Townhouse	45	Affordable (\$160,000)	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00	\$500.00
			Below-Market (\$ 250,000)	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00
			Market	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00
SFA	Condo	49	Affordable (\$160,000)	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00	\$500.00
			Below-Market (\$ 250,000)	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00
			Market	\$0.00	\$1,000	\$844.00	\$532.00	\$500.00	\$2,876.00

<sup>1</sup>SFD = Single Family Detached; SFA = Single Family Attached.

### Project Description

Mr. Vernon Geddy has submitted an application on behalf of Candle Development, LLC to rezone approximately 64.45 acres from A-1, General Agricultural District (60.82 acres), M-1, Limited Business/Industrial District (3.0 acres) and MU, Mixed Use District (0.63 acres) to MU, Mixed Use District with proffers. The properties subject to the rezoning application are located at 7551 and 7567 Richmond Road and are designated by the Comprehensive Plan as Mixed Use, Low Density Residential, and Limited Industrial. Further, Mr. Vernon Geddy has also submitted a special use permit (SUP) application on behalf of KTP Development LLC, to permit the construction of two mixed-use, commercial buildings totaling 44,690 square feet of building footprint on approximately 14.34 acres. The property subject to this SUP application is located at 7521 Richmond Road and is zoned M-1, Limited Business/Industrial District. The 2003 Comprehensive Plan designates this area as Mixed Use. The rezoning and SUP applications have been presented in two separate applications but the applicant views them as part of one development and subject to the intent of one master plan. As a result, staff will review the two applications in a combined staff report.

The areas subject to the rezoning application are bounded on the south, east and west by private residential developments zoned General Agricultural and General Residential. Properties to the north are zoned Mixed

Use (Cross Walk Community Church parcel, formally known as the Williamsburg Music Theater) and Limited Industrial (The Candle Factory Commercial Complex parcel.)

The area subject to the SUP application is bounded on the west by a small office park zoned Limited Business/Industrial District, to the north by Richmond Road and directly across Richmond Road by areas zoned General Business District. Property to the east is zoned Mixed Use (The Cross Walk Community Church parcel) and areas to the south are currently zoned A-1, General Agricultural.

The entire area encompassed by the master plans is located within the Norge Community Character Area and fronts on Richmond Road, which is designated by the 2003 Comprehensive Plan as a Community Character Corridor.

If approved, the applicant would develop the areas subject to the rezoning and SUP applications as one mixed-use master planned community of approximately 80 acres. The master plan community would encompass a mix of residential, non-residential, and recreational uses. Below is a table with a detailed overview of the proposed uses for the Candle Factory Master Planned Community as proposed by the rezoning and SUP applications:

**Table 2.0**

Rezoning	Mixed Use Designated Area	Low Density Residential Designated Area	Limited Industry Designated Area
Acreage	±23 acres	±26 acres	±15 acres
Number of residential units	98 units	59 units	18 units
Non-residential square footage	Up to 18,900 square feet	N/A	Up to 80,000 square feet
Residential density du/ac	4.28 dwelling units/acre	2.24 dwelling units/acre	1.20 dwelling units/acre
Residential densities as suggested by the Comprehensive Plan	Up to 18 dwelling units per acre depending on public benefits provided to the community	1 to a maximum of 4 dwelling units per acre depending on public benefits provided to the community	The Comprehensive Plan does not recommend residential uses for areas designated Limited Industrial
Total number of new non-residential units (square feet)			up to 98,900 square feet
Total number of residential units			up to 180 units
Total residential density			2.79 dwelling units/acre
Total Acreage			±64.45 acres
SUP	Mixed Use Designated Area		
Acreage	±14.34 acres		
Proposed non-residential uses	44,690 square feet (two mixed-use buildings)		

(square feet)	
<b>Existing non-residential uses</b>	183,300 square feet
<b>Residential uses</b>	N/A
<b>Total non-residential uses (square feet)</b>	<b>228,020 square feet</b>
<b>Total Acreage</b>	<b>±14.34 acres</b>

When both applications are combined, this mixed-use development will encompass approximately 80 acres of land, up to 180 residential units with an overall density of 2.79 dwelling units per acre, and 314,320 square feet of non-residential uses (183,300 square feet of existing non-residential uses and up to 131.02 square feet of proposed new non-residential uses). In summary, the rezoning and SUP binds the site to have no more than 180 dwelling units and no more than 143,900 square feet of new non-residential.

## **PUBLIC IMPACTS**

### **Archaeology**

#### **Proffers:**

- The County archaeological policy is proffered (Proffer No. 9).

**Staff Comments:** An initial Phase 1A Cultural Resource Assessment of the entire property has been completed and forwarded to the Virginia Department of Historic Resources.

### **Environmental**

**Watershed:** Yarmouth Creek

#### **Proffers:**

- Sustainable building practices as recommended in the NAHB Model Green Building Guidelines (Proffer No. 10); and
- Master Stormwater Management Plan. Development of a Master Stormwater Management Plan is proffered with the use of Low Impact Development (LID) techniques where applicable [Proffer No.13 (a)]; and
- Stream Restoration. A contribution of \$500.00 per residential unit shall be made to the County toward stream restoration or other environmental improvements in the Yarmouth Creek watershed [Proffer No.13 (b)]; and
- Nutrient Management Plan. The applicant has proffered a Nutrient Management Plan program to be implemented in the proposed development. (Proffer No. 14).

**Environmental Staff Comments:** This proposal will meet the County's 10-point Stormwater Management requirements through a combination of structural BMP facilities and Natural Open Space



credit. Further, in order to comply with the Special Stormwater Criteria (SSC) for the Yarmouth Creek watershed, two forebays will be provided at the major stormwater outfalls into the largest of the BMP's (Marston's Pond) in order to address water quality. Low Impact Development (LID) facilities, such as bioretention basins, dry swales, and pervious pavement have also been included in the Master Stormwater Conceptual Plan and proffered throughout the site.

### **Public Facilities and Services:**

#### **Proffers:**

- Cash contributions of \$1,000 per dwelling unit other than an affordable unit on the property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the property. The County may use these funds for any project in the County's capital improvements plan which may include emergency services, school uses, off-site road improvements, future water needs, library uses, and public use sites [Proffer No. 4(b)].

The applicant has not provided a revised fiscal impact statement to reflect the changes made to this proposal, mainly the reduction of the residential units from 219 to 180 and the increase of non-residential uses to up to 98,900 square feet in the area subject to the rezoning application. However, staff believes that the rezoning application, with the proposed changes, will result in a lesser negative impact than what was projected by the previous fiscal impact analysis; a negative annual fiscal impact of \$ 148, 520 at build out.

For the Special Use Permit application (unchanged by the revision of the master plan), the addition of 44,690 square feet of new non-residential uses will result in a positive annual impact of \$157,940 at build out. As part of this application, the existing commercial structures will be renovated and this improvement will result in a positive fiscal impact of \$ 173,220 at build out. The combination of proposed new non-residential square footage and the renovation of existing commercial structures will result in a positive annual impact of \$331,160 at build out.

Staff expects that, for the entire proposal (SUP and rezoning areas combined), the positive fiscal impact will be higher (due to the increase of non-residential uses and decrease of residential units) than what was previously projected- a positive annual fiscal impact of \$ 182,640 at build out.

**Staff Comments:** According to the Department of Financial Management Services the residential impact is negative at build out and the retail is positive at build out. Whether the project nets out negative or positive depends on the timing of the development and the incremental increases of a renovated commercial area over what has previously been generated from that property. The non-retail commercial space is break-even. There is insufficient information to comment on the impact of new employment opportunities-but traditional retail jobs are not seen as fiscal benefits in this community. The five-year present value does not represent the impact of the projected development at build-out.

### **Public Utilities**

The site is inside the PSA and served by public water and sewer.

#### **Proffers:**

- Water Conservation: Water conservation measures will be developed and submitted to the JCSA for review and approval prior to final subdivision plat or site plan approval (Proffer No. 2); and
- Cash Contribution (water): For each single family *detached* unit other than an affordable unit, a cash

contribution of \$1,125.80 is proffered [Proffer No. 4(c)]; and

- Cash Contribution (water): For each single family *attached* unit other than an affordable unit, a cash contribution of \$844.00 is proffered [Proffer No.4(c)]; and
- Cash Contribution (sewer): For each single family *detached* unit, other than an affordable unit a cash contribution of \$ 443.50 is proffered [Proffer No. 4(d)]; and
- Cash Contribution (sewer): For each single family *attached* unit, other than an affordable unit a cash contribution of \$532.00 is proffered [Proffer No. 4(d)]; and
- Water and Sanitary Sewer Master Plan is proffered. (Proffer No.17).

**Staff Comments:** The JCSA has reviewed the rezoning and SUP applications and finds that proffers and conditions offered will mitigate impacts to the County's public water and sewer system.

### **Public Facilities:**

#### **Proffers:**

- A cash contribution of \$ 4,011.00 per each single-family detached dwelling unit, other than an affordable unit will be made to the County to mitigate the impacts from physical development and operation of the property [Proffer No. 4(a)].

The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through the rezoning, special use permit or other development processes (1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services. With respect to item (1), the Board of Supervisors has adopted the adequate public school facilities policy for schools, recreation and water supply facilities.

This project is located within the Norge Elementary, Toano Middle, and Lafayette High School (2006) and Warhill High School (2007) districts. Under the proposed Master Plan, 180 residential units are proposed. With respect to the student generation and the current school capacities and enrollments for 2006 the following information is provided:

*Student Projections :( Based on Non-Binding Mix of unit types)*

- Single-Family Detached: 0.406 (generator) x 54 (residential type) generates **22 new students**
- Duplexes: 0.282 (generator) x 32 (residential type) generates **9 new students**
- Town homes: 0.195 (generator) x 45 (residential type) generates **9 new students**
- Condominiums: 0.078 (generator) x 49 (residential type) generates **4 new students**

A total of forty-four new students are projected to be generated under the assumed unit mix. These numbers are generated by the Department of Financial and Management Services in consultation with WJCC Public Schools based on historical attendance data gathered from other households in James City County.

### *School Capacity:*

School	Design Capacity	Effective Capacity	Current 2006 Enrollment	Projected Students Generated	Enrollment + Projected Students
Norge Elementary School	760	701	636	<b>20</b>	655
Toano Middle School	775	822	858	<b>10</b>	868
Lafayette High School	1250	1230	1663	<b>14</b>	1677
Total	2785	2753	3157	<b>44</b>	3201

Assuming the non-binding unit mix, staff offers the following findings; the adequate public schools facility policy is based on design capacity. Both design and effective capacities are met at Norge Elementary School. Although the design capacity of Lafayette High School is clearly exceeded, the adequate public schools facilities policy states that if physical improvements have been programmed through the County Capital Improvement Project (CIP) then the applicant will meet the policy guidelines. On November 2, 2004, voters approved the third high school referendum and the new high school is scheduled to open in September 2007. Therefore staff believes that this proposal meets the policy guidelines for the high school level. This proposal also exceeds design capacity at the middle school level. However, as a new middle school has been scheduled to open in 2009, staff believes that this proposal meets the policy guidelines for the middle school level.

### **Parks and Recreation**

The Candle Factory Mixed-Use development will provide the following as part of its recreational amenities:

- 3.0 acres of park land; and
- 1 centrally located, shared playground at least 2,500 square feet with at least with five activities; and
- 1 picnic shelter of at least 625 square feet; and
- A minimum 8' wide, concrete or asphalt shared use path along one side of the entrance road approximately 0.3 miles in length; and
- 0.87 miles of soft surface walking trail; and
- One paved multi use purpose court 50'x90' in size; and
- One multi purpose field 200'x200' in size.

**Staff Comments:** All of the above recreational features have been proffered (Proffer No.8). Staff finds the proffered recreational amenities in accordance with County Parks and Recreational Master Plan (CPRM). While acceptable to staff, please note that the design of the recreational area as depicted in the non-binding master plan will be determined at the development plan stage.

### **Transportation**

A Traffic Impact Analysis (TIA) prepared for the proposed Candle Factory development was submitted as part of this original application and revised on May 20, 2007 to reflect changes made in the Master Plan. The revised TIA was reviewed by VDOT and the County's consultant (Kimley-Horn). The scope of this study encompassed (i) a corridor analysis inclusive of Route 60 traffic signals at Croaker Road, Norge Lane, and Norge Elementary School; and (ii) a traffic analysis which extends fifteen years in the future to the year 2021.

*Trip Generation:*

According to the revised TIA, the residential part of the development is expected to generate a total of 1,248 vehicular trips per day and the commercial areas, which include all commercial buildings for both the rezoning and SUP proposals, are expected to generate a total of 5,814 vehicular trips per day. The entire mixed-use development is projected to generate a total of 7,062 vehicular trips per day.

*Intersection Level of Services:*

The overall Level of Service (LOS) for the Croaker Road intersection with Route 60 is currently at level B. At the same intersection, the level of service is projected to reach C for the year 2021.

**2005 Traffic Counts:** From Croaker Road (Route 607) to Lightfoot Road (Route 646)-18,770 average daily trips

**2026 Volume Projected:** From Croaker Road (Route 607) to Centerville Road – 33,500 average daily trips is projected. This segment of Richmond Road is listed on the “watch” category in the Comprehensive Plan

As currently proposed, this development will significantly increase the volume of traffic on roadways and at intersections throughout the study area. In order to mitigate the projected increase of vehicular traffic, the following road improvements have been proffered by the applicant: (please note that these apply only to the rezoning area and are “triggered” by development of that area)

- A right turn lane with shoulder bike lane from eastbound Richmond Road into the property at the intersection of Richmond Road and Croaker Road [Proffer No. 5 (a)]; and
- At the intersection of Route 60 and Croaker Road, the existing left turn lane from eastbound Route 60 onto northbound Croaker Road will be extended [Proffer No. 5(b)]; and
- At the northbound Croaker Road approach to the Croaker Road/Richmond Road intersection improvements will include a minimum 14-foot inbound receiving lane, a 10 foot grass median and two 11-foot outbound lanes (one shared through/left turn and one dedicated right turn lane [Proffer No. 5 (c)]; and
- Capacity improvements (i.e. turn lane improvements) to the southbound approach of Croaker Road [Proffer 5(d)]; and
- Traffic signal coordination for the intersection of Richmond/Croaker Road and Richmond Road/Norge Lane [Proffer No. 5 (e)]; and
- Contribution of a pro rata share of the costs of the signal coordination equipment at the Norge Lane/Route 60 traffic signal [Proffer No. 5(f)]; and
- Crosswalks across Richmond Road, a median refuge island, signage and pedestrian signals heads [Proffer No.5 (g)].

Staff notes that for the area subjected to the SUP, special use permit conditions (conditions No. 5 & 6) have been added to address traffic impacts. Staff further notes that, the area subject to the SUP application is required to submit a traffic study (condition No.6) to determine the traffic impacts to be generated by the SUP proposal and also to ensure that adequate road improvements will occur prior to any commercial development on the property.

**VDOT Comments:** VDOT concurs with the trip generation as presented by the Traffic Analysis. VDOT has also reviewed the proffered road improvements and recommends that in addition to the proffered traffic/road improvements, one of the two existing entrances to the commercial property along Route 60, east of Croaker Road, be removed in order to eliminate conflict points due to merge movement at the east end of the site from entering and exiting traffic. VDOT further recommends a couple of changes pertaining to the dimensions of the proposed turn lane improvements proffered by the applicant. Proffer No. 5 (a) states that the eastbound Route 60 right turn lane shall be constructed with “200 feet of storage and a 150 foot taper”. VDOT recommends that this turn lane be constructed using a 150 feet of storage and a 200 feet taper. Proffer No. 5 (d) states that the southbound left turn on croaker Road shall be constructed “with a 250 feet of storage”; VDOT however, recommends 300 feet of storage. Staff notes that according to Proffer No.5 (e) “all dimensions for turn lanes set forth herein may be modified with the approval of VDOT.” Staff therefore finds that the recommended dimensions for the turn lane improvements will be constructed according to VDOT’s requirement per this proffer.

**Staff Comments:** Staff concurs with VDOT findings. The applicant has agreed to close one of the two existing right-in/right-out entrances to the commercial property along eastbound Route 60. This improvement is offered not as a proffered item but as a special use permit (SUP) condition since the above referenced entrances are located on the property which is subject to the SUP application. The applicant, according to the proffers, shall be responsible for the cost of construction of an exclusive eastbound right-turn lane at the approach to Croaker Road. Further, based on recommendations from the County’s transportation consultant, the applicant will also provide capacity improvements to the southbound approach of Croaker Road that result in the ability to accommodate an exclusive southbound left-turn, one through lane, and an exclusive right-turn lane.

The Croaker Road south bound improvements are currently needed and the Richmond Road east bound improvements are projected to be needed prior to build out of the project. Staff requested that the applicant provide these improvements up front to address existing deteriorating traffic conditions at the Richmond Road/Croaker Road intersection (the existing southbound left trough lane currently operates at a level of services “D”). The applicant has proffered all traffic improvements prior to the issuance of any certificates of occupancy for building on the property [Proffer 5(c)].

## COMPREHENSIVE PLAN

### Land Use Map

Designation	<p><b>Low Density Residential (Page 120):</b> Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. The location criteria for low density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p><b>Staff Comment:</b> Approximately twenty-six acres of land located at the southwestern portion of the property is designated by the Comprehensive Plan as Low Density Residential. This development proposes a total of fifty-nine residential units for this area, mostly single-family detached, creating a density of 2.24 units per acre. Residential developments with gross densities greater than one unit per acre and up to four units per acre may be considered if they offer particular public benefits to the community. As part of the public benefits “package” offered by this proposal, as a whole, staff notes the provision of mixed-cost and affordable housing and unusual environmental protection, particularly stream restoration contribution [Proffer No. 13 (b)], measures on the Stormwater Plan above the 10 points SSC requirements and nutrient management plan (Proffer No. 14). While not among the public benefits cited, staff also notes the public benefits provided by rehabilitating and reusing on existing commercial building and aesthetic enhancements which will positively contribute to the Route 60 Community Character Corridor and the Norge Community Character Area. These are discussed further below.</p> <p><b>Mixed Use (Page 124):</b> Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes. The other Mixed Use areas are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area. Moderate to high density residential uses with a maximum gross density of 18 dwelling units per acre could be encouraged in mixed-use areas where such development would complement and be harmonious with existing and potential development and offer particular public benefits to the community.</p>
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	<p><b>Staff Comment:</b> A total of thirty-seven acres are shown on the Comprehensive Plan as mixed-use area. The proposed Master Plan contains the following in this area broken down by the Rezoning and SUP applications:</p> <ul style="list-style-type: none"> <li>• Rezoning application: twenty-three acres of land with up to ninety-eight residential units and up to 18,900 square feet of new non-residential uses; and</li> <li>• SUP application: Fourteen acres of land with up to 45,000 square feet of new non-residential uses; and</li> <li>• Both applications combined: thirty-seven acres of land designated Mixed Use with up to ninety-eight residential units and up to 63,900 square feet of new non-residential uses and 183,300 square feet of existing non-residential uses (the Candle Factory Commercial Complex)</li> </ul> <p>The Comprehensive Plan does not make a clear recommendation for this specific Mixed Use area. However, the general mixed-use designation states that; “Mixed Uses areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes.” The entire property is located at the intersection of two major thoroughfares, Richmond and Croaker Road.</p> <p>Staff notes that the 18,900 square feet of new non-residential uses are proposed for the Mixed Use area (identified in the master plan as Area 2C) in three mixed-use buildings (non-binding). Proffer No. 19(d) states that: “Each building in Land Bay 2C shall contain a mix of commercial and residential uses”. Staff believes that these three mixed-use buildings are an important element to the Mixed Use area since it potentially increases non-residential uses in the Mixed Use area and provides for a “transition” from the non-residential uses located in the front parcel and the residential uses located in the rear parcels. However, staff notes that the exact mix of residential versus non-residential spaces has not been specified for each of the three proposed mixed-use buildings nor is the amount of each use. Consequently, Area 2C and its building(s) could be primarily residential.</p> <p><b>Limited Industry (Page 123):</b>  Limited Industry sites within the PSA are intended for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area...Secondary uses in Limited Industry areas may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p> <p><b>Staff Comment:</b> A total of 23 acres of land is depicted Limited Industry by the Comprehensive Plan. Of these, approximately 15 acres of industrially designated land immediately behind the parcel occupied by the Cross Walk Community Church, formerly known as the Music Theater, is part of the rezoning application. This project proposes up to 18 residential units (a decrease from the 41-60 range of residential units previously proposed and up to 80,000 square feet of new non-residential uses (an increase from the 12,000-18,000 range of non-residential uses previously proposed). Although the Comprehensive Plan does not recommend residential uses in Limited Industry areas, staff acknowledges that the revision of the proposed land uses for this area has been positive and that staff is supportive of the changes as proposed. Staff notes that the number and location of any proposed non-residential structures in this area have not been specified.</p>
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## Economic Development

Goals, strategies, and actions	Action #1-Page 20: Continue to maintain an active and effective Economic Development strategy which includes existing business retention and expansion, the formation and assistance to new business, and new business recruitment.
	<b>Staff Comment:</b> The addition of the proposed 80,000 square feet of new non-residential uses in Land Bay 2D in conjunction with the two proposed commercial mixed-use buildings and the renovation of the façade of existing buildings located at the property subject to the SUP application may be fiscally positive for the County. In order to address concerns that retail jobs are already numerous in the county and that they are not usually associated with strong economic benefits, the applicant has provided a proffer which secures that “no more than 15 % of the floor area of any building in Land Bay 2D shall be used for retail uses.” Staff finds this acceptable.

## Parks and Recreation

Goals, Strategies and actions	<b>Strategy # 9-Page 39:</b> Encourage new developments to proffer neighborhood and community park facilities and trails as outlined in the Parks and Recreation Master Plan
	<b>Action # 4-Page 39:</b> Encourage new developments to dedicate right-of-way and construct sidewalks, bikeways, and greenway trails for transportation and recreation purposes, and construct such facilities concurrent with road improvements and other public projects in accordance with the Sidewalk Plan, the Regional Bicycle Facilities Plan, and the Greenway Master Plan
	<b>Staff Comment:</b> All recreational facilities proposed for this development are in accordance with the Parks and Recreation Master Plan to include a shared use path along one side of the entrance road approximately 0.3 miles in length and 0.87 miles of soft surface walking trail. Sidewalks are proffered for one side of each of the public streets on the property. Please note the design of the recreational area is non-binding.

## Environmental

General	<b>Yarmouth Creek Watershed Management Plan-Page 47:</b> Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin in James City County. The Creek drains into the Chickahominy River, which in turn discharges into the James River.
	<b>Staff Comment:</b> In addition to the required 100 foot Resource Protection Area (RPA) buffer located at the perimeter of the development area, nine acres of continuous non-RPA buffer is also proposed at the perimeter of the development. In order to further reduce impervious coverage, common walkways incorporate both paved and soft surface walking trails, sidewalks are limited to one side of the streets, and porous pavement is proposed for townhome driveways. A Master Stormwater Management Plan, which includes facilities and measures necessary to meet the special stormwater criteria applicable in the Yarmouth Creek watershed, has been proffered. Additionally, a sum of \$500 per residential unit has been proffered toward stream restoration or other environmental improvements in the Yarmouth Creek Watershed.



Goals, Strategies, and actions	<p>Strategy #2-Page 65: Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p>Action #5-Page 66: Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p> <p>Action#22-Page 67: Promote the use of LEED (Leadership in Energy and Environmental Design) “green building” techniques as a means of developing energy and water efficient buildings and landscapes.</p> <p>Action #23-Page 67: Encourage residential and commercial water conservation, including the use of grey water where appropriate.</p>
	<p><b>Staff Comment:</b> The required 100 foot RPA buffer and the additional nine acres of open space located at the perimeter of the property will separate and protect environmentally sensitive areas such as the perennial streams feeding Yarmouth Creek. Low Impact Development (LID) features such as porous pavements, dry swales and bioretention basins have been proffered. Further, sustainable building practices as recommended in the NAHB Model Green Building Guidelines have been proffered as part of Design Guidelines and Review. Water conservation standards, which limit the installation and use of irrigation systems and irrigation wells on the property, have also been proffered.</p>

### **Housing**

Goals, strategies, and actions	<p>Goal # 1-Page 106: Achieve a range of choice in housing types, density, and price range.</p> <p>Goal# 3- Page 106: Increase the availability of affordable housing.</p>
	<p><b>Staff Comment:</b> This development will offer a variety in housing types and some variety in housing pricing. Up to 180 residential units are proposed. According to the “non-binding” version of the master plan, the residential mix for this proposal will be: fifty-four single-family detached units, thirty-two duplexes units, forty-five townhomes, and forty-nine condominiums. Under the binding master plan, Area 2A is required to be single family and Area 2B has two different types of attached units. Area 2C can only contain mixed-use structures containing residential attached and non-residential uses. The developer has proffered (Proffer No. 3) a certain percentage of affordable and mixed cost housing as part of this proposal; a minimum of 10 % of the residential units shall be offered for sale at or below \$ 160,000 (“affordable units”), and a minimum of 5% of the residential units shall be offered for sale at a price at or below \$250,000 (“below market” units). While it is not known whether affordable units will be single family detached, condos, townhomes or duplexes, the applicant has provided through proffers that “affordable units” will not be all the same unit type or constructed all in the same location. Staff finds that the provision of affordable housing is a significant public benefit offered by this development and find that the applicant’s effort to provide affordable housing is acceptable.</p>

## Transportation

General	<p>Richmond Road- Page 77: Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such development would have on the surrounding road network.</p> <p>Croaker Road-Page79: The section of Croaker Road extending from Route 60 West to Rose Lane has been placed in the “watch” category since traffic volumes are projected to increase from 8,356 vehicle trips per day to 13,000 vehicle trips per day. Development pressure in this area could push the need for future improvements.... It is recommended therefore that road widening be avoided by careful land use and traffic coordination, and intersection and turn lane improvements be implemented if the traffic volumes warrant them.</p> <p><b>Staff Comment:</b> The proposed development is planned as a master planned community with internal roads and shared access for the residential and commercial uses. Staff finds that the applicant has proffered road and traffic improvements for the intersection of Richmond and Croaker Road which staffs believes will adequately address the projected increase in traffic volume in the area.</p>
Goals, Strategies, and actions	<p>Strategy #5-Page 80: Support the provision of sidewalks and bikeways in appropriate areas, increased use of public transportation services, and investigation of other modes of transportation.</p> <p>Strategy #7(a)-Page 81: Encourage efficient use of existing and future roads, improve public safety, and minimize the impact of development proposals on the roadway system and encourage their preservation by limiting driveway access points and providing joint entrances, side street access, and frontage roads.</p> <p>Strategy #7(f)-Page 81: Develop and implement mixed-use land strategies that encourage shorter automobile trips and promote walking, bicycling, and transit use.</p> <p>Strategy #9-Page 82: Include bikeways and/or pedestrian facilities within major developments and elsewhere in the County, especially connecting residential and non-residential areas.</p> <p><b>Staff Comment:</b> As part of the pedestrian circulation plan proposed for this development a shoulder bike lane is proposed. Croaker Road extended into the property will serve as the main entrance for the entire project, serving both the residential and commercial areas. Also, the applicant has proffered to install a sidewalk five feet in width and 800 feet in length on the south side of Croaker Road which will improve pedestrian connection between the proposed development and adjacent properties. An eight-foot biking/jogging trail of approximately 0.3 miles is proposed along the Croaker Road extended. A sidewalk connecting the rear parcel to the commercial complex located at the front of the property is also proposed.</p>

## Community Character Areas & Corridors

General	<p>Norge-Page # 86: Norge has been significantly impacted by recent commercial development along Richmond Road. While Norge continues to have a unique, identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts, the early 20<sup>th</sup> century “village” character of its business and residential areas along Richmond Road has been significantly visually impacted by infill automobile-oriented development.</p> <p><b>Staff Comment:</b> As part of the SUP application, the owner/developer will provide a renovation treatment for the façade of the existing commercial buildings. The existing parking area fronting on Richmond Road will remain; however, additional parking areas will be located behind commercial buildings. Staff finds that the façade renovation of the existing smaller scale commercial buildings and the location of most of the parking behind these buildings will preserve Norge’s identity as smaller “village” style community.</p>
Goals, strategies, and actions	<p>Action #6-Page 96: Limit new commercial/retail centers and additions to existing commercial/retail centers to locations within the PSA and to a size, scale, and character consistent with their applicable Comprehensive Plan Land Use Map designation.</p> <p>Action #24(b)-Page 97: Maintain the small town, rural, and natural character of the County by encouraging new developments to employ site and building design techniques that reduces their visual presence and scale. Design techniques include berms, buffers, landscaping, building designs that appear as collections of smaller buildings rather than a single large building, building colors and siting that cause large structures to blend in with the natural landscape, and low visibility parking locations.</p> <p><b>Staff Comment:</b> The entire development is located inside the Primary Service Area. Richmond Road is designated by the 2003 Comprehensive Plan as a Community Character Corridor and as such the preferred buffer width for commercial and industrial developments is 50 foot. The existing commercial complex fronting Richmond Road does not comply with the suggested buffer; however, the proposed commercial expansion (SUP) on the property will not occur in an area directly fronting on Richmond Road. Further, in order to mitigate the lack of the 50 foot landscaped buffer along Richmond Road, the applicant has provided a non-binding additional 4,204 square feet of landscaped buffer to the existing 4,947 feet of landscaped area fronting on Richmond Road (as shown on Exhibit A: Non-Binding Route 60 Landscape Buffer Plan) Existing buildings and parking areas along Route 60 are to remain. Staff has also added an SUP condition for an enhanced landscape plan for the property frontage and parking area along Richmond Road. Additionally, the owner has proffered to install streetscape improvements in accordance with the County’s Streetscape Guidelines along Croaker Road extended. Also, the applicant has proffered landscaping in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet (Proffer No. 15). Given these features and that this is primarily an adaptive reuse of an existing building; staff finds the lack of an expanded front buffer acceptable.</p>

### Staff Comments:

Since the last Planning Commission meeting on May 2, 2007, this application has been revised to address suggestions made by the Planning Commission and by Planning Staff. These revisions are reflected in changes to the Master Plan and proffers. As noted in staff’s previous analysis for this proposal and from a land use perspective, there were two major areas that staff believed to be inconsistent with the Comprehensive Plan-the Mixed-Use and the Limited Industry areas.

*The Mixed-Use Area:* The 37 acres area designated Mixed Use by the Comprehensive Plan consists of the existing Candle Factory commercial complex and the proposed two commercial mixed-use buildings (all located on the parcel subject to the SUP application). The remaining mixed-use area consists of 98 residential

units and three proposed mixed-use buildings (all located in the parcel subject to the rezoning application). Staff acknowledges that residential uses are not recommended as primary uses for this mixed-use area per the Comprehensive plan. However, staff also recognizes the applicant's effort to secure new non-residential uses in this area. Proffers for Land Bay 2C (rezoning area) secures that each of the proposed three structures located in this area will have a certain mix of residential and non-residential uses, albeit their exact mix has not been identified. This feature is a departure from the previous application since, as it was indicated in the binding master plan, residential and non-residential uses could have been constructed either as stand alone structures or mixed structures. Staff believes that any structures proposed as part of Land Bay 2C should be mixed in order to increase diversity in land uses and in order to reflect the intent of mixed-use areas in general. Staff prefers guarantees for this mix with non-residential as the primary uses.

*The Limited Industry Area:* Staff notes that the applicant has revised the second major area of inconsistency with the Comprehensive Plan- the Limited Industry. Residential uses are not recommended in Limited Industry areas of the Comprehensive Plan; staff notes the significant reduction in residential uses in this area from a previous range of 41-60 residential units to 18 residential units (non-binding) and also the increase of non-residential uses to a maximum of 80,000 square feet. Staff finds these changes acceptable and that they further promote land use variety and balance between the different uses proposed for the entire Candle Factory project.

As mentioned above, staff finds that this revised proposal to be inconsistent with some aspects of the Comprehensive Plan, particularly in the Mixed Use area. However, given the positive changes made in the Limited Industry area, and how these changes may benefit the entire proposal by providing a more balanced ratio between residential and non-residential uses, staff finds that this proposal, as currently presented, to be generally consistent with the intent of the Comprehensive Plan.

#### **SETBACK REDUCTION REQUEST:**

The applicant is proposing a request for modifications to the setback requirements in sections 24-527 (a) and (b), as amended. The setbacks to be reduced are generally identified as structural setbacks and a 50 foot perimeter setback from mixed use districts. These requests are pursuant to Section 24-527, paragraphs (c)(1) and (d), as amended, and according to the applicant are necessary to integrate the proposed development with the surrounding neighborhood. The request for modification to the setback requirements will be considered by the Planning Commission (Development Review Committee) when development plans are submitted. The amendment to this zoning ordinance which would allow these modifications to be granted was approved by the Board of Supervisors during its regular meeting on May 22, 2007.

#### **RECOMMENDATION:**

Staffs finds the rezoning and SUP proposals; master planned as one single project, to be generally consistent with surrounding lands uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of these combined applications with the acceptance of the voluntary proffers and the attached special use permit conditions:

**1. Master Plan:** This Special Use Permit (SUP) shall be valid for the construction of two-mixed use, commercial buildings ("Buildings") in excess of 10,000 square feet, located on JCC Tax Parcel Number 2321100001C, more commonly known as 7521 Richmond Road ( the "Property"). Development of the Property shall be generally in accordance with the Master Plan entitled "Master Plan for rezoning of Candle Factory Property for Candle Development, LLC and KTP Development, LLC" prepared by AES Consulting Engineers dated November 29, 2006 (the "Master Plan) and revised on March 19, 2007 and April 20, 2007 with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

**2. Building Square Footage:** The collective area of the Buildings shall not exceed 45,000 square feet.

**3. Stormwater Master Plan:** Prior to final site plan approval a stormwater master plan (“Plan”) for the Property shall be submitted to the James City County Environmental Director (“Environmental Director”) for his review and approval. The Plan shall include facilities and measures necessary to meet the County’s ten point stormwater management system requirements and the special stormwater criteria applicable in the Yarmouth Creek watershed and shall be implemented once approved by the Environmental Director. Once the Plan is approved, changes to the Plan shall only be made with the prior approval of the Environmental Director.

**4. LID:** Low impact Development (LID) components shall be incorporated on the Property to treat stormwater runoff resulting from thirty percent (30%) of the new impervious areas on the property at build-out. These LID components shall not be counted towards Special Stormwater Criteria or stormwater quality points.

**5. Access Driveway:** Prior to issuance of any certificate of occupancies for either of the Buildings, one of the two existing entrances to the commercial property east of the intersection of Route 60 and Route 607, as shown on the Master Plan, shall be removed. The remaining entrance if required by VDOT shall be a right-in/right-out entrance only and shall include channelization. A right-turn taper of 150 foot for this entrance shall be approved by VDOT and the Planning Director and shall be installed prior to issuance of any Certificate of Occupancy for the Buildings.

**6. Traffic Impact Analysis:** The applicant shall submit an updated traffic analysis prior to final site plan approval for any building on the SUP Property. Such analysis shall determine the traffic impact associated with the SUP Property and shall identify any traffic improvements the need for which is generated by the SUP application. Such analysis shall be approved by the Planning Director and by VDOT. Should the analysis identify needed improvements, such improvements shall be shown on any site plans and shall be completed or bonded prior to issuance of certificates of occupancy for any new buildings on the SUP Property.

**7. Landscape:** A landscape plan shall be submitted to the Planning Director for his review and approval prior to final site plan approval (“The Landscape Plan”). The Landscape Plan shall, at a minimum, address the following:

(i) The entire length of the driveway entrance onto the Route 60 and Route 607 intersection and shall comply with the Streetscape Guidelines Policy as set forth in James City County Code; and

(ii) Landscaping for the existing parking lot and the existing buildings shall be provided at 125 percent of the Zoning Ordinance landscape size requirements;

(iii) Landscaping along the property adjacent to Route 60 shall be provided at 125 percent of the Zoning Ordinance landscape size requirements;

At his sole discretion, the Planning Director may permit a reduction in the required landscaping upon a showing of good cause by the applicant.

**8. Architecture:** The buildings shall contain architectural features, colors, and materials that reflect the surrounding character of the Norge Community as described in the James City County Comprehensive Plan. The architectural design, color, and materials used for the proposed facade renovation and the two mixed-use buildings shall be approved by the Planning Director prior to final site plan approval.

**9. Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan for

all new lighting shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All new light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

**10. Dumpsters:** All dumpsters and heating and cooling units for the building shall be screened with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval.

**11. Water Conservation:** The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitation on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

**12. Irrigation:** Irrigation from the public water system or private well(s) shall not be permitted. If irrigation cannot be provided from an existing or proposed surface water impoundment due to phasing of the development, the Owner may apply to JCSA General Manager requesting a waiver for a temporary shallow well (less than 100-feet) until surface water impoundments are established.

**13. Commencement of Construction:** If construction has not begun on the project within 36 months of the issuance of the special use permit, it shall become void.

**14. Severance Clause:** This special use permit shall be valid for a period of thirty-six months from the date of issuance of this special use permit.

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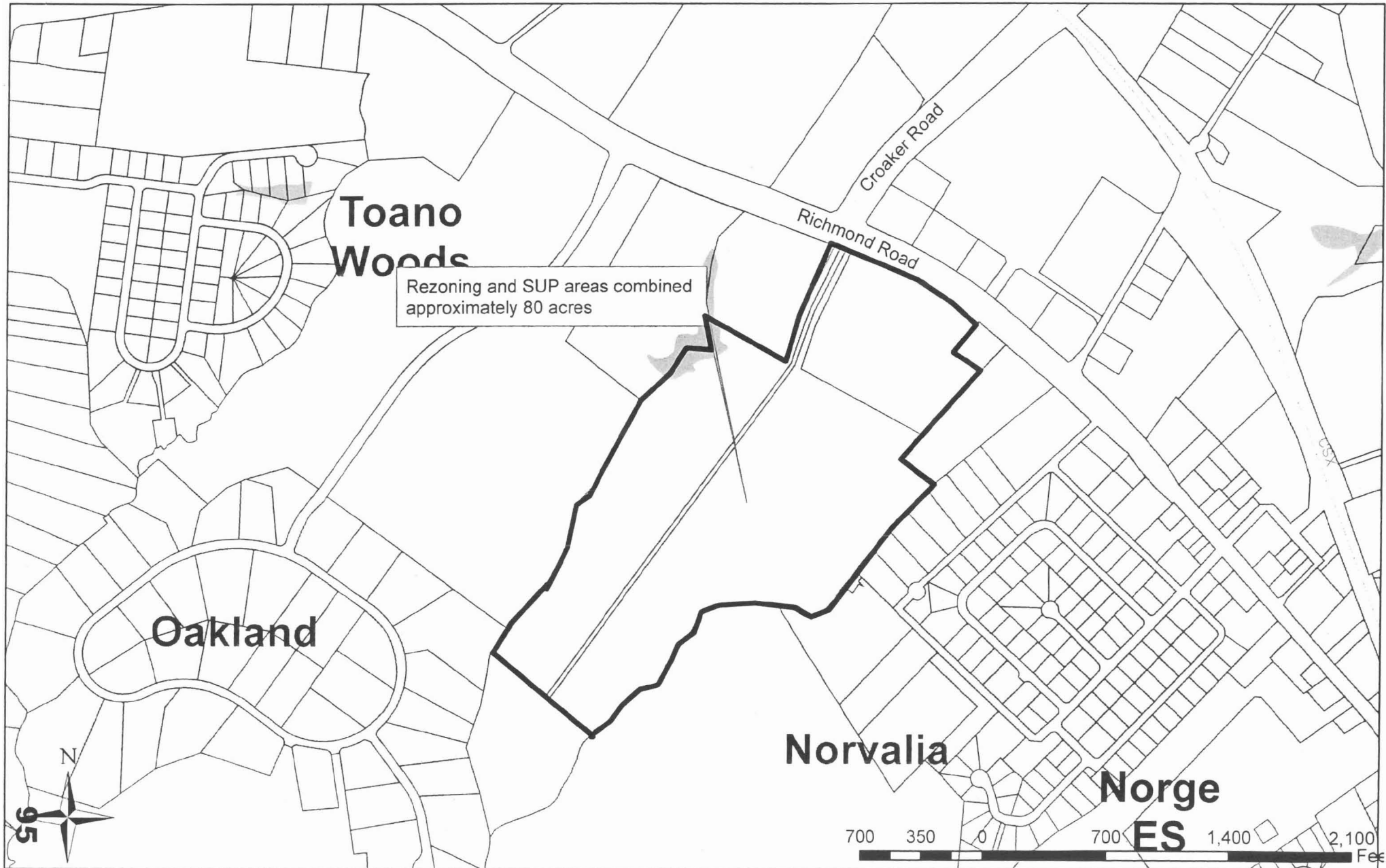
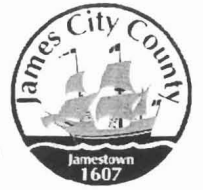
Jose Ricardo Linhares Ribeiro  
Planner

**Attachments:**

1. Location Map
2. Binding Master Plan (under separate cover)
3. Non-binding Illustrative Plan -1 black and white copy and 1 color copy (under separate cover)
4. Exhibit A titled "Non-Binding Route 60 Landscape Buffer Plan"  
Exhibit B titled "Estimated Number of Residential Units in Master Plan per Comprehensive Plan Area Designation"  
Exhibit C titled "Non-Binding Open Space Study"  
Exhibit D titled: "Comparison of Candle Factory ratio of non-residential square footage per residential unit with that of other mixed use development." (all exhibits under separate cover)
5. Community Impact Statement (CIS)
6. Traffic Analysis-TA (under separate cover)
7. Applicant's letter responding to Planning Commission Comments
8. Proffers (binding)

# JCC- Z-10-06/MP-12-06 & SUP-37-06

## The Candle Factory ( Rezoning & SUP)



## ***Addendum to the Community Impact Statement for the Candle Factory***

Reference: Soap and Candle Factory Property  
County No. Z-10-06/MP-12-06/SUP-37-06  
AES No. 6883-11 & 12  
Community Impact Statement dated December 22, 2006, revised March 19, 2007

This page identifies areas in the CIS that have been affected by master plan changes since the last CIS revision. The CIS itself has not been revised, since it remains substantially correct.

- Page 3, last paragraph. Candle Factory now includes a 10.55 acre component reserved for non-residential uses in the area designated in the Comprehensive Plan as Light Industrial. The residential ceiling for the community has been reduced from 219 units to 180.
- Page 8, first paragraph, last sentence. The master plan now reflects the potential for up to 80,000 square feet of non-residential uses on 10.55 acres of the area designated as Light Industrial in the Comprehensive Plan.
- Page 9, first paragraph, last sentence. The proposed density on this portion of the site is 1.2 units per acre.
- Page 9, second paragraph. The gross density in the area designated Mixed Use in the Comprehensive plan is based upon 98 units on 23 acres for a density of 4.28 units per acre.
- Page 10, paragraph B.1, last sentence and all other CIS references to gross density. Based upon the reduction in residential units, gross density drops from 3.4 to 2.79.
- Page 12, last sentence. As presently configured, approximately 34.4% (17.95 acres) of the developable area has been preserved as open space.
- Page 14, Recreation analysis. Because of the drop in the number of residential units there is a corresponding reduction in recreational requirements. This section has not been revised to reflect this reduction because the amenities offered remain the same.
- Page 16, second paragraph. Changes in affordable housing proffers will alter the low end of this price range. See current proffers.
- Page 16, last paragraph. With the provision of affordable housing, the cluster overlay permits a reduction of open space to 30%. Candle Factory preserves 34.4% of the net developable area as open space.
- Page 19, subparagraph (c). One of the two existing right in right out entrances mentioned here will be closed at staff/VDOT request.
- Page 22, Table 1. Revised water flow tables were previously submitted.
- Page 23, Tables 2 and 3. The decrease in residential units reduces the number of additional students from 50 to 44 (Table 2), with a corresponding drop in student generation. Projected additional students (Table 3) drop from 22 to 19 at Norge Elementary, from 12 to 10 at Toano middle school and from 16 to 14 at Lafayette High School.
- Pages 26. See the Master Plan, sheet 5, Master Storm Water Management Plan for current BMP and SSC measures.
- Page 28, third and fifth bullets. Proposed density in 2.79 units per acre (third bullet). The Mixed Use component now sits at 17.95 acres (34.4% of MU net developable acres). Adding non-developable areas brings gross open space to 30.28 acres—46.9% of the mixed use area (fifth bullet).



# Community Impact Statement

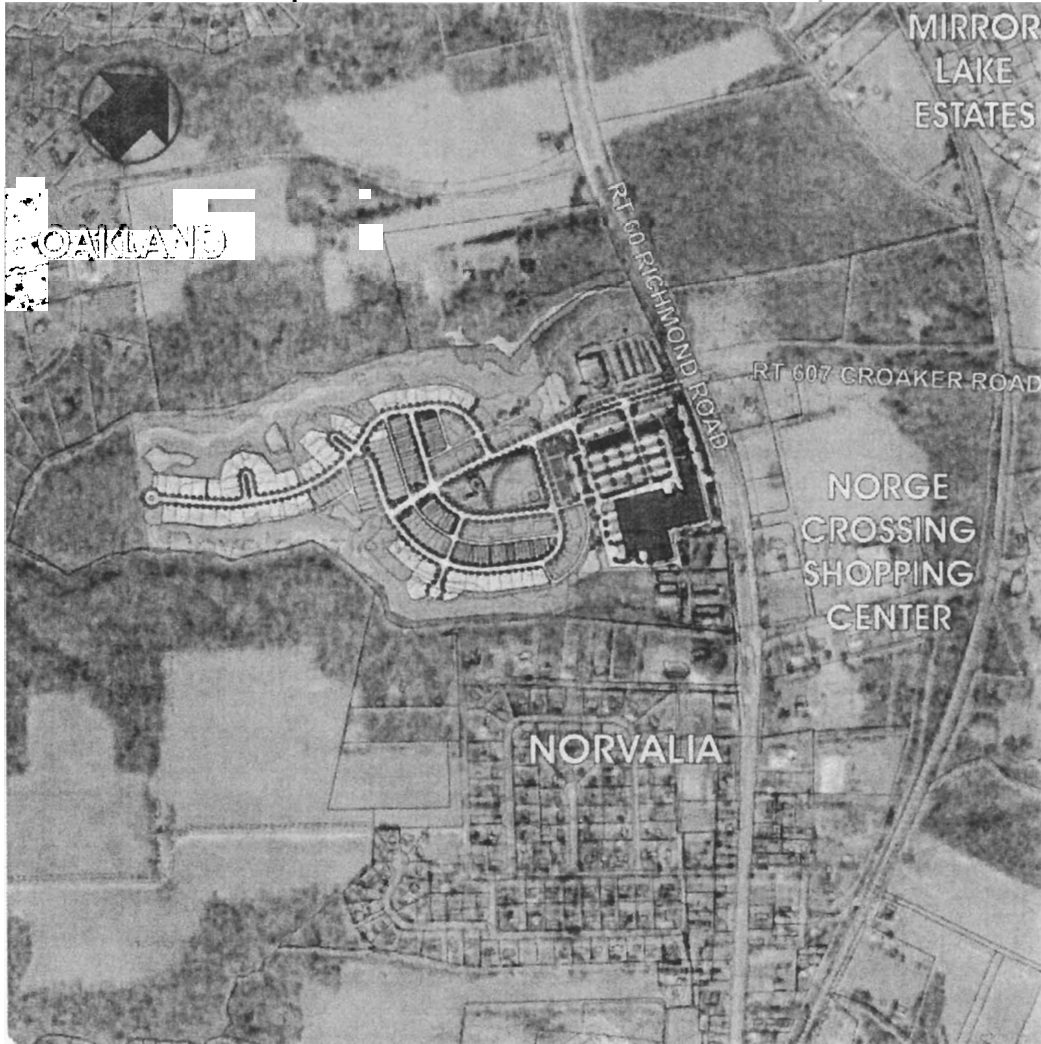
Rezoning & Special Use Permit for

## THE CANDLE FACTORY

PROPERTY

Prepared For

Candle Development, LLC and KTP Development, LLC



December 22, 2006

AES Project Number: 6883-11-12

(Revised March 19 2007)

Prepared by:



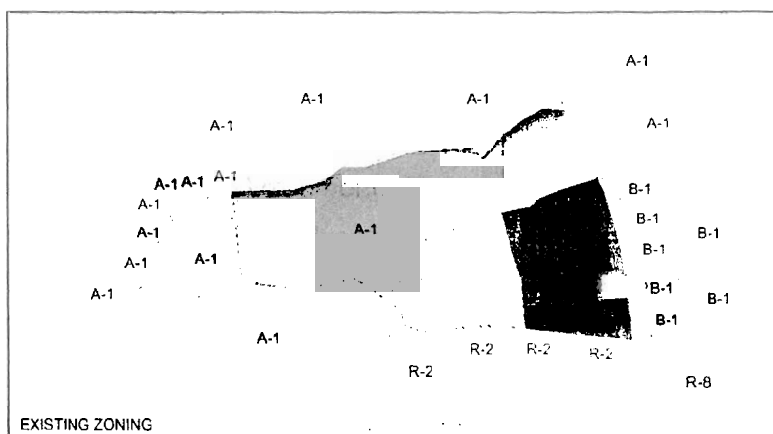
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## I. INTRODUCTION AND PROJECT DESCRIPTION

Candle Development, LLC, in cooperation with KTP Development, LLC, proposes a multiuse master-planned community of approximately 80 acres in the Norge area of James City County, Virginia. The new community is located on the south side of Richmond Road (Route 60), opposite the intersection of Richmond Road and Croaker Road (Route 607). An official name for the community has not yet been selected, but to facilitate this discussion it will be referred to as the Candle Factory. The property is bounded on the south, east and west by private residences located in the General Agricultural (A-1) and General Residential (R-2) zoning districts. Along the Richmond Road frontage on the west the property is adjacent to the Cross Walk Community Church (CWCC), formerly the Williamsburg



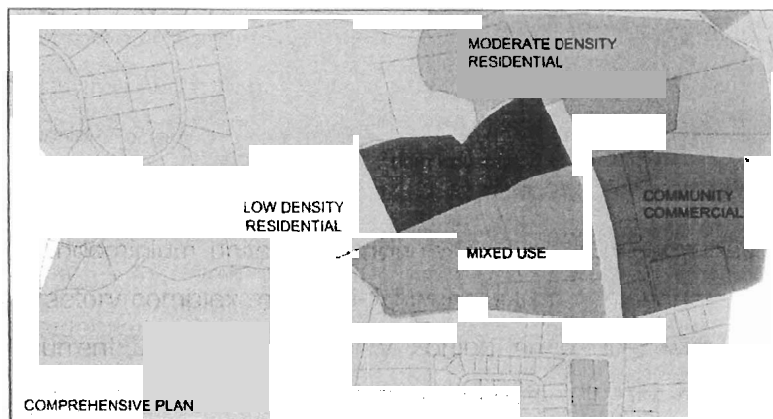
Music Theater, which is zoned Mixed Use (MU). On the east side is a small office park zoned Limited Business/ Industrial District (M-1). The area facing the development across Richmond Road is zoned General Business District (B-1). Primary access to the development

will be from the existing shared and signalized entrance at the Richmond/Croaker Road intersection. The present right-in/right-out entrances to the Williamsburg Soap and Candle Factory (WSCF) complex will remain.

Candle Development, LLC proposes to rezone approximately 64.45 acres immediately behind Cross Walk Community Church and the Williamsburg Soap and Candle Factory complex from the A-1 (60.82 acres) and M-1 (3.0 acres) zoning districts to the MU zoning district. (Note: 0.63 acres of existing MU adjacent to CWCC will be part of the new 64.45 acre MU parcel). Also, KTP Development, LLC requests a special use permit (SUP) to allow construction of two mixed use commercial buildings totaling 44,690 square feet within the existing Soap and Candle Factory complex, with shared common access from Richmond Road and vehicular and pedestrian connectivity to the mixed use development.

The Candle Factory master plan includes Mixed Use and Limited Business/Industrial District components with commercial, office, warehouse, restaurant and residential elements. The residential portion of the community, to be zoned MU, will contain up to 219 dwelling units, with a projected mix of single-family detached, single-family attached (duplexes), town homes and

condominium units. The non-residential area combines the existing 14.2 acre Soap and Candle Factory complex mix of M-1 business and light industrial uses, as allowed by section 24-411 of the current James City County zoning ordinance, with an adjacent area in the new Mixed Use development containing Mixed Use units with non-residential uses as permitted by section 24-521. The Williamsburg Soap and Candle Factory complex will retain its M-1 Zoning but will be subject to the intent of the Master Plan and any conditions imposed through the SUP process.



The master planned area encompasses three different land use designations in the current James City County Comprehensive Plan. The rear portion of the property (approximately 26.29 acres) is designated low density residential; a portion of the eastern half of the property (approximately 37.21

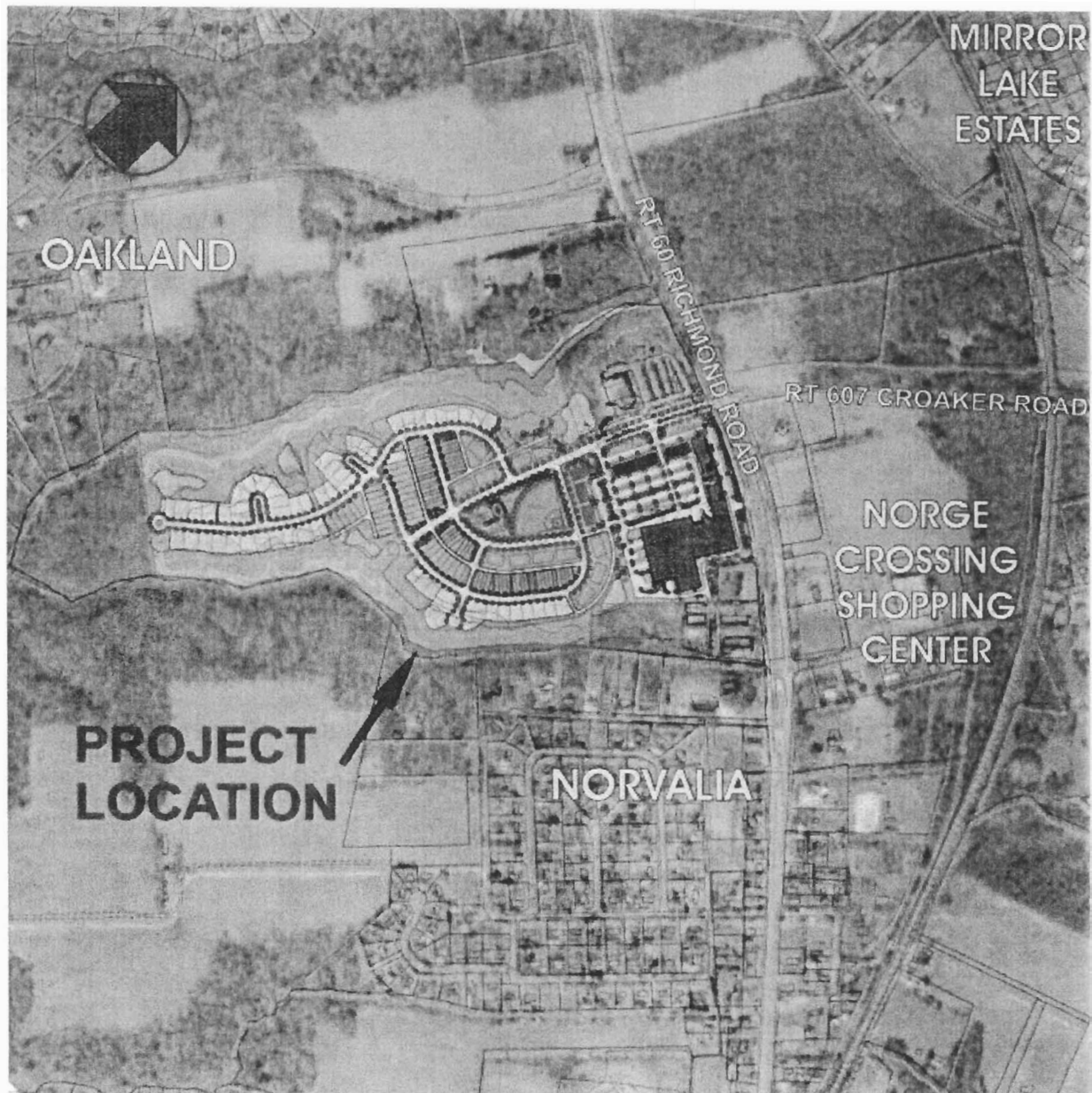
acres), including the WSCF parcel, is designated as Mixed Use; and the remainder, (approximately 15.08 acres), located directly behind the CWCC is designated as Light Industrial. The properties across Richmond Road from the site are designated Community Commercial. The master planned area also lies within the Comprehensive Plan's Norge and Toano Community Character Area.

Candle Factory falls within Subwatershed 103 of the Yarmouth Creek Watershed, which drains to the Chickahominy River, which, in turn drains to the lower portion of the James River. The Yarmouth Creek Watershed Study classified Subwatershed 103 as "sensitive" because of its high stream and habitat quality. Surface water features include two perennial unnamed tributaries to Yarmouth Creek and their associated wetlands that drain from northeast to southwest along the northwestern and southeastern property lines. No lands designated as Conservation areas on the Comprehensive Plan are on the subject property.

From a Cultural Resources perspective, the site contains an existing circa 1959 single family residence, located in the southwest portion of the tract and three farmstead auxiliary buildings clustered in the north-central portion of the property. The Phase I Cultural Resources Assessment, included as part of this document indicates that none of the existing structures appear to meet eligibility criteria for listing in the National Register of Historic Places.

**Exhibit 1 – Location Map**

**(Not to Scale)**



## II. THE PROJECT TEAM

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

- Developers - Candle Development, LLC & KTP Development, LLC
- Land Planning - AES Consulting Engineers
- Civil Engineering - AES Consulting Engineers
- Legal - Geddy, Harris, Franck & Hickman, LLP
- Architectural - Jeff Barra, Toano Design
- Environmental - Williamsburg Environmental Group, Inc.
- Traffic - DRW Consultants, Inc.
- Fiscal - The Wessex Group, Ltd.
- Archaeology - James River Institute for Archaeology, Inc.

Key components of this Community Impact Study are:

- Planning Considerations and Density Analysis
- Analysis of Impacts to Public Facilities and Services
- Traffic Impact Assessment
- Fiscal Impact Study
- Environmental Inventory
- Cultural Resources Assessment

### III. DENSITY DISCUSSION AND PLANNING CONSIDERATIONS

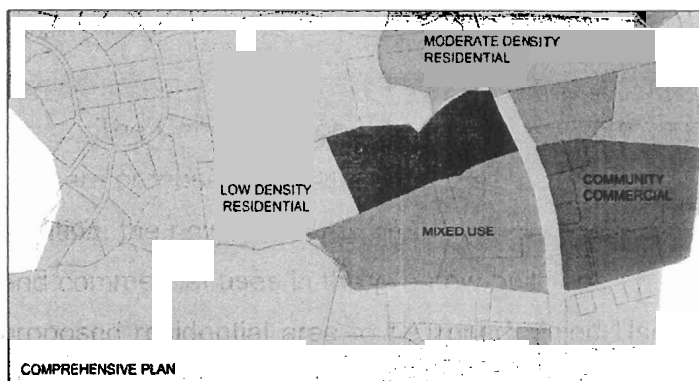
#### A. COMPREHENSIVE PLAN, ZONING AND DENSITY DISCUSSION

The existing commercial area is designated Mixed Use on the Comprehensive Plan. Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. The Comprehensive Plan is silent with regard to this Mixed Use quadrant in the Norge area, at the intersection of Route 60 and Croaker Road. The only specific reference to the Soap and Candle Factory is a reference in the Land Use Technical Report which states "for that area currently zoned M-1 (as of May 1991) located adjacent to Richmond road, the principal suggested uses are a mixture of limited industrial and commercial". This same reference to the property currently zoned M-1 is the only reference to the Mixed Use designation in the 1997 Comprehensive Plan. Up until the time the Soap and Candle factory closed its' doors, these were the principal uses on the site.

This site is also part of the Norge Community Character area noted in the Comprehensive Plan. The current plans for the property meet many of the design standards recommended for the area as recognized by County staff in their responses to the second conceptual plan submitted in October. These standards also include one important reference to Mixed Use. "Mixed use development which provides residential, commercial, and office uses in close proximity is encouraged." This proposal adheres to the recommendations of both the 1997 and 2003 Comprehensive Plans by leaving the area currently zoned M-1 as primarily light industrial and commercial and providing a mix of residential uses as well as the potential for structures containing a mix of uses on the remaining Mixed Use area. These two areas are connected by both pedestrian and vehicular circulation and are in close and functional proximity to each other per the Norge Community Character area standards.

A recommendation for Mixed Use development as a design standard, providing residential, commercial, and office uses in close proximity is referenced in a description of the Norge Community character area. In the general description of Mixed Use in the Comprehensive Plan there are important references encouraging Master Plans, pedestrian-oriented urban design configurations, and moderate to high density residential uses where such development would complement existing and potential development and offer particular public benefits to the community.

The Candle Factory site has been master planned. The principal uses on the M-1 zoned land are proposed to be the same as those recommended in the Land Use Technical Report. In addition, the new structures proposed with the Special Use Permit on the M-1 land will mix office and commercial uses in the two new buildings. Finally, to extend some commercial use into the proposed residential area to be zoned Mixed Use, the master plan calls for up to 18,900 sf of office and/or commercial uses on the first floor of three mixed use structures fronting on the 3 acre central park. In addition, the Master Plan has been revised to allow for up to 18,900 square feet of non residential uses in the area currently designated Light Industrial in the Comprehensive Plan.



The 64.45 acre area behind the existing Candle factory commercial area contains lands with three different Comprehensive Plan designations. A 26 acre portion of the site is designated Low Density Residential. Low Density Residential Areas are suitable for residential developments of up to one

unit per acre within the PSA depending on the character and density of surrounding properties, the physical attributes and density of the property being planned, and the degree of the project's consistency with the Comprehensive Plan. In order to encourage higher quality design, residential developments with densities greater than 1 unit per acre and up to 4 units per acre may be considered if they offer particular public benefits to the community. "Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design." This area as currently master planned contains 51 units and on 26 acres this represents 1.94 units per acre. A summary of specific benefits to the community and density discussion is provided later in this report.

A 15 acre portion of the proposed Mixed Use site is designated Light Industrial on the Comprehensive Plan. The former Music Theater property (not a part of this application) is also designated Light Industrial, although that site is zoned Mixed Use and was rezoned prior to the 2003 Comprehensive Plan. During discussion sessions in the Comprehensive Plan Update process this "inconsistency" was discussed but the Comprehensive Plan was not changed. Now that the Music Theater site has been sold to the Cross Walk Community Church, the inconsistency of a Light Industrial land use sandwiched between a Church and Low Density



Residential lands is even more apparent. Candle Factory's master plan has been formulated for compatibility with surrounding land uses. This application asserts that the most appropriate Land Use designation for this portion of site, in consideration of surrounding and planned land uses, is Mixed Use. The proposed density on this 15 acre portion of the site per the current Master Plan may range from 3 to 4 units per acre depending on the eventual extent of non-residential uses

A 23 acre portion of the site is designated Mixed Use on the Comprehensive Plan. The Candle Factory master plan designates this area for mixed use structures containing commercial/office and residential uses, four and five-plex condominiums, townhomes, duplexes, and single family lots. The gross density in the area designated Mixed Use is 4.2 units per acre or 97 units on 23 acres. Mixed Use lands may contain moderate residential densities which range from a low of 4 units to an acre and up to 12 units per acre. Moderate densities ranging from 4 units per acre and up to 12 units per acre may be encouraged in mixed use areas where such development compliments existing and potential development and offers particular public benefits to the community. Examples of such benefits include mixed cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space design. All of the above benefits are being provided in the proposed mixed use portion of the Candle Factory master plan.

The Candle Factory commercial area is presently zoned M-1. As discussed above, the M-1 portion contains the existing and proposed soap and candle commercial uses. The primary purpose of the M-1 district is to establish areas where the principal land uses are limited business and industrial operations and certain commercial and office uses compatible with limited business and industrial uses. Since the historical use of this property has been much less intensive than the uses anticipated for M-1 zoning, one could infer that designating this area and the 23 acre site behind it as Mixed Use on the Comprehensive Plan was, at least in part, in recognition of this sites' ability to be compatible with a wider array of uses including carefully designed and sited residential uses. The remaining 64 acres of the Candle Factory property is zoned M-1, MU, and A-1. As discussed above, this area contains three different Comprehensive Plan Land Use designations, the largest area being Mixed Use. This area lies within the Primary Service Area. The Primary Service area is a principal tool for managing growth. It is designed to direct growth into areas where public utilities exist or are planned and away from rural lands.

B. **PLANNING CONSIDERATIONS:** In a memorandum earlier this year, Planning Commission offered suggested standards for new residential development in five basic areas. These are paraphrased below in italics, along with our assessment of how the Candle Factory master plan complies.

1. *Compatibility with adjacent neighborhoods:* *Compatibility with adjacent neighborhoods in terms of lot area, width and overall density.*

Except for the WSCF parcel fronting Richmond Road, Candle Factory is surrounded primarily by low density uses. The nearby neighborhood of Norvalia has a slightly higher density, with many lots of less than half an acre in size, but still falls on the low end of the density spectrum. In keeping with Comprehensive Plan design guidelines for the Norge Community Character Area, the Candle Factory master plan proposes a Mixed Use development, which allows earned moderate residential densities as high as 12 units per acre. By providing such public benefits as mixed-cost and affordable housing options and unusual environmental protection, and by incorporating key features of open space design, Candle Factory earns density well above the 4 unit per acre moderate density minimums associated with MU development. However, in recognition of the low density of adjacent residential development and to ensure compatibility with the surrounding area, Candle Factory proposes a very modest overall density of 3.4 units per acre—well within the range established by the Comprehensive Plan for low density residential development.

2. *Buffers and Community Character:* *Buffers adjacent to existing neighborhoods should exceed ordinance requirements and 150' width Community Character Corridor (CCC) buffers should be honored. Densities at the higher end are expected to exceed minimum standards.*

In addition to the required RPA buffers, Candle Factory provides almost 9 acres of additional open space at the perimeter of the development which serves not only to further buffer development from adjacent properties, but also to enhance environmental protection for the Yarmouth Creek watershed and satisfy a key provision of open space design principles by moving open space to the perimeter. The master plan is structured so that only single family detached homes lie at the perimeter of the development—adjacent to enhanced open space buffers. Multi-family residences are either internal to the development or form part of the mixed use transition to the adjacent M-1 area on the Richmond Road frontage. Candle Factory fronts on State Route 60 West, Richmond Road, which was added to the list of roads designated in the Comprehensive Plan as a Community Character Corridor (CCC) to assist in regional beautification efforts. As a result, any new residential or commercial development along these corridors requires some form of frontage buffer. In the case of Candle Factory, all new

development occurs in the area to the rear of the existing Williamsburg Soap and Candle Factory buildings, which occupy almost the entire frontage to the full depth of the CCC and precludes traditional buffer landscaping. However, the applicants recognize the importance of screening the views to and from new development and the need for additional landscaping to compliment the corridor as well as enhance the character of the area, and have offered a frontage landscape plan as a condition of the Special Use Permit.

Candle Factory also lies within an area defined by the Comprehensive Plan as the Norge and Toano Community Character Area (CCA), which was conceived in part to maintain the historic “village” character of the Norge area and establishes specific design standards to guide future development and redevelopment. The CCA design standards encourage, among other things, architectural treatments which compliment local historic character, an emphasis upon pedestrian and bicycle access and circulation, shared access and parking, parking at the rear of buildings where possible, the use of native plants, and mixed use development. Many of these elements have been incorporated into the design of the Candle Factory and can be seen on the non-binding illustrative plan. The Williamsburg Soap and Candle Factory has been a local landmark for over forty years and is itself a part of the historical heritage of the area and integral to the “village” character of business and residential areas along Richmond Road that help define the Norge community and prompted development of the CCA. To preserve and enhance Candle Factory’s presence on Richmond Road, KTP Development, LLC has planned a modest face lift to existing WSCF buildings that will reflect sensitivity to architectural scale, materials and color in keeping with design guidelines.

3. *Environmental Protection:* *Environmental protection-- better site design, low impact development techniques, turf management, HERS certification, LEED green building techniques, at least 25’ construction setbacks from the RPA and water quality measures exceeding minimums.*

- a. The principles of Better Site Design (BSD) are derived from Model Development (MD) principles created to satisfy three general performance criteria established by Virginia administrative code to help protect the Chesapeake Bay by minimizing land disturbance, preserving indigenous vegetation, and minimizing impervious surface. We address BSD/MD principles as they apply to Candle Factory as follows:

*BSD/MD Principle #1* - *“Conserve trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native plants. Wherever practical, manage community open space, street rights-of-way, parking lot islands, and other landscaped areas to promote natural vegetation.”*

James City County incorporates requirements for conservation and protection of trees and preservation of open space as a normal part of its development and site planning process and requires the permanent protection and maintenance of open space through conservation easements and/or the establishment of homeowner organizations to manage community open space. Candle Factory honors those requirements.

*BSD/MD Principle #2 – “Clearing and grading of forests and native vegetation at a site should be limited to the minimum amount needed to build lots, allow access, and provide fire protection. A fixed portion of any community open space should be managed as protected green space in a consolidated manner.”*

With extensive RPA buffers, green space approaching forty per-cent of the site, and roughly 10 acres of the property presently sparsely wooded or open upland meadows on former agricultural land, there is ample opportunity to retain existing vegetation and contribute additional canopy cover to the Candle Factory site. Nearly 1.5 miles of subdivision roads and their associated street trees will contribute the equivalent of 2.5 acres of canopy to the project, in addition to other landscaping requirements. The master plan design not only retains existing forested areas within RPA buffers, but also provides permanent lot line setbacks from buffers which meet and in most cases exceed the suggested construction buffer—effectively adding an additional 25' of up-slope forested canopy protection for the perennial streams feeding Yarmouth Creek to be managed and protected either by a homeowners' association or natural open space easement.

*BSD/MD Principles #3-6 – “#3- Promote open space development that incorporates smaller lot sizes to minimize total impervious area, reduce total construction costs, conserve natural areas, provide community recreation space, and promote watershed protection. #4- Reduce side yard setbacks and allow narrower frontages to reduce total road length and overall site imperviousness. Relax front setback requirements to minimize driveway lengths and reduce overall lot imperviousness. #5- Promote more flexible sidewalk design standards for residential subdivision sidewalks. Where practical, consider locating sidewalks on only one side of the street and providing common walkways linking pedestrian areas. #6- Reduce overall lot imperviousness by promoting alternative driveway surfaces and shared driveways that connect two or more homes together.”*

The Candle Factory master plan effectively demonstrates many of these principles. Lot sizes and side setbacks are reduced in order to provide additional open space; and, alley service to many units provides the opportunity for reduced front setbacks that minimize driveway and entry walk length. Approximately 43% of the developable

area of the site (22.51 acres) will be dedicated and protected as contiguous natural open space. Common walkways incorporate both paved and soft surface walking trails and, where practical, sidewalks are limited to only one side of the street, and porous pavement is proposed for townhome driveways. Proposed community recreation features exceed requirements (See paragraph 4).

*BSD/MD Principles #7-16 – “#7- Design residential streets for the minimum required pavement width needed to support travel lanes, on-street parking, and emergency, maintenance, and service vehicle access. These widths should be based on traffic volume.” #’s 8-11 are paraphrased as follows: Reduce the length and right-of-way widths of residential streets where possible. Use the smallest possible radius for cul-de-sacs or consider alternative turnarounds. Where possible use vegetated open channels within the right-of-way to convey and treat stormwater. #’s 12-16 address minimizing the impact of large parking lots.*

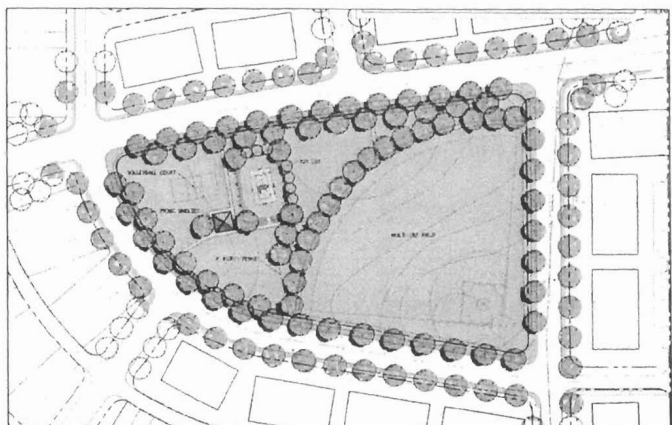
To reduce pavement footprints we have utilized the smallest acceptable radius for cul-de-sacs. To help minimize the impact of expanded parking, almost all of the commercial area and some of the residential area stormwater runoff will be treated through bioretention filters rather than being piped directly to BMPs.

b. Green building, home energy conservation and nutrient management practices will be considered in the development of Candle Factory proffers. With regard to the suggested 25’ construction zone setback from the RPA, the master plan shows that Candle factory lots have been pulled back from the RPA a minimum of 25’ and as much as 150’ to create the additional buffering discussed in BSD principle 2 above.

c. Other important planning considerations involve environmental concerns associated with the site’s location within subwatershed 103 of the Yarmouth Creek Watershed. This subwatershed contains nearly five miles of headwater streams that drain to the main portion of Yarmouth Creek and are critical to the overall health of the watershed. Subwatershed 103’s classification as “sensitive” means it is among the healthiest in the county in terms of stream and habitat quality. The applicants recognize that their efforts to preserve the present “sensitive” status of the unnamed headwater streams which bound the property provide a significant public benefit. The Candle Factory master plan incorporates unusual environmental protection through a variety of measures. It meets the County’s expectations for stormwater management, Special Stormwater Criteria (SSC) and ground water recharge and provides nearly nine acres of additional protection to Resource Protection Areas and associated buffers. A nutrient management plan to

regulate the application of chemical fertilizers will be proffered.

4. **Recreation:** To be provided in accordance with County Parks and Recreation Master Plan (CPRM) with active and passive on-site recreation facilities exceeding minimums.



Because this is a mixed use development containing a variety of residential dwelling types, Candle Factory provides centralized shared recreational facilities based upon total unit counts and worst case computation factors, without regard to unit type (single family, townhouse, multifamily). As shown in the following analysis, the proposed on-site Candle Factory community recreation features

meet and exceed requirements contained in the CPRM.

**Analysis per the Comprehensive Parks and Recreation Master Plan for James City County.**

- Calculation basis for 219 units: Single Family Detached (SFD): 2.9 persons per unit and Townhouse and Multi-family (TMF): 1.7 persons per unit.
- Proffer amounts and facilities reflect either the combination of SFD and TMF requirements based upon combined total unit counts, or the higher or more restrictive number of the two requirements.

**Park Land:**

**Required:** 1.47 acres

SFD - 60 units @ 0.0087 acres/unit = 0.522 acres (No Monetary Proffer Alternative)

TMF - 159 units @ 0.006 acres/unit = 0.954 acres (No Monetary Proffer Alternative)

**Provided:** 3 acres +/-

**Playgrounds:**

**Required:** 1 playground (No Monetary Proffer Alternative)

SFD - 60 units = 1 playground (No Monetary Proffer Alternative)

TMF - 159 units = 1 playground (No Monetary Proffer Alternative)

**Provided:** 1 centrally located, shared playground (2500 sf minimum, 5 activities) satisfies the service level for both unit types. (The threshold for a second playground is more than 344 SFD units or more than 294 TMF units.)

**Biking/Jogging Trails:**

**Required:** 0.4134 miles of 8' wide, concrete or asphalt shared use path along one side of collector roads. (No Monetary Proffer Alternative)

SFD - 60 units @ 0.0043 miles/unit = 0.258 miles

TMF - 159 units @ 0.0026 miles/unit = 0.4134 miles

**Provided:** A minimum 8' wide, concrete or asphalt shared use path along one side of the entrance (collector) road (0.3 miles) is provided. An additional 0.87 miles of soft surface walking trail as shown on the illustrative plan is also proposed.

**Courts:**

**Required:** 0.3569 courts or proffer \$10,161

SFD - 60 units @ 0.0022 courts/unit = 0.132 courts (Proffer \$66/unit = \$3,960)

TMF - 159 units @ 0.0013 courts/unit = 0.2067 courts (Proffer \$39/unit = \$6,201)

**Provided:** Paved multi-purpose court

**Softball fields:**

**Required:** 0.08 fields or proffer \$4,443

SFD - 60 units @ 0.00058 fields/unit = 0.035 fields (Proffer \$29/unit = \$1,740)

TMF -159 units @ 0.00034 fields/unit = 0.0541 fields (Proffer \$17/unit = \$2,703)

**Provided:** Multi-purpose field large enough for Softball

5. Traffic impacts: Mitigated where warranted, with large developments required to address longer term impacts on the roadway network.

A Traffic Analysis performed by DRW Consultants, Inc. is included as a separate document.

### C. SUMMARY OF PUBLIC BENEFITS – CANDLE FACTORY

The following paragraphs describe the public benefits that the Candle Factory development provides. The decision to rezone this site from A-1 to Mixed Use is based on the facts that Mixed Use was the primary Land Use designation recommended in both the 1997 and 2003 Comprehensive Plans and that land designated Light Industrial was rezoned to Mixed Use to make way for the Music Theatre. While Mixed Use areas are generally areas where moderate levels of density are encouraged when they “would be harmonious with existing and potential development”, our site analysis did not lead us to a conclusion that higher levels of density were warranted. While a small site to the west of the property is designated Moderate Density residential, it is not currently developing in that pattern; and, while the residential site is located just south of lands zoned M-1 and higher densities adjacent to M-1 lands might be appropriate, the site is in fact bounded on three sides by lands designated Low Density Residential on the Comprehensive Plan. We believe that our proposed density of 3.4 units per acre is an appropriate level of density for this site and this conclusion has found support from members of the community who live and work nearby.

The Candle Factory master plan provides several important public benefits to the community. The planned redevelopment of the M-1 portion of the site represents a significant effort toward the revitalization of local business opportunities in this part of the County. Any effort toward redevelopment of this type should be recognized as a public benefit. In the Economic Development section of the Comprehensive Plan, strategy number 4 was designed to “encourage a mixture of commercial, industrial and residential land uses in a pattern and at a pace of growth supportive of the County’s overall quality-of-life, fiscal health, and environmental quality. This includes ensuring the adequate availability of a selection of marketable “ready to go” industrial and office properties, encouraging the growth and development of new and existing

small businesses and actively promoting redevelopment where needed.” One message received from the two citizen participation meetings held to discuss this project was that any efforts to redevelop this site that provided encouragement for new and local businesses would find wide support in the community.

Two additional benefits to the community planned for this project are the provision of mixed-cost housing and affordable housing. Plans for the residential component include a variety of housing types at a variety of prices ranging from \$160,000 to \$400,000. Affordable housing will be committed to at the Candle Factory. Ten percent of the total number of dwelling units provided will be dedicated to affordable housing. The county places so much importance on affordable housing that the Ordinance offers a discount of 10% of required developable open space in cluster developments with the provision of affordable housing totaling ten percent of the gross number of units.

This plan provides unusual environmental protection. The current plan shows the limits of residential development outside and removed from the protective 100’ buffer adjacent to two perennial streams bounding the site. Open space provided between the 100’ buffer and residential development totals approximately 8.89 acres or 13.8% of the total residential area. This area is comprised of developable lands and does not include the estimated areas required for stormwater management ponds. The minimum distance from the back of a lot to the 100’ buffer is 25’ but this distance varies and some areas are as deep as 150’ to 200’. If holding 25’ back from an RPA buffer represented a new standard for new development, this new required acreage would total 2.93 acres at the Candle Factory. This proposed plan provides an additional 6 acres of protection.

This plan provides an important public benefit through it’s’ adherence to the principles of open space design. The principles of the Residential Cluster Overlay District require that 40% of the net developable acres of a residential cluster be preserved as open space. The Candle Factory residential area contains 64.5 total acres. 12.33 acres of this total are non developable and include wetlands, streams, steep slopes, and areas subject to flooding. The remaining 52.17 acres are developable lands. The 40% requirement for these acres would be 20.87 acres. The Candle factory provides 22.51 acres or 43.2% of the net developable acres. As described above, much of the net developable open space provided is “meaningful” open space with nearly 9 acres of additional protection to RPA wetlands and 3 acres in a large central park which forms the focus of the planned community. Also, as noted above, if this site were a traditional cluster



providing 10% affordable housing, the required net developable open space would be 15.65 acres or 30% of the net developable acres.

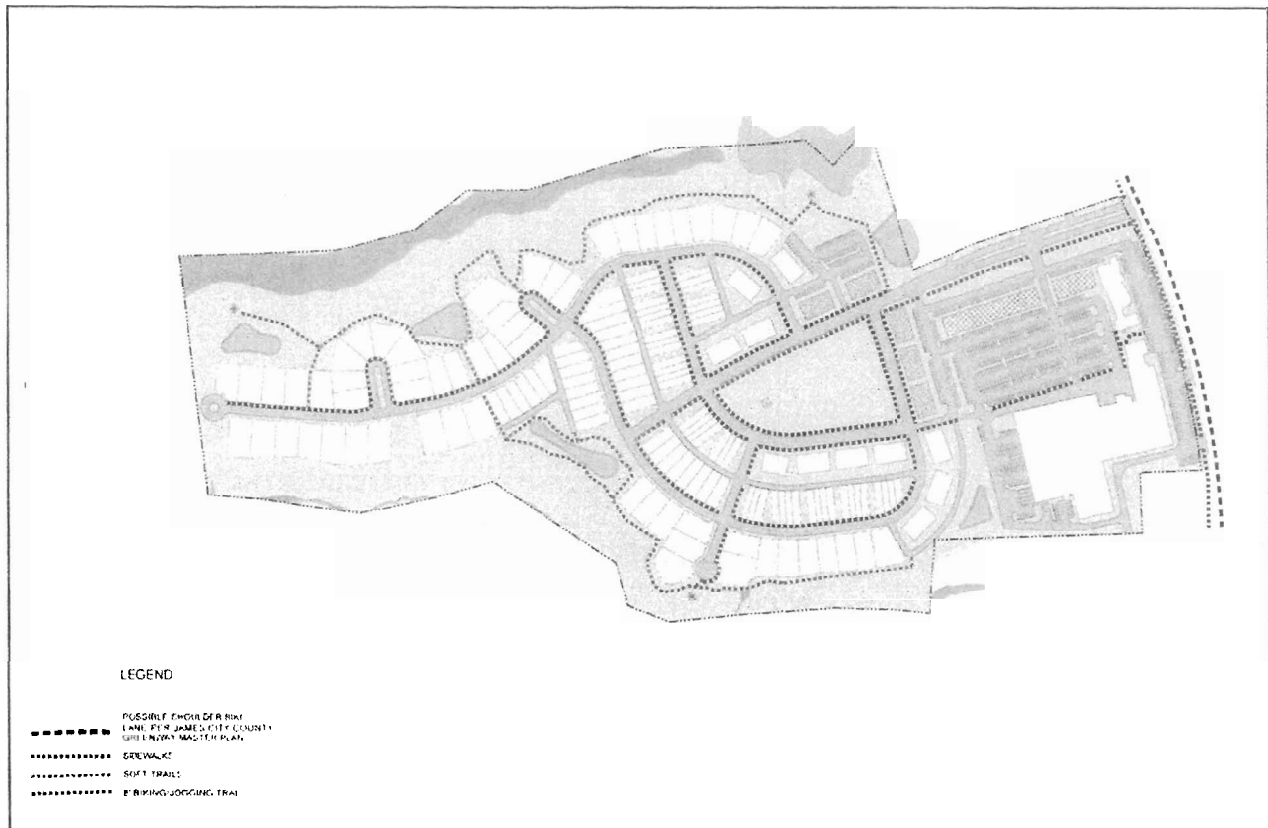
The above description of benefits to the community would form the basis for residential densities in mixed use areas above 4 units per acre. In low density residential areas these same benefits would form the basis for densities in excess of one unit per acre. Because this rezoning is seeking a Mixed Use designation for the 64.5 acre area behind the M-1 area and, because the density we are proposing is less than 4 units per acre, we offer the following analysis (for comparative purposes only) from Section 24-549 of the Cluster Overlay District of the Zoning Ordinance which per Comprehensive Plan recommendation specifies "the benefits which may be the basis for a permit to go beyond one unit per acre".

In paragraph (a)(2) a density of more than one unit per acre but no more than two units per acre can be achieved with master plan assurances for:

- Implementation of Streetscape Guidelines
- Implementation of the County's Archeological Policy
- Provision of sidewalks on at least one side of all internal streets and entrance roads
- Provision of recreation facilities per the county's Comprehensive Parks and Recreation Master Plan
- Implementation of County's Natural Resources Policy

All of the above shall be implemented on this 64.45 acre portion of the Candle factory property and is confirmed either on the Master Plan or through proffers or both. Right of Ways will be lined with trees placed at 1 tree per 40 linear feet of frontage. Implementation of James City County's Archeological Policy has begun with the provision of a Phase IA analysis provided with this application. Sidewalks will be provided on at least one side of all streets. A pedestrian circulation diagram is shown below. As illustrated on the master plan, the requirements for recreation based on the County's Master recreation Plan will be met and exceeded on this property. Plans for the Candle Factory have already provided for the Implementation of the County's Natural Resources Policy by providing a detailed environmental inventory. Areas identified as perennial streams will be protected by 100' buffers. In addition to required buffers, these areas are further protected by an additional 8.9 acres of open space immediately adjacent to the buffers and their associated wetlands and stream valleys.

### Exhibit 2 – Pedestrian Circulation



In paragraph (a) (3) a density of more than two units per acre but no more than three units per acre may be allowed with assurances for the following:

- a. Provision of pedestrian and/or bicycle trails, where topographically feasible, which connect cul-de-sacs throughout the development to each other and to the recreation area; or provision of sidewalks on both sides of all internal streets in the development, including the entrance road; or a combination of trails and sidewalks as stated above, as well as entrance roads.
- b. Construction of curb and gutter design on all streets within the development.

The above items shall be provided at the Candle Factory. Sidewalks will be provided on at least one side of all streets and selected streets will have sidewalks on both sides. In addition, trails from the neighborhood streets will connect to the trails system ringing the community. These connecting trails are not included with the trails satisfying the recreation requirement. All streets within the neighborhoods (excluding alleys) will be designed with curb and gutter.

Paragraph (a)(4) outlines the following, additional density bonuses available provided that no total density exceeds four units per acre:

- (a) An additional .5 units per acre may be awarded for every 10% of the total number of dwelling units dedicated to affordable housing.

The Candle Factory residential area will include dwelling units dedicated to affordable housing to a minimum of 10% of the gross number of units.

- (b) An additional .5 units per acre may be awarded for superior design which incorporates environmentally sensitive natural features, and vistas as suggested by the Natural Areas Inventory, protection of wildlife corridors, the creation of buffers around RMA wetlands and sustainable building practices as referenced in the Sustainable Building Sourcebook of the City of Austin or the Sustainable Building Technical Manual by the U.S. Department of Energy.

The Candle Factory neighborhood has been planned utilizing open space design techniques as prescribed in the Cluster Overlay District. Much of this open space is adjacent to the perennial and non-perennial streams identified in the Williamsburg Environmental Group's studies. Both perennial streams ringing the site are protected by 100' RPA buffers and additional open space as described above totaling 8.9 acres. These buffered stream valleys provide natural corridors for wildlife.

Finally, the neighborhoods at Candle Factory will be subject to Design Guidelines which shall incorporate appropriate, sustainable building practices and green building practices.

- (c) An additional .5 units per acre may be awarded for superior design incorporating interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and prices, and group or shared parking.

The Candle Factory neighborhoods include interconnecting streets and alleys (see Master and Illustrative Plans). While only one primary access point from Route 60 is provided, the master plan illustrates two additional right in and right out access points from the shopping area to Richmond Road. In addition, a vehicular connection is provided through the adjacent Poplar Creek Office Park which also has access to Route 60. A wide range of unit types and prices are proposed within the Candle Factory site. Single family lots of varying width, duplex lots, townhomes and condominiums are provided with prices ranging from \$160,000 to \$400,000.

By the specific criteria and benefits outlined above and through the greater benefits to the community of open space design, affordable and mixed cost housing and unusual environmental protection, the plans for the Mixed Use area of the Candle Factory site qualify for a density of up to and in excess of the 3.4 units per acre requested.

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

The subject property of this rezoning application is located within the Primary Service Area of James City County. Identified on the zoning maps, the Primary Service Area is an area where urban development is encouraged to occur. Public water and public sanitary sewer services (and other public services such as police, fire and life rescue, and transportation) are presently provided to parcels within the Primary Service Area.

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

The Candle Factory Property, located within the Primary Service Area of James City County, is currently provided public drinking water via an existing water main along the Richmond Road frontage of the property; although, generally, distribution lines are not located within the subject property. The James City Service Authority (JCSA) current maintains this 16-inch water main, being part of the central system, along the south side of Richmond Road.

The closest water production facility to the site is the JCSA W-33 well facility, located approximately 5,000 feet southeast (as measured along the water main) from the project site. Substantial upgrades to this well facility were completed in 2001.

The project's internal water distribution system will consist of 4-inch, 8-inch, and 12-inch water mains, sized accordingly to provide the project adequate water volumes and pressures for domestic use, as well as fire protection. Verification of the adequacy of the JCSA existing water system and design of the on-site water main extensions will be further analyzed with modeling techniques once field-testing has been arranged and completed.

Water consumption for the proposed project is estimated at 108,394 gallon per day (average), with a Maximum Day Water Demand of 184,230 gallons per day. Peak Water Demand for this project is estimated at 276 gallons per minute. (Note: These water consumption estimates do not include irrigation.)

No central water system upgrades are expected for the increase in demand that this proposal would create on the public water system.

## B. Public Sewer Facilities

Wastewater produced by this proposed project would be conveyed to treatment facilities through the public sewer system of JCSA. Although there are two facilities within the project area with sanitary sewer service, the majority of the property does not have any centralized sanitary sewer collection system. However, public sanitary sewer for the core of this property is available via a future connection to existing Lift Station 6-6 (located within the "Norvalia" subdivision, southeast of the project area).

This project effectively increases the "sewershed" of the existing nearby lift station, LS 6-6. However, recent sanitary sewer system improvements have lessened the wastewater flows to this station. These improvements include the re-direction of sewage discharges from Lift Stations 6-8 and 7-9 towards the Toano Force Main, with ultimate discharge into the Hampton Road Sanitation District Force Main at Anderson Corner (intersection of U.S. Route 60 and State Route 30). These redirected discharges amounted to approximate 106,065 gallon per day (gpd), Average Daily Flow. (Note: The contributions of 94,900 gpd and 11,165 gpd were received by Lift Station 6-6 from Lift Station 6-8 and 7-9, respectively.)

In comparison, sewage discharges from the mixed use development of the Candle Factory property will result in approximately 108,394 gpd. A breakdown of the anticipated sewage flows are as follows:

Table 1 – Wastewater Flows for the Candle Factory Property

Type of Development	No. of Units	Flow (GPD/Unit)	Average Daily Flow (GPD)	Duration (hrs)	Avg. Flow (GPM)	Peak Flow (GPM)
Commercial / Retail Uses	253,220 square feet	0.20 gpd/gross square feet	50,644	12	70.3	175.8
Single-Family Residential	60	300	18,000	24	12.5	31.3
Multi-family Residential	159	250	39,750	24	27.6	69.0
Warehouse and office uses <sup>1</sup>	-	-	-	-	-	-
<b>TOTALS</b>			<b>108,394</b>	<b>-</b>	<b>110.40</b>	<b>276.1</b>

<sup>1</sup> Although warehouse and office uses are envisioned as future land uses for the project, anticipated sanitary sewer flows were not provided. Instead, to estimate total sanitary sewer flows for the project, the project square footages for warehouse, office, commercial and retail space has been totaled (with the result displayed in the estimated square footage for commercial/retail uses), and corresponding sanitary sewage calculated from the total. The net result is a conservative estimate of sewage flow from these combined uses.

AES performed a sewershed analysis as part of the original design of the Colonial Heritage Pumping Station lift station and as part of that analysis anticipated the development of the project site. Therefore, the Colonial Heritage Pump Station has sufficient capacity to support this project.

Noting the above changes in sanitary sewer distribution, and recent construction of new facilities, the additional sewage generated through the development of the Candle Factory Property does not require sanitary sewer infrastructure improvements.

### C. Public Schools

Candle Factory is located within the Norge Elementary, Toano Middle, and Lafayette High School (2006) (Warhill High School (2007)) districts. The Candle Factory Master Plan proposes a total of 219 residential units. Table 2 below shows the projected students generated from the project. Table 3 shows the current school capacities and enrollments for 2006.

Table 2 - Student Projections

Housing Type	Residences	Generator	Total Students
Single-family detached	60	0.406	24
Duplex	32	0.282	9
Townhouse	54	0.195	11
Condominiums	73	0.078	6
<b>Total</b>	<b>219</b>		<b>50</b>

Table 3 shows how schools may be affected by the requested development. At present, the elementary school is 65 students under capacity and the proposed addition of 22 students would still leave room for 6.1% future growth. The middle school is presently 4.4% over design capacity and the 12 projected additional students would raise that number slightly to 5.8%. The addition of 16 more students to the high school brings total overcapacity to 36.5%, which will be relieved with the opening of Warhill High School—slated for 2007. The new High School will solve the current overcrowding of Lafayette High School and create adequate design and program capacity for Candle Factory—since no school children are anticipated prior to 2007.

Table 3 - School Capacity

student generation	50					
Existing Public School Facility	Effective Capacity	Current 2006 Enrollment	Capacity (No. & % Over(-)/Under(+))		% of Student Breakdown	Additional Students
Norge Elementary	701	636	65	9.3%	44%	22
Toano Middle School	822	858	-36	-4.4%	24%	12
Lafayette High School	1230	1663	-433	-35.2%	32%	16
<b>Total</b>	<b>2753</b>	<b>3157</b>	<b>-404</b>		<b>100%</b>	<b>50</b>

### D. Fire Protection and Emergency Services

There are currently five fire stations providing fire protection and Emergency Medical Service (EMS) to James City County. Each station is placed within the County in such a way as to help achieve the response goal of six minutes or less. Every station is staffed by three shifts

of career and volunteer Firefighters. Station crews are responsible for the pre-planning of target hazards in their area as well as safety inspections of private businesses within the response district. In addition, there exists a mutual aid agreement with the City of Williamsburg and York County for backup assistance.

The location of the Candle Factory project receives primary coverage from nearby JCC Fire Station 1, located in Toano, with Station 4, located on Olde Towne Road, available as a backup, with York County Station 5 in reserve.

#### E. Solid Waste

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

#### F. Utility Service Providers

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

### V. ANALYSIS OF ENVIRONMENTAL IMPACTS

An environmental inventory, wetland delineation, and perennial stream analysis has been prepared by the Williamsburg Environmental Group. A copy of the inventory is included in this report.

### VI. ANALYSIS OF STORMWATER MANAGEMENT (SWM) / BEST MANAGEMENT PRACTICES (BMP)

As a part of this Community Impact Statement and the planning for the Candle Factory project, a conceptual stormwater management program, meeting the general criteria of the Commonwealth of Virginia and James City County's stormwater requirements, was completed. The goal of the stormwater management program is to meet and exceed local and state



stormwater requirements.

In evaluating preliminary stormwater management solutions of the proposed development on the subject site, the site characteristics are considered. Research, site observations and mapping identify the following unique site characteristics to be considered in stormwater management planning:

- The property drains to unnamed tributaries of Yarmouth Creek, and lies within the upland Subwatershed 103 of the Yarmouth Creek Watershed.
- The project area resides on upland areas between two un-named tributaries of Yarmouth Creek
- The property currently contains a small, previously cultivated farm field; some forested areas; and commercial/retail establishments along Richmond Road.
- The project site largely consists of moderately well drained and poorly drained soils. Moderately well drained soils are largely positioned at the center of the property.

Stormwater management, conceptually, consists of two primary components:

- 1) Wet pond Best Management Practices (BMP's) (one existing, and four additional proposed generally along the perimeter of the site) with the ability of providing stormwater management for approximately 68% of the development site; and
- 2) Natural open spaces, enhanced with increased widths to the 100-foot Resource Protection Area Buffer (RPA Buffer) on some portions of the site. Approximately 19% of the site is natural open spaces directly associated with Resource Protection Area (RPA) components and 100-foot wide RPA buffers. Additional buffer widths, located immediately adjacent to the 100-foot wide RPA buffer account for approximately 7% of the property. (Note: Stormwater management natural open space calculations use different baseline acreages and measurement criteria than those utilized to calculate open space detailed in the planning discussion and the two should not be compared)

Implementation of these two components conceptually realizes the reduction of stormwater runoff to pre-development runoff rates, a measure of stream channel protection for receiving stream and waterways, and water quality improvements mitigating the impacts of proposed development on the property.

As the Candle Factory property resides in the Yarmouth Creek Watershed, additional measures of watershed management are beneficial to protect the natural resource of the

watershed, and prevent further degradation of the watershed's water quality. These measures, in the form of Special Stormwater Criteria (SSC), further enhance the quality of stormwater runoff from the development site and assist in the preservation of pre-development hydrology. Current investigations of the site and the proposed development of the site suggests the incorporation of bioretention designs, pervious pavers/pavement use, enhanced outfall designs, a retrofit of the existing stormwater management facility located at the site, and enhanced cut-fill slope protection/stabilization practices, and the possible inclusion of other water quality measures insure the goals of the Yarmouth Creek Watershed Plan are exceeded.

Preliminary analysis of the Stormwater management and BMP goals using the James City County BMP point system is included on the Master Stormwater Management Plan. The BMP Point System worksheet indicates a total point value of 10.0 is achieved by the structural BMP's and the dedication of natural open space in wetlands and buffers.

In addition to the main structural BMP, five (5) SSC measures are required to meet minimum Special Stormwater Criteria (SSC) of the Yarmouth Creek Watershed Management Plan. This plan indicates three critical areas of concern of the overall improvement of water quality within the Yarmouth Creek Watershed. These areas are as follows:

- Installation of sediment forebays at the headwaters of the existing wet pond (Marston's Pond)
- Improvement or restoration of degraded drainage channel behind existing candle factory
- Improvement or retrofit of existing upland BMP (across Route 60 at Norge Shopping Center)

In order to satisfy the minimum five (5) SSC credits for this project, it is envisioned that two of the three recommended watershed improvements will be accomplished. The existing BMP (Marston's Pond) will have sediment forebays installed, designed for the pretreatment of 0.1 in/impervious acre of runoff from the drainage area captured by the BMP. Also, the existing drainage channel located behind the existing candle factory will be removed and replaced by a forebay facility capable of treating all of the drainage currently flowing through the existing channel.

Furthermore, additional measures will be installed to improve the water quality of the Yarmouth Creek Watershed “over and above” the recommendations of the Yarmouth Creek Watershed Plan. Water quality measures to be implemented include: bioretention facilities; pervious pavement measures on the townhome driveways; dry swales at the rear of half of the single family detached lots not draining to a BMP; enhanced outlet protection at all pipe, channel, and BMP outfalls; enhanced cut/fill slope stabilization measure applied site-wide; stormwater management/storm sewer record drawing preparations. Please refer to the conceptual storm water management plan for the water quality calculation work sheet as well as the list of measures to be implemented.

In summary, with the preliminary analysis of The Candle Factory project, the stormwater management plan proposed will protect overall downstream water quality, help preserve the natural hydrology of the watershed, and reduce the tendency of development to cause downstream erosion of receiving channels.

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

A Traffic Impact Analysis has been prepared by DRW Consultants, Inc. A copy of the analysis is included with this report as a separate document.

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

A Fiscal Impact Study has been prepared by The Wessex Group, Ltd. For the proposed new construction, the study shows a minor net negative fiscal impact of approximately \$3,990 at build out that is temporary in nature, and is projected to turn positive over time as property values increase. More importantly, the study’s Executive Summary concludes that the ...”net fiscal impact of new housing and commercial development combined with existing renovation of commercial property is estimated at a net positive impact of \$184,540 at buildout in 2010 and in future years. A copy of the findings is included in this report.

## **IX. ANALYSIS OF CULTURAL RESOURCES IMPACTS**

A Phase I Cultural Resources Assessment report has been prepared by the James River Institute for Archaeology and is included in this report.

## X. CONCLUSION

In summary, Candle Factory's Master Plan combines an existing and enhanced commercial element with a new mixed use component containing innovative design features that satisfy Comprehensive Plan public benefit criteria for a moderate increase in residential density--while remaining under the low density residential development umbrella. Planning and redeveloping the site incorporates open space design principles, respects the environmental sensitivity of the Yarmouth Creek watershed, meets the intent of the Comprehensive Plan for mixed use and low density residential development, compliments the Norge Community Character Area, and satisfies Planning Commission expectations for higher standards in new residential development design. Additional positive aspects of the proposed development include:

- Adequate public facilities (water, sewer and fire), and utility services (gas, electric cable TV, telephone), are available for development.
- The proposed use is consistent with the intended land use designated on the current Comprehensive Plan for this area.
- The proposed density is 3.4 dwelling units per acre. This density is consistent with the Comprehensive Plan, and appropriate to, the Norge Community Character Area.
- Implementation of recommended intersection improvements will insure there is adequate capacity in the system of roads serving this project.
- The Mixed Use component provides a total of 22.47 acres in net developable open space, or 43.2% of MU net developable acres. If we add the non-developable areas to the equation, the open space becomes an even more impressive 34.8 acres or 53.9% of gross MU area.
- In recognition of Planning Commission and environmental concerns over buffer areas, Candle Factory provides an additional 8.89 acres—almost 14% of the developable residential area--of open space between the developed area of the site and adjacent perennial streams and their associated 100' RPA buffers.
- Plans for Candle Factory will provide a face lift for the existing WSCF buildings and enhance the Toano Community Character Area and the Richmond Road Community Character Corridor.
- The proposed stormwater management system will improve downstream water quality and protect downstream channels from erosion and the additional Special Stormwater Criteria will increase water infiltration and reduce uncontrolled runoff while meeting the goals of the Yarmouth Creek Watershed Study

This Community Impact Statement concludes that Candle Factory, as planned, proffered and conditioned will compliment the area and will positively impact neighboring residential communities and other adjoining properties as yet undeveloped and that James City County and

the Norge Community will realize significant tangible public benefits with the approval of the Candle Factory master plan.

**ENVIRONMENTAL RESOURCE INVENTORY  
SOAP AND CANDLE FACTORY PROPERTY**

James City County, Virginia

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### Appendix A – Representative Photographs

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## **1.0 INTRODUCTION**

Williamsburg Environmental Group, Inc. (WEG) has prepared the following Environmental Resource Inventory for Henderson, Inc. on the Soap and Candle Factory Property in James City County, Virginia. The project site totals approximately 95-acres and is located within the Yarmouth Creek drainage basin in (Figure 1-1). The site is situated south of Richmond Road (Route 60), north of Yarmouth Creek, east of Route 631, west of Farmville Lane, and can be accessed via Route 60 (Figure 1-2).

The Soap and Candle Factory Property supports several environmental resources associated with the natural setting and somewhat limited historical land use. WEG inventoried these resources by analyzing the best available offsite reference material, including James City County Geographic Information Systems (GIS) base mapping, U.S. Geological Survey (USGS) 7.5 minute topographic mapping, Natural Resources Conservation Service (NRCS) soil surveys, and Federal Emergency Management Agency (FEMA) floodplain mapping. This information was corroborated with site inspections performed by WEG in August 2006.

During the offsite and onsite reviews, WEG evaluated the Soap and Candle Factory Property for the following resources: topography, vegetation, soils, surface water, wetlands, floodplains, and Chesapeake Bay Preservation Areas. The results of this review are detailed in Section 2.0 and summarized in Section 3.0 of this report.



**FIGURE 1-1 PROJECT VICINITY MAP**

**FIGURE 1-2 PROJECT LOCATION MAP**

## 2.0 DESCRIPTION OF EXISTING ENVIRONMENT

The Soap and Candle Factory Property harbors environmental resources related to physiography, drainage, vegetation cover, and limited historical land use. In addition, the presence of an two onsite unnamed tributaries to Yarmouth Creek relates many of these natural resources to water features. The environmental attributes of the property are described below and illustrated on the Environmental Resource Inventory Map (Figure 2-1).

### 2.1 TOPOGRAPHY

The Soap and Candle Factory Property is located in the Coastal Plain Physiographic Province of Virginia. The land in the Coastal Plain Province is generally level and does not contain extensive severe slopes (Frye 1986). The Soap and Candle Factory Property can be described as moderately sloping with potential steep slopes (i.e., 25% or greater grade) present adjacent to the drainage features along the northwestern and southeastern property lines. Elevations on the property range from approximately 40-feet above mean sea level (msl) to 108-feet above msl. **The attached** Environmental Resource Inventory Map (Figure 2-1) illustrates the location of slopes 25% or greater.

### 2.2 SOILS

The *Soil Survey of James City and York Counties and the City of Williamsburg, Virginia* (USDA 1985) maps several soil types within the property boundaries of the Soap and Candle Factory Property. The hydrologic classifications of the mapped soil types range from group A (well drained) to group D (poorly drained). The Soap and Candle Factory Property is predominantly situated on well-drained soils (e.g., Craven-Uchee, Emporia, Kempsville, Kenansville, Slagle, Suffolk, and Uchee). Johnston complex, which is classified as a hydric soil, is the only poorly drained soil series mapped onsite. Johnston soils are limited to areas within the two major drainage features that extend along the northwestern and southeastern property boundaries. Shrink-swell potential is low to moderate within all soil types mapped on the Soap and Candle Factory Property. Craven-Uchee complex, Kempsville-Emporia fine sandy loam, and Slagle fine sandy loam are considered to have moderate erosion potential, while Emporia soils are considered to have a severe erosion potential.

### 2.3 SURFACE WATER

Surface water features identified on the Soap and Candle Factory Property include two unnamed tributaries to Yarmouth Creek that drain from northeast to southwest along the northwestern and southeastern property lines. Floodplain wetlands within both drainage features are present in association with these non-vegetated stream channels. In addition, an open water feature (pond) is present in the northwest portion of the property.

### 2.3.1 Wetlands

Wetlands are areas such as swamps, marshes, and bottomlands that support a predominance of vegetation typically adapted to saturated conditions (hydrophytic vegetation), soils that formed under saturated conditions (hydric soils), and sufficient water at or near the soil surface to produce chemically reducing conditions (wetland hydrology). All three of the above parameters must be present for an area to be determined a jurisdictional wetland as regulated by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. Technical criteria and field indicators for each parameter are presented in the *Corps of Engineers Wetland Delineation Manual* (1987 Corps Manual) (Environmental Laboratory 1987).

A delineation of jurisdictional wetlands and other waters of the United States was conducted by WEG on the Soap and Candle Factory Property during August of 2006. The technical procedures outlined in the 1987 Corps Manual were applied during the onsite study. Based on the onsite analysis, forested wetlands are located in bottomland areas along the northwestern and southeastern property lines in association with the non-vegetated stream channels mentioned above. The majority of wetlands identified by WEG within the project limits may be classified as forested. Wetland vegetation within the Soap and Candle Factory Property is discussed in Section 2.4. The approximate limits of wetlands are depicted on the Environmental Resource Inventory Map (Figure 2-1).

### 2.3.2 Floodplains

Information and technical data published by the Federal Emergency Management Agency (FEMA) were reviewed to determine the extent of the 100-year floodplain within the site. Based on the Flood Insurance Rate Map for James City County, Virginia (5102010020B) dated February 6, 1991, no 100-year floodplains exist on the Soap and Candle Factory Property.

### 2.3.3 Perennial Stream Determination

A perennial stream determination was conducted by WEG on the Soap and Candle Factory Property in January 2006. WEG applied the North Carolina Division of Water Quality (NCDWQ) Stream Classification Method (NC Method) to determine the presence of perennial flow within the existing onsite stream channels utilizing a combination of scientifically valid in-field indicators. At the time of this writing a report has not been submitted to James City County for approval.

The results derived from the application of the NC Method indicate that the entire stream channel along the northwestern property line, including the channel that flows into the onsite pond, appears to be under a perennial flow regime. The perennial origin within the stream along the southeastern property boundary appears to be at the outfall of an existing stormwater structure approximately one-thousand feet southwest of Route 60. This point of perennial origin was determined based on the lack of flow in all upstream wetland and stream features within the drainage. In-stream characteristics which support the perennial determination include strong groundwater discharge, recent alluvial deposition, an absence of rooted plants in the streambed, and the presence of iron-oxidizing bacteria and benthic macroinvertebrates.

#### 2.3.4 Chesapeake Bay Preservation Areas

Chesapeake Bay Preservation Areas (CBPA), including Resource Protection Areas (RPA) and Resource Management Areas (RMA), are present on the Soap and Candle Factory Property. The CBPA Ordinance for James City County mandates that CBPAs be mapped in association with site development.

The definition of RPA limits as outlined in the James City County Ordinance includes “tidal waters, tidal shores, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or bodies of water with perennial flow, and a 100-foot wide [vegetated] buffer” located adjacent to and landward of other RPA components. According to James City County the RPA buffer is an area of “natural or established vegetation managed to protect other components of resource protection areas and county and state waters from significant degradation due to land disturbances or uses”. Based on current James City County RPA mapping (January 2005) and corroborative onsite studies, RPA features are present along the northwestern and southeastern property limits of the Soap and Candle Factory Property.

James City County has been designated as a Resource Management Area (RMA) in its entirety. In addition, the James City County Ordinance lists “lands of particular sensitivity” for RMA

designations. Areas subject to classification as RMAs in James City County include highly erodible soils, highly permeable soils, non-tidal wetlands not in RPAs, floodplains, and hydric soils, some of which are present onsite.

## 2.4 VEGETATION

Information concerning the vegetative community present at the site was extracted from several resources, including observations made during site visits conducted by WEG. The site is located in the Coastal Plain Floristic Province as described in *The Natural Geography of Plants* (Gleason and Cronquist 1964). The typical forest of this province contains extensive stands of pines with over two dozen other hardwood species intermixed. The USGS 7.5 minute quadrangle map for Norge, Virginia (1994) indicates that the site contains a mix of forested and cleared land. Cleared areas are present within the vicinity of the existing buildings adjacent to Richmond Road (Route 60) and in the central portions of the property.

The predominant upland community type onsite can be characterized as immature to semi-mature mixed hardwood forest with a small pine component. This community type is generally situated on gently to moderately steep slopes adjacent to the two drainage features along the northwestern and southeastern property lines and along the ridges in the southwestern portion of the site. The remaining upland areas consist of regenerative growth communities in the central regions of the site. Portions of these regenerative growth communities have a higher density of pine than the remainder of the site. Typical species found within the uplands on the Soap and Candle Factory Property include beech (*Fagus grandifolia*), oak (*Quercus* spp.), tulip tree (*Liriodendron tulipifera*), red maple (*Acer rubrum*), loblolly pine (*Pinus taeda*), American holly (*Ilex opaca*), partridge berry (*Mitchella repens*), strawberry bush (*Euonymus americana*), tick trefoil (*Desmodium* spp.), and Christmas fern (*Polystichum acrostichoides*).

The bottomland areas associated with the unnamed tributaries to Yarmouth Creek contain both vegetated wetlands and non-vegetated stream channels. Nearly the entire floodplain along the northwestern property line is within wetlands, the majority of which can be classified as forested. Forested wetlands are also present adjacent to the stream channel along the southeastern property line and within an existing stormwater management structure in the northeast portion of the site.

Forested wetland complexes are typically vegetated with green ash (*Fraxinus pennsylvanica*), red maple, black gum (*Nyssa sylvatica*), sycamore (*Platanus occidentalis*), and sweetgum

(*Liquidambar styraciflua*) in the overstory. Understory species include spice bush (*Lindera benzoin*), possum haw (*Viburnum nudum*), paw paw (*Asimina triloba*), and ironwood (*Carpinus caroliniana*). Hydrophytic ferns and herbaceous species are also common, including netted chain fern (*Woodwardia aerolata*), cinnamon fern (*Osmunda cinnamomea*), royal fern (*Osmunda regalis*), golden ragwort (*Senecio aureus*), lizards tail (*Saururus cernuus*), microstegium (*Microstegium vimineum*), and species of sedge (*Carex* spp.).

**FIGURE 2-1 ENVIRONMENTAL RESOURCE INVENTORY MAP**



### **3.0 SUMMARY AND RECOMMENDATIONS**

We conclude that the Soap and Candle Factory Property described in this report does contain environmental resources related to features listed in Section 23.10 of the James City County Code. These resources are related to topography/drainage features, surface water, and non-tidal wetlands. Steep slopes, which are present adjacent to the primary and secondary drainage features, perennial streams and resultant RPA buffer, and non-tidal wetlands, are all found on the subject site. No tidal wetlands, tidal shores, or 100-year floodplains are present on the Soap and Candle Factory Property.

It is recommended that development activities incorporate management practices that reduce the potential for erosion along the steep slopes and highly erodible soils (e.g., Emporia complex) within the property. RPA and non-RPA upland buffers, along with adequate stormwater management planning including the use of Best Management Practices (BMP), will reduce the potential for erosion and sedimentation within the surface waters and wetland resources onsite.

#### 4.0 REFERENCES

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# Memo

TO: William Strack, Vice President, Henderson, Inc.  
FROM: Don Messmer  
DATE: March 19, 2007  
SUBJECT: **Revision to Fiscal Impact Study of Candle Factory Development**

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The purpose of this memo is to revise the Fiscal Impact Study prepared for the Candle Factory Development in December 2006. In response to the County's request, we have modified our previous fiscal impact study to delineate the fiscal impact of the following separate elements of the project.

**Candle Factory Development - Net Fiscal Impact Analysis**  
**Revised Mar '07**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>Build Out</b>
<b>1. Residential Units</b>	\$784,250	\$809,230	\$393,410	-\$174,130
<b>2. Commercial Office</b>	0	0	19,500	25,610
<b>Combined Residential and Associated Mixed Use</b>	<b>\$ 784,250</b>	<b>\$ 809,230</b>	<b>\$ 412,910</b>	<b>\$ -148,520</b>
<b>3. Renovated Existing Commercial</b>	45,270	45,270	109,450	173,220
<b>4. Proposed New Commercial Retail</b>	13,840	13,840	48,430	157,940
<b>Combined Proposed and Existing Commercial</b>	<b>\$ 59,110</b>	<b>\$ 59,110</b>	<b>\$ 206,690</b>	<b>\$ 354,090</b>
<b>Combined Net Fiscal Impact</b>	<b>\$843,360</b>	<b>\$868,340</b>	<b>\$570,790</b>	<b>\$182,640</b>
<b>NPV (5%, 20 years)</b>				<b>\$4,254,900</b>

The revised net fiscal impact reflects the addition of 13,200 SF of Commercial Office Space. Please note that the impact at buildout revised from \$192,160 to \$182,640 includes the following:

- increase of \$13,410 due to the increase of office space
- decrease of \$22,930 due to an error in our original calculation of employment

Since we are responsible for the error in the original submission, we will revise the report to reflect these changes at no additional charge.

The revised impact reflects no change in the number of units, pricing, or development schedule of residential units. Similarly, size, pricing, and development schedule of the renovated existing commercial (retail and warehouse), are consistent with the original submission. The development components are described more fully on the next page:

1. 219 Residential Units (Master Plan Area 2)
2. 25,200 SF – Commercial Office (Master Plan Area 2D)
3. 145,571 SF - Renovated Existing Commercial Warehouse and 47,100 SF Renovated Existing Retail, Restaurant & Office (Master Plan Area 1A)
4. 44,690 SF - Proposed New Commercial Retail (Master Plan Area 1B)

**The Candle Factory**

**Fiscal Impact in James City County, Virginia**

**December 2006**

**Prepared for:**

**AES Consulting Engineers**

**Prepared by:**

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# **The Candle Factory**

## **Fiscal Impact in James City County, Virginia**

### **EXECUTIVE SUMMARY**

This report, prepared by *The Wessex Group, Ltd (TWG)*, presents an assessment of the fiscal impact of the proposed Candle Factory mixed use development on James City County. The development plan proposed for The Candle Factory calls for the construction of 219 residential units and commercial space totaling 56,690 square feet. Development is expected to begin in 2007 and continue through 2010. The expected cumulative market value of residential units is \$62,707,000.

The cumulative residential population of The Candle Factory development, at buildout, is expected to be 507 people. This estimate is based on the county average of 2.3 persons per household for single family homes, townhouses, duplexes, and most condominiums. Based on the James City County student generators provided by the Office of Financial and Management Services, the development is expected to generate 50 school age children at buildout. The current JCC distribution of students applied to the development indicates an estimated 22 students attending elementary school, 12 attending middle school, and 16 attending high school.

The construction phase of the development is expected to create an average of 136 full-time equivalent (FTE) jobs per year for the three (3) year construction phase. At Build-out The Candle Factory Development is expected to generate annually \$1,025,830 in revenues for James City County and create annual expenditures in the amount of \$1,029,830 for a net negative fiscal impact of \$3,990 per year in today's dollars.

Improvements to the site of the proposed Candle Factory development include both net new residential and commercial components combined with the renovation and re-use of existing retail shops and a restaurant together with renovation of the original soap and candle factory which is be put to new use as a warehouse facility. The development plan includes renovation and revitalization of the existing properties as the residential portion is constructed and new residents occupy homes at The Candle Factory. The net fiscal impact of new housing and commercial development combined with existing renovation of existing commercial property is estimated at a net positive impact of \$192,160 at buildout in 2010 and in future years.

**The Candle Factory**  
**Fiscal Impact in James City County, Virginia**

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## The Candle Factory

### Fiscal Impact in James City County, Virginia

As part of a rezoning application submitted to James City County by **AES Consulting Engineers**, this report from *The Wessex Group, Ltd.* (TWG) presents estimates of the fiscal impact of a mixed use development consisting of residential units and community amenities, retail stores, offices and warehouse space on a site of approximately 81 acres in James City County, Virginia. The proposed development would be located on Route 60 at the intersection of Route 607 on the site of the original soap and candle factory. For the purpose of this report, the development will be referred to as “The Candle Factory.”

### Introduction to the Study

The purpose of this report is to describe estimates of the **fiscal** revenues and expenditures that this development will generate for the local government of James City County. Fiscal impacts are those that directly affect a municipality’s budget. Any new development that attracts new county residents generates the need for public services, such as emergency medical services, police, and fire protection. In turn, the development generates additional tax revenue for the county. The major portion of the county’s revenues from residential development is derived from real estate taxes and local household spending. The commercial developments involved in this development will generate revenues in several ways such as retail, meals, real property and personal property taxes. All dollar figures contained in this report are expressed in 2006 dollars, and all fiscal impact estimates are based on James City County’s FY 2007 Adopted Budget. No attribution for economic inflation has been made.

The plans and estimates included in this report cover the development and sales schedules, construction investment, the employment directly associated with the construction of the development and with operation of businesses when commercial spaces are occupied, and the local spending of new residents in the development. Employment estimates are used to calculate the marginal cost of government services and no attribution is made as to the residence location of any employees. The **fiscal** impacts that flow from the development efforts and new residents are the new revenues that James City County will collect and the new expenditures that James City County will incur to provide government services to the new Candle Factory development.

### Development Plans and Construction Investment

The development plans for The Candle Factory consist of residential and commercial components. Residential components total 219 units and consist of single family homes, townhouses, duplex units, and condominiums. According to the developer, 10% of total units (11 condominiums and 11 townhouses) will be sold as affordable housing.

Net new commercial components include 44,690 square feet of retail space and 12,000 square feet of proposed office space. Proposed off-site improvements include a turn lane and community amenities include a recreational park with picnic shelter, ball field, and walking trails. The proposed development plan for The Candle Factory is detailed in Table 1 on the following page.



**Table 1**  
**The Candle Factory Development Plans**

Residential Components to be sold at Market Value	Number of Units	Average Square Feet per Unit	Construction Cost per Unit*	Average Market Value per Unit
Single Family	60	2,500	\$229,500	\$380,000
Condominium	62	1,300	160,000	240,500
Duplex	32	2,200	215,000	308,000
Townhouse	43	2,000	197,000	260,000

Affordable Residential Components	Number of Units	Average Square Feet per Unit	Construction Cost per Unit*	Average Selling Price per Unit
Condominium	11	1,300	\$160,000	\$160,000
Townhouse	11	2,000	197,000	200,000

Commercial Components	Square Feet	Construction Cost per SF	Total Cost of Construction	Rental Rates per SF
Retail at Entrance - New	44,690	\$80	\$3,575,200	\$15
Mixed Use - Office	12,000	80	960,000	15

\* Construction Cost for residential units includes cost of infrastructure.

Table 2 presents the development schedule for The Candle Factory. Construction is planned to begin in 2007 and conclude in 2009. Occupancy is expected to occur throughout the construction phase based on the assumption that units constructed in one year will be sold and occupied in the following year. Full occupancy for residential units and new commercial spaces is expected at buildout in 2010.

**Table 2**  
**The Candle Factory Construction and Occupancy Schedule**

Construction Schedule	2007	2008	2009	Buildout
Cumulative Residential Units	83	171	219	219
Cumulative Commercial Square Feet	0	0	56,690	56,690

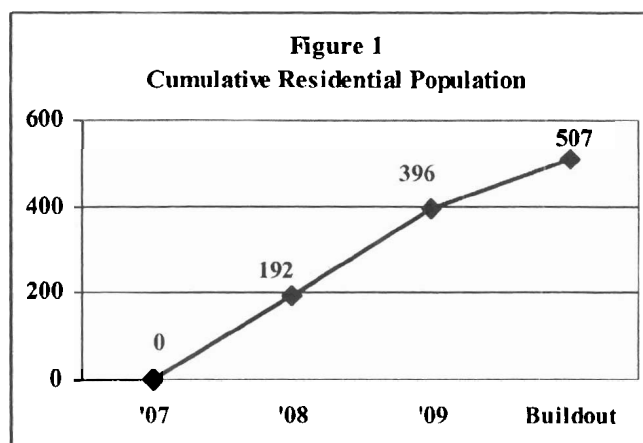
Occupancy Schedule				
Cumulative Residential Units	0	83	171	219
Cumulative Commercial Square Feet	0	0	0	56,690
Cumulative Residential Population	0	192	396	507
Cumulative Number of Children	0	19	40	50

Table 3 shows the estimated construction investment. Estimates for off site improvements and community amenities total \$600,000. The estimate for residential construction totals nearly \$43 million; commercial construction totals \$4.5 million. Total construction investment for this development is estimated at approximately \$48.1 million.

**Table 3**  
**The Candle Factory Construction Investment (\$Thousands)**

Investment	2007	2008	2009	Buildout
Off Site Improvements and Community Amenities	\$600	0	0	0
Residential Investment	16,310	17,570	9,090	0
Commercial Investment	0	0	4,540	0
Total Annual Construction Investment	16,910	17,570	13,630	0
Cumulative Construction Investment	\$16,910	\$34,480	\$48,110	\$48,110

**Residential Population:** As previously shown in Table 2, the estimate for the residential population of this development is 507 persons at buildout. This estimate is based on the county average of 2.3 persons per household (US Census) for all residential units in the development. Figure 1 shows the estimated cumulative residential population generated by The Candle Factory.



The residential population includes school age children assumed to be generated by each household in the development. The total estimate of 50 public school students is based on the following James City County student generators (source: James City County Department of Financial and Management Services).

- Single Family Detached Homes    0.406
- Apartments    0.282
- Town homes    0.195
- Condominiums    0.078

The following estimate of students per grade level is based on the distribution in county schools reported in the James City County Official Student Enrollment report for 2006.

- Elementary School    22 students
- Middle School    12 students
- High School    16 students

## Employment and Payroll

The number of incremental FTE employees is included in this fiscal impact analysis because it is one basis of local government expenditure estimates. New construction activity should generate an average of 136 employees per year. Construction employment is determined by assuming that payroll is 40% of total construction costs and those construction workers earn an average of \$47,250 annually including benefits (Virginia Employment Commission). Annual payroll is expected to average \$6.4 million during construction.

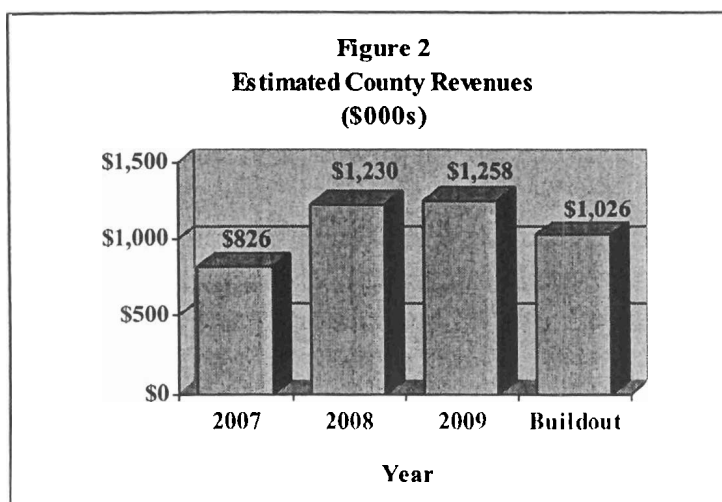
Permanent jobs also will be generated directly by commercial activities in this development. The analysis assumes that 100% of these workers will be net new to the county and that they will begin work when the commercial spaces are ready for occupancy in 2010. On a Full Time Equivalent (FTE) basis, the estimate for permanent employment is 96 positions at buildout when payroll is expected to total nearly \$3.5 million. Table 4 shows annual employment and payroll for The Candle Factory.

**Table 4**  
**The Candle Factory Employment and Payroll Schedule**

	2007	2008	2009	Buildout
Annual FTE Construction Employment	143	149	115	0
Annual FTE Permanent Employment	0	0	0	96
Annual Total FTE Employment	143	149	115	96
Annual Payroll (\$ Thousands)	\$6,764	\$7,027	\$5,451	\$3,484

## Local Government Revenues – Residential and Net New Commercial

Residential developments in James City County generate several types of revenues, including real estate tax, personal property tax, and retail sales tax. Also, commercial development generates revenues such as business personal property tax, meals tax, and business and professional license tax. Figure 2 illustrates the annual revenue streams that the county can expect from this development, including the ongoing annual revenue at buildout. The annual line-item estimates are shown in Table 5 and assumptions associated with the various components of the revenue stream follow.



**Table 5**

### The Candle Factory Local Government Revenues

Revenue Component	2007	2008	2009	Buildout
Real Estate Tax	\$153,490	\$362,710	\$515,720	\$525,970
Personal Property	0	54,770	112,850	166,600
Retail Sales Tax	16,910	34,020	47,530	136,550
Meals Tax	5,730	11,170	15,380	17,620
Building Permits	214,540	220,000	120,000	0
Business and Professional Licenses	30,440	34,910	31,310	41,650
Recordation Taxes	29,150	77,980	86,390	46,040
Other Local Revenues	5,940	39,310	73,060	91,410
Proffers	370,050	394,750	255,450	0
<b>Total Revenues</b>	<b>\$826,250</b>	<b>\$1,229,630</b>	<b>\$1,257,680</b>	<b>\$1,025,830</b>

- Real Property Taxes:** James City County's Fiscal Year 2007 Adopted Budget indicates that the current real estate tax rate is \$0.785 per hundred dollars of assessed value, and no change in this rate is assumed for this analysis. Real estate taxes for residential properties are based on market values shown in Table 1 of this report. Also, TWG applied an annual real appreciation rate of 2% to the value of these homes beginning in 2008. The value of commercial property is assumed to be the total construction cost plus the value of the land with no appreciation. Real estate tax estimates exclude the real estate tax the county currently receives for the site. At buildout and beyond, real property taxes are estimated to be \$525,970.
- Personal Property Tax:** Personal property taxes are generated from residences and from commercial operations in The Candle Factory. James City County collects about \$21.6 million in personal property taxes. The county tax rate is \$4.00 per \$100 of assessed value and no increase is anticipated in this study. Assuming that 80% of this revenue category is generated by residential households for individual personal property, the household estimate is \$659.92. To estimate the value for personal property in retail spaces, the analysis applies a conservative estimate of \$10 per square foot. Personal property values for office spaces are estimated at \$35 per square foot. Applying these estimates, the county can expect to collect about \$166,600 annually in personal property taxes.
- Meals Tax:** James City County levies a four percent tax on restaurant sales of food and beverages. The county anticipates that approximately 30% of its meals tax revenues will be generated by local residents rather than by tourists. Therefore, of the \$5.5 million in meals taxes budgeted in the current fiscal year, nearly \$1.7 million is expected to come from local residents dining out in restaurants located in the county, a per household average of \$62.93. Based on these assumptions, the estimate for the amount generated from residences is \$13,780 at buildout and beyond.

In addition, meals purchased by construction and permanent employees will generate meals tax revenue for the county. Based on the following assumptions, employment at buildout The Candle Factory will generate an estimate of \$3,840 in meals tax revenues annually.

- 50% of the Full-Time Equivalent construction and permanent employees
  - 200 working days
  - \$10 per meal
- Retail Sales Tax:** Retail taxes are generated by construction activities, purchases by residents, and sales in retail stores operating in the proposed development. The county will realize 1% of retail sales, which is returned by the State of Virginia. The analysis assumes that approximately 50% of construction investment will be construction materials and that 20% of these materials will be purchased in James City County. Retail sales exceeding \$4.8 million a year for county businesses are expected to generate about \$48,100 in sales tax during the construction phase.

The analysis assumes that approximately one third of household income is spent on items subject to local retail sales tax. The household income of the residents living in The Candle Factory is assumed to be the median household income in the county (reported to be \$66,082 by the U.S. Census Bureau). At buildout, residents of the development are expected to generate approximately \$43,416 annually in retail sales tax revenue.

Retail stores operating in the development also will generate retail sales tax. The estimate for taxable retail sales from new stores is based on \$260.50 per square foot for neighborhood shopping centers (Dollars & Cents of Shopping Centers: 2004, Urban Land Institute). Of all sales generated by the development, 80% are expected to be net new to the county. Applying these assumptions to 44,690 square feet of retail space will generate an estimate of \$93,135 in sales tax from retail operations at buildout.

- **Business License Tax:** The estimated business license tax is based on the value of construction on the site, incremental retail sales that this development will generate, and revenues generated by commercial operations that are assumed to be net new to the county. Based on the contractor rate of \$0.16 per \$100 of total construction investment, the estimate for license fees paid to the county during the construction phase totals nearly \$77,000.

The county's tax rate of \$0.20 per \$100 for retailers, \$0.36 per \$100 for business services and \$0.58 for professional services has been applied to the estimated annual revenues from retail sales, office operations and lease of commercial property. Once construction is complete, the county can expect an estimated \$41,650 annually in revenues from business license fees.

- **Building Permits:** The estimate for rezoning and application fees of \$7,044 is included as a revenue source in year one of development. Building permit fees are paid throughout construction and are estimated at \$2500 per residential unit. During the construction phase, the county can expect a total of approximately \$554,550 in building permit fees.
- **Recordation Tax:** James City County collects recording taxes on real estate transfers. These include a deed recording tax of \$0.33 per \$100 of the selling price and a deed of trust recording tax of \$0.33 per \$100 of selling price or of the face value of the mortgage, whichever is greater. The land for this development was purchased for more than \$8.8 million. To account for the recordation taxes collected on this land transfer, TWG has included revenues from this transaction in the first year. Recordation taxes from the sale of residential homes are included in the year in which homes are expected to be sold. In total, the county can expect an estimated \$239,570 in recordation taxes collected from the sale of real property.
- **Miscellaneous Taxes and Revenues:** Other taxes and revenues collected by James City County include public service taxes, a variety of licenses, permits and fees, fines and forfeitures, revenues from the use of money and property, revenues from the Commonwealth and the Federal government (excluding dedicated public education revenues), and charges for services. As shown in Table 6, the county budget shows that miscellaneous revenue sources are expected to total about \$11.6 million. For this analysis, 90% of these revenues are attributed to county residents at a per capita figure of \$172.45 and applied to the estimated 507 residents residing in this development. The remaining 10% has been attributed to employees in the county. The Virginia Employment Commission's most recent data indicates that there are 28,016 people working within the county. On a per employee basis, 10% of the listed revenues total \$41.51. This figure has been applied to the incremental employees generated by the construction and the permanent employment generated by retail and office operations. At buildout and beyond, the county should realize an estimated \$91,410 in miscellaneous taxes and revenues.

Table 6

### James City County Miscellaneous Taxes and Revenues

County Budget Line Items	Budget Amount
Public Service	\$1,325,000
Bank Franchise Tax	260,000
Telecommunications Tax	640,000
Motor Vehicle Licenses	135,000
License Tax – Utilities	330,000
Dog Licenses	15,000
Cable TV Franchise Fee	400,000
Fine and Forfeitures	320,000
Interest on Short-Term Investments	850,000
HB 599 Payments	1,562,820
ABC Profits	28,199
Wine Tax	29,558
Rolling Stock Tax	43,204
Shared Expenses (excluding Sales Tax for Education)	1,858,713
Categorical Aid	122,746
Revenue from Federal Government	5,868
Charges for Current Services	3,602,215
Miscellaneous Revenues	102,100
<b>Total</b>	<b>\$11,630,423</b>

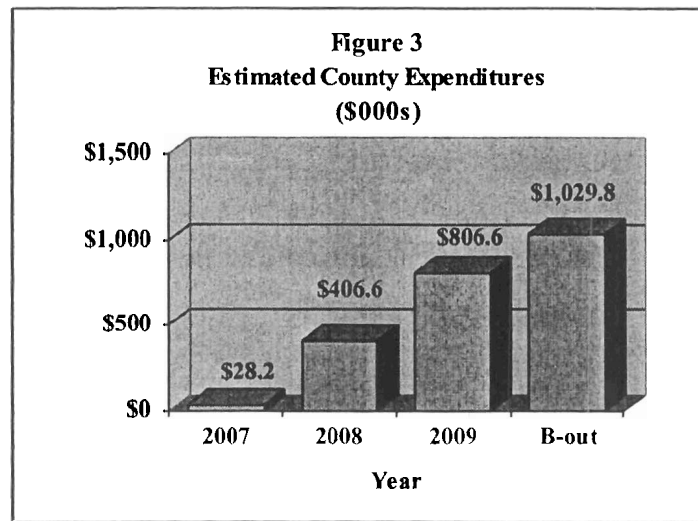
- **Proffers:** Proffers are provided for each of the residential units to be sold at market value. Proffers are not offered for 22 units (11 condominiums and 11 town homes) to be sold as affordable housing. Based on the amounts for each residential component shown in Table 7, the total estimate for proffers is \$1,020,250.

**Table 7**  
**Proffer Amount per Residential Component**

Proffers per unit	Single Family	Townhouse Duplex	Condominium
Schools	\$4,050	\$0	\$4,275
Other CIP items	1,000	1,000	1,000
Water	1,100	1,100	1,100
Environmental	500	500	500
<b>Total amount per unit</b>	<b>\$6,650</b>	<b>\$2,600</b>	<b>\$6,875</b>

### Local Government Expenditures – Residential and Net New Commercial

The county's estimated costs for providing public services to The Candle Factory are shown in Figure 3. The data reflected in the figure can be seen in Table 8 below. Cumulative expenditures in the development phase (2007 – 2010) are estimated to be nearly \$2.3 million. By buildout in 2010, the development will generate estimated county expenditures of over \$1.0 million each year.



**Table 8**  
**Local Government Expenditures**

Expenditures	2007	2008	2009	Buildout
General Government	\$580	\$26,160	\$53,130	\$68,610
Public Safety	13,420	82,950	152,990	186,890
Public Works	1,320	43,190	87,220	113,130
Health and Welfare	0	7,940	16,370	20,960
Recreation and Culture	1,340	34,260	68,790	99,560
Statutory and Unclassified	4,030	23,580	43,210	56,400
Debt Service (Non Education)	7,470	43,650	79,970	103,190
School Operating	0	113,510	238,960	298,700
School Debt Service	0	31,310	65,920	82,400
<b>Total Expenditures</b>	<b>\$28,160</b>	<b>\$406,560</b>	<b>\$806,550</b>	<b>\$1,029,830</b>

To estimate the incremental expenditures that this development will generate for James City County's government (excluding capital improvements for schools and education operating costs), the current per capita operating costs, as reported in the county's budget, have been applied to the estimated population for the households. The per capita costs of government are based on the county's projected population of 60,698. Table 9 shows the estimated per capita cost of government.

**Table 9**  
**Per Capita Expenditures**

Expenditure Category	Per Capita
General & Administrative	\$133.03
Public Safety	359.14
Health & Welfare	217.64
Recreation & Culture	41.34
Public Works	171.04
Statutory & Unclassified	100.93
Non-Education: Debt Service	186.81

To calculate education costs for this development, per student amounts for operations, debt services and capital improvements provided by the James City County Department of Financial and Management Services and shown in Table 9, are applied to the total number of students generated by the development each year.

Because the analysis includes only the expenditures that will affect the net fiscal impact of this development on the county expenditures, per student amounts reflect expenditures from local sources only. Spending from funds provided by state or federal sources is not included.

**Table 10**  
**James City County Education Expenditure per Student**

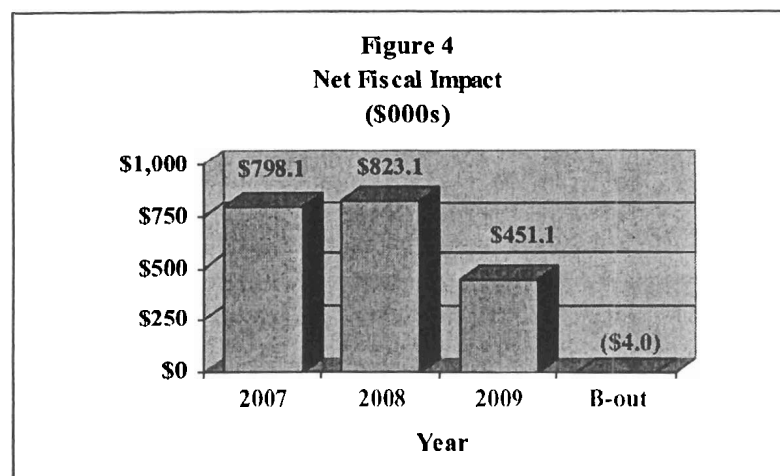
Local Expenditure	Per Student Amount
Operating Expenditures Per Student - County Only	\$ 5,974
Debt Service Expenditures Per Student	1,166
Capital (Non-Debt) Expenditures Per Student	482
<b>Total Education Costs per Student</b>	<b>\$ 7,622</b>

The construction of this development and the supporting infrastructure will generate incremental county expenditures. Dr. Robert W. Burchell's Employment Anticipation Method has been used on a per FTE employee basis. This is a method of marginal costing that is based on an extensive study of the increase in a locality's government costs generated by new, non-residential development. The Employment Anticipation Method predicts the change in municipal costs by using the coefficients developed in the study by Dr. Burchell, the per capita cost of government, and the number of incremental FTE employment positions.

As indicated in Table 8 on the previous page, the operating costs associated with public education will generate the largest single expenditure, estimated to be almost \$298,700 at buildout and beyond. The next largest category of expenditures is expected to be for police and fire protection, estimated at almost \$186,890 annually at buildout.

### Net Fiscal Impact – Residential and Net New Commercial

The *net* fiscal impact of a development on the local government is calculated by subtracting government expenditures from government revenues. The annual estimated net fiscal impacts during the development period and at buildout are illustrated in Figure 4. At buildout in 2010, analysis results indicate a negative net fiscal impact to the county of about \$3,990. However, the county should realize a cumulative net fiscal impact of about \$2.0 million from 2007 through 2010. Details are shown in Table 11.





**Table 11**  
**Net Fiscal Impact of Residential and New Commercial Development**

Cash Inflow and Outflow	2007	2008	2009	Buildout
Total Revenues	\$826,250	\$1,229,630	\$1,257,680	\$1,025,830
Total Expenditures	28,160	406,560	806,550	1,029,830
Net Fiscal Impact	\$798,090	\$823,070	\$451,130	-\$3,990
NPV (5%, 20 years)				\$2,237,610

**Projected Cumulative Fiscal Impact:** To illustrate the net fiscal benefit or cost of this development to the county, TWG calculated the Net Present Value of a 20 year series of annual net positive and/or negative income estimated to accrue to the project. Discounting is a widely accepted financial technique for estimating the value of a series of future payments in today's dollars. In effect, if one were to buy the future financial inflows (positive or negative), it is the price at which a buyer and seller would value the contract or annuity. The estimate includes annual growth in real property values of 2% per year and a discount rate of 5% (for example, a promise to deliver \$1.00 a year later would be worth only \$0.95 today).

As shown previously, the estimate for the net impact of new housing and commercial property at buildout is negative \$3,990. However, as real property values increase over time the fiscal impact will return to a positive range assuming the current real dollar relationship between real estate tax rate and real property values does not change. As a result, the estimate for the net present value of The Candle Factory from year one of construction, extended over a 20-year period and discounted at 5%, is \$2,237,610.

### Net Fiscal Impact – Renovated Existing Commercial

The site of the proposed Candle Factory development of new residential and commercial components includes existing retail shops and a restaurant in addition to the original soap and candle factory and warehouse. Only the restaurant is operating currently. The plan for new development includes renovation and revitalization of these existing properties as the residential portion is constructed and residents occupy new homes at The Candle Factory. Existing commercial property includes the components shown in Table 12.

**Table 12**  
**Renovated Existing Commercial Property**

Existing Commercial Components	Square Feet
Retail	28,478
Restaurant	4,535
Office	14,087
Warehouse	145,571

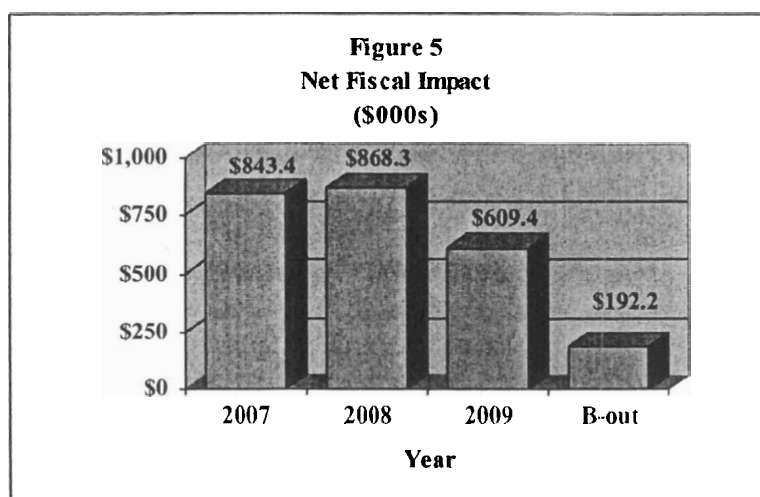
Increases in gross commercial revenues and in the number of employees expected at The Candle Factory result in corresponding increases in county revenues from personal property tax, retail sales tax, meals sales tax, business license fees, and miscellaneous taxes. Since employment increases, county expenditures also increase. As shown in Table 13, the net fiscal impact of existing renovated commercial property is \$196,150 at buildout and beyond. The estimate for the net present value over a twenty year period and discounted at 5% is \$2,131,190.

**Table 13**  
**Net Fiscal Impact of Renovated Existing Commercial Property**

Cash Inflow and Outflow	2007	2008	2009	Buildout
Total Revenues	\$52,630	\$52,630	\$189,200	\$215,370
Total Expenditures	\$7,360	\$7,360	\$30,940	\$19,220
Net Fiscal Impact	\$45,270	\$45,270	\$158,260	\$196,150
NPV (5%, 20 years)				\$2,131,190

### Combined Net Fiscal Impact

The net fiscal impact of new housing and commercial development combined with existing commercial property is shown in Figure 5. The net fiscal impact at buildout is \$192,160 and the estimate for the net present value is \$4,368,800. The combined net fiscal impacts are shown in Table 14.



**Table 14**  
**Combined Net Fiscal Impact**

	2007	2008	2009	Buildout
Residential and New Commercial	\$798,090	\$823,069	\$451,131	-\$3,991
Existing Renovated Commercial	\$45,268	\$45,268	\$158,262	\$196,151
Combined Net Fiscal Impact	\$843,358	\$868,337	\$609,393	\$192,160
NPV (5%, 20 years)				\$4,368,800

**PHASE IA  
CULTURAL RESOURCES ASSESSMENT OF  
THE 95-ACRE  
SOAP AND CANDLE FACTORY CO. TRACT  
JAMES CITY COUNTY, VIRGINIA**

**Prepared for:**

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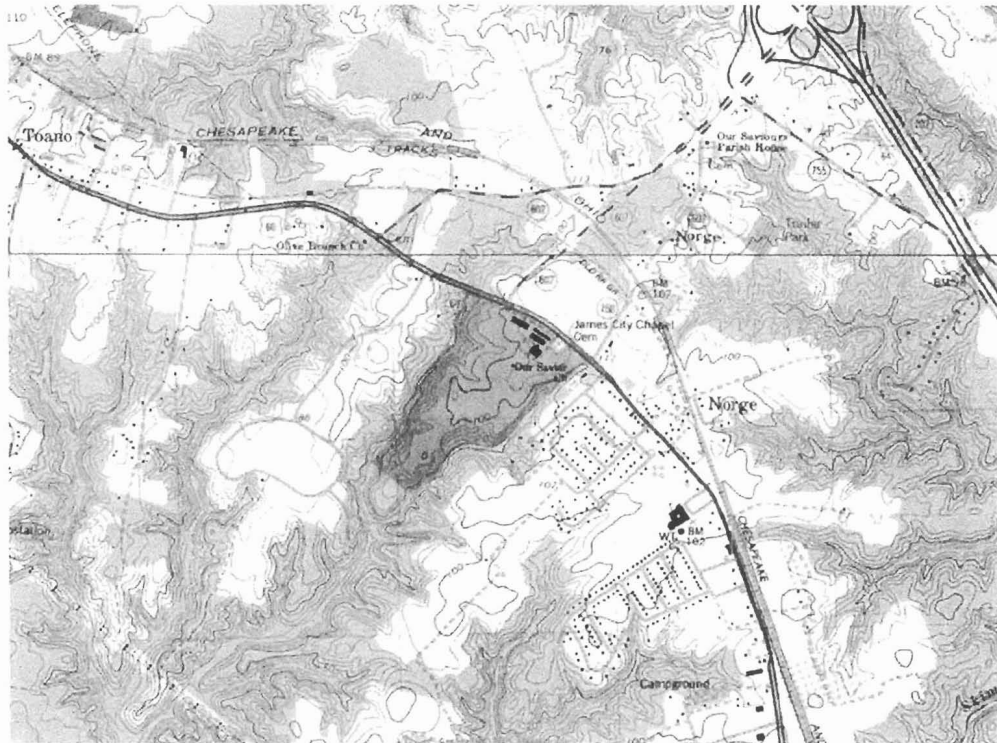
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## I. INTRODUCTION

In July 2006, the James River Institute for Archaeology, Inc. (JRIA) conducted a Phase IA cultural resources assessment of the approximately 95-acre Soap and Candle Factory Company tract in James City County, Virginia (Figures 1-2). The property is located between Norge and Toano, and is bounded to the north by U.S. Route 60, and to the east, west, and south by unnamed tributaries of Yarmouth Creek.

This cultural resources assessment includes a description of the physical and environmental characteristics of the study area; a discussion of the prehistoric and historic development of the property; a summary of documented historic resources in the vicinity; and finally, recommendations for concerning potential historic resources that may be located on the property.

Dr. Matthew R. Laird, who researched and authored this assessment, consulted numerous documentary, cartographic, and archival sources at a variety of repositories, including the Virginia Department of Historic Resources, the Library of Virginia, the Virginia Historical Society, the Circuit Court of James City County, the Rockefeller Library of the Colonial Williamsburg Foundation, and the Central Rappahannock Regional Library in Fredericksburg.



**Figure 1.** Location of the study area, U.S.G.S. 7.5' Norge (1984) and Toano (1986) quadrangles.



**Figure 2.** Aerial photograph of the study area.

## **II. ENVIRONMENTAL CONTEXT**

### **Physical Description and Environmental Setting**

The approximately 95-acre Soap and Candle Factory Co. property is located between Norge and Toano, and is bounded to the north by U.S. Route 60, and to the east, west, and south by unnamed tributaries of Yarmouth Creek. The northern portion of the property is completely developed with retail/office buildings and associated paved parking lots. The majority of the remainder of the property is currently wooded, although the central upland portion of the tract consists of open meadow. Access to the undeveloped section of the property is via a single gravel road off Poplar Creek Lane.

### **Geology and Topography**

The project area is situated in southeastern Virginia on the Atlantic Coastal Plain physiographic province, an area of low topographic relief extending from the Atlantic Ocean west to the Fall Line. More specifically, the property is located on the Lower Peninsula, a large but relatively narrow landform bound on the north and south respectively by the York and James rivers. Elevations within the study area range from approximately 110 feet above mean sea level in the upland portion of the property to approximately 50 feet along the adjoining drainageways.

### **Hydrology**

The study area is bounded to the east, west, and south by two unnamed tributaries of Yarmouth Creek, which drains into Chickahominy River and ultimately the James River.

### **Soil Morphology**

The study area is encompassed by the Kempsville-Emporia-Suffolk soil association, characterized by deep, well-drained soils that are dominantly loamy, gently sloping to very steep, and typical of upland ridges and side slopes. The upland portion of the property includes at least seven major soil types: Craven-Uchee complex (2-6 percent slope); Emporia fine sandy loam (2-6 percent slope); Kempsville-Emporia fine sandy loam (2-6 percent slope); Kenansville loamy fine sand (2-6 percent slope); Slagle fine sandy loam (0-2 percent slope); Suffolk fine sandy loam (2-6 percent slope); and Uchee loamy fine sand (2-6 percent slope). With the exception of Craven-Uchee complex, these soils are particularly well-suited to agricultural crops (Hodges et al. 1985).

### III. CULTURAL CONTEXT

#### PREHISTORIC CONTEXT

Virginia's prehistoric cultural chronology, like that of the rest of the Middle Atlantic region, is divided into three major time periods—Paleoindian, Archaic, and Woodland—with the differences based largely on changes in subsistence, settlement patterns and types of material remains found. The three main periods reflect major changes, while Early, Middle, and Late subperiods reflect less dramatic, though not insignificant changes. Different “phases” mentioned in the text refer mainly to changes in localized styles of artifacts or, at times, correlated changes in artifacts (or assemblages of temporally related artifacts) and settlement patterns.

##### **Paleoindian (Prior to 8000 B.C.)**

Paleoindian occupation in Virginia, the first human occupation of the region, began some time before 10,000 B.C. The earliest recognized diagnostic artifacts Clovis projectile points, typically fashioned of high quality cryptocrystalline materials such as chert, chalcedony, and jasper. Later Paleoindian points include smaller Clovis-like and Cumberland variants, small “Mid-Paleo” points, and, at the end of the period, Dalton, Hardaway-Dalton and Hardaway Side-notched points. Also diagnostic, though to a lesser extent, are certain types of well-made endscrapers, sidescrapers, and other formalized tools. Most current views now hold that eastern Paleoindians were generalized foragers with an emphasis on hunting. Social organization apparently consisted of relatively small bands that exploited a wide, but defined, territory (Gardner 1989: 5-52; Turner 1989: 71-94).

The majority of Paleoindian remains in Virginia are represented by isolated projectile point finds and what appear to be small temporary camps. Although some larger and very notable base camps are present in the state, they are relatively rare and usually associated with sources of high quality lithic materials. The most important Paleoindian sites in Virginia, and in the eastern U. S. as a whole, are the Thunderbird Site in the Shenandoah Valley (Gardner 1974, 1977), the Williamson Site in south-central Virginia (McCary 1951, 1975, 1983), and the Cactus Hill Site in Sussex County. Both the Thunderbird and Williamson sites are large base camps associated with local sources of high-grade cryptocrystalline lithic materials. At the Thunderbird site and environs, a site typology has been formulated which includes lithic quarries, quarry-related base camps, quarry reduction stations, base camp maintenance stations, outlying hunting sites, and isolated point sites (Gardner 1981, 1989). Cactus Hill (44SX202), located on the Nottoway River near Stony Creek, is characterized by stratified deposits associated with the Paleoindian through Woodland periods. The site has yielded numerous Clovis projectile points, and generated a radiocarbon date of 15,070 from a pre-Clovis occupation layer, which is characterized by artifacts in a pre-Clovis core blade tradition (McAvoy and McAvoy 1997).

To date, only a handful of Paleoindian points have been found in James City/York County/Williamsburg vicinity, all located in surface or plowzone deposits, with few or no



associated artifacts. The only two known Paleoindian sites (or components) in the area are located near the confluence of the James and Chickahominy rivers (WMCAR 1997: 23). As such, the potential for any significant Paleoindian remains in the project area is minimal, due to lack of preferred lithic materials and the absence of any unique habitat in the area.

### **Archaic (8000-1200 B.C.)**

The beginning of the Archaic Period generally coincided with the end of the Pleistocene epoch, which was marked by a climatic shift from moist, cool conditions to a warmer, dryer climate. Vegetation also changed at this time from a largely boreal forest setting to a mixed coniferous-deciduous forest. Scholars have proposed that the resulting changes in the seasonal availability of resources coincided with increasing emphasis on strategies of seasonal mobility among native peoples (Dent 1995:147).

Archaic populations appear to have been characterized by a band-level social organization involving seasonal movements corresponding to the seasonal availability of resources and, in some instances, shorter-interval movements. Settlement during this era involved the occupation of relatively large regions by single band-sized groups living in base camps during part of the year, and dispersing as necessary on seasonal basis, creating smaller microband camps that may have consisted of groups as small as single families. The Archaic period was characterized by the development of more specialized resource procurement activities and associated technologies. These differences in material culture are believed to reflect larger, more localized populations, as well as changes in food procurement and processing methods. The Archaic Period also marked the beginning of ground stone technology. New tool categories that developed during the Archaic included chipped and ground stone celts, ground stone net sinkers, pestles, pecked stones, mullers, axes, and, during the more recent end of the Late Archaic, vessels carved from soapstone quarried in the Piedmont (Custer 1990: 35-40; Geier 1990: 84-86, 93-94).

#### *Early Archaic*

Corner and side-notching became a common characteristic of projectile points at the beginning of the Archaic Period, indicating changes in hafting technology and possibly the invention of the spear-thrower (atlatl). Notched point forms include Palmer and Kirk Corner-notched and, in localized areas, various side-notched types. The latter part of the Early Archaic Period and the beginning of the Middle Archaic Period are marked by a series of bifurcate base projectile point forms.

#### *Middle Archaic*

As a whole, the Middle Archaic ca. 6500 - ca. 3000 BC, witnessed the rise of various stemmed projectile point forms, and there is a notable increase in the number of early Middle Archaic components over the immediately preceding Early Archaic. The most common Middle Archaic artifact forms are, from oldest to youngest, Lecroy, Stanly, Morrow Mountain, and Guilford projectile point types, followed by the side-notched Halifax type at the end of the period as it transitions into the Late Archaic between ca. 3500 and 3000 B.C. However, since finds of typical Middle Archaic artifacts are so few

in the James City County area, it has been suggested that particular regional styles of tools/weapons have gone unrecognized; alternatively, many sites of this period may be located within drowned estuarine settings (WMCAR 1997: 43).

#### *Late Archaic*

The Late Archaic period (ca. 3,000-1,200 B.C.) was dominated by stemmed and notched knife and spear point forms, including various large, broad-bladed stemmed knives and projectile points that generally diminish in size by the succeeding Early Woodland period (e.g., Savannah River points and variants). Also found, though less common, are stemmed and notched-stem forms identical to those associated more prominently with areas of Pennsylvania and adjoining parts of the northeast (Susquehanna and Perkiomen points).

Marked increases in population density and, in some areas, decreased mobility, characterized the Late Archaic Period in the Middle Atlantic states and eastern North America as a whole. Locally, there is an increase in the numbers of late Middle Archaic (Halifax) and Late Archaic (Savannah River) sites over those of earlier periods, suggesting a population increase and/or intensity of use of this area of eastern Virginia between about 3500 B.C. and ca. 1200 B.C.

Agriculture in the Middle Atlantic region probably had its origins during this period. Yarnell (1976: 268), for example, contended that sunflower, sumpweed, and possibly goosefoot may have been cultivated as early as 2000 BC. In the lower Little Tennessee River Valley, remains of squash have been found in Late Archaic Savannah River contexts (ca. 2400 BC), with both squash and gourd in slightly later Iddins period contexts (Chapman and Shea 1981: 70).

Based on the relatively few Early to Middle Archaic components known for this area, it is most likely that any Archaic period resources within the study area would likely date to the Late Archaic period. Given the topographic situation of the study property, and its situation at the confluence of two tributaries of Yarmouth Creek, the potential for temporary Archaic campsites is high.

#### **Woodland (1200 B.C. - AD 1600)**

The Woodland period was characterized by the introduction of ceramic technology, a gradually developing dependence on horticulture, and increased sedentism. Three subperiods (Early, Middle, and Late Woodland) have been designated, based primarily on stylistic and technological changes in ceramic and projectile point types, as well as settlement patterns.

#### *Early Woodland*

The Early Woodland period, ca. 1200-500 B.C., is generally defined by the appearance of ceramics in the archaeological record. The earliest Woodland ceramic wares, Marcey Creek Plain and variants, are rectangular or oval and resemble the preceding Late Archaic soapstone vessels. These ceramics are followed by cord-marked, soapstone-tempered Selden Island ceramics, then by sand-and-grit-tempered Elk Island (Accokeek) ceramics

with both plain and cord-marked surfaces. The latter traditionally were referred to as the Stony Creek series, although this type is now known to subsume several Early, Middle, and Late Woodland ceramic wares (Egloff 1991: 243-48).

In eastern Virginia, Early Woodland sites are notably less common than those of the preceding Late Archaic period and the succeeding Middle Woodland period, and most sites appear to represent short-term camps. Early Woodland sites, by virtue of their scarcity, would be less likely than either Late Archaic or later Woodland sites and, by analogy with what is known of Early Woodland sites in Tidewater Virginia, few remains would be present at these sites.

#### *Middle Woodland*

The Middle Woodland period in this area, ca. 500 B.C. and A.D. 900, was marked by the appearance of net-marked, sand-tempered, and pebble-tempered pottery that generally spans the period ca. 500 B.C. to about A.D. 300 (Pope's Creek and Prince George wares). These ware types were supplanted by shell-tempered net- and cord-marked Mockley pottery until about A.D. 900 in areas lying east of the Fall Line. Local wares, such as Varina net-marked, were quite common in the Inner Coastal Plain, and have been dated to ca. A.D. 200/250 (Egloff 1991: 243-48).

Previous archaeological studies in the region have demonstrated the intensive use of small tributary streams as well as major river floodplains throughout the Middle Woodland period (ca. 500 B.C. and A.D. 900). Archaeologists have suggested that the Middle Woodland was characterized by "restricted wandering," in which groups used various campsites for several weeks at a time, obtaining needed materials in the site vicinity. Given the proximity of tributary streams in the immediate vicinity of the study property, there is a moderate to high probability that Middle Woodland period campsites are situated within the study area (Stewart 1992: 12-16).

#### *Late Woodland*

By the Late Woodland Period (A.D. 900-1600), agriculture had assumed a role of major importance in the prehistoric subsistence system. The adoption of agriculture represented a major change in the subsistence economy and patterns of settlement. The availability of large areas of arable land became a dominant factor in settlement location, and sites increasingly were located on fertile floodplain soils or on higher terraces or ridges adjacent to them. Permanent habitation sites gradually replaced base camp habitation sites more characteristic of those of previous foragers and hunter-gatherers. Villages varied widely in spatial layout and appearance: some were highly nucleated while others were dispersed over a relatively wide area. A number of villages were completely fortified by circular or oval palisades, indicating a rise in intergroup conflict, while others contained both a fortified core area and outlying houses. The more dispersed settlements were scattered over a wide area and characterized by fluid settlements within large, sprawling, and loosely defined town or village territories (Turner 1992: 108-114).

Drawings and accounts of early European explorers indicate that houses were constructed of oval, rectanguloid, or circular frameworks of flexible, green sapling poles set in the

ground, lashed together, and covered with thatch or bark mats. Burial sites of the period were situated in individual pits or in ossuaries. Such historical accounts are consistent with data obtained from archaeological excavations of Coastal Plain Late Woodland village sites (Hodges and Hodges 1994).

Archaeological research in the Virginia Coastal Plain over the past 30 years has demonstrated a marked decrease in the number of small, temporary, interior sites occupied during the Late Woodland period. This trend is not unexpected, given the increasing role of agriculture and accompanying development of more permanent village settlements. Even so, hunting continued to provide a large proportion of the protein in the diet of Late Woodland peoples. As early as the Late Archaic period, overhunting had caused a significant drop in local deer and other mammal populations; so much so, in fact, that relatively few deer could be found in the vicinity of villages. In response, large-scale hunts, which typically included entire family groups, were mounted annually in the late fall and winter after the crops had been harvested. Various supporting camps and activity areas also were established in the day-to-day procurement of food and other resources (i.e., short-term hunting and foraging camps, quarries, butchering locations, and re-tooling locations). These small seasonal camps and non-seasonally based satellite camps supporting nearby sedentary villages and hamlets tended to be located along smaller streams in the interior. Archaeologically, these campsites are generally manifested by limited concentrations of lithics and ceramics (Barfield and Barber 1992: 225-26; Rountree 1989: 38-45; Turner 1992: 108-114).

Diagnostic artifacts of the Late Woodland period include several triangular projectile point styles that originated during the latter part of the Middle Woodland period and consistently decreased in size through time. The most common Late Woodland ceramics from about A.D. 900 to the time of European contact in Tidewater included shell-tempered Townsend and Roanoke ceramics; untyped, sand-tempered, fabric-impressed ceramics that are otherwise similar to Townsend; and lithic- and sand-tempered simple-stamped ceramics similar to Gaston and Cashie types of North Carolina (Turner 1992: 102-05).

When John Smith and his fellow English explorers arrived in Tidewater Virginia, they unwittingly stumbled into the territory of the Powhatan Confederacy, one of the most well-organized and populous chiefdoms in the mid-Atlantic region. Smith's map of Virginia depicts a cluster of villages near the confluence of the James and Chickahominy rivers, and north along the Chickahominy, but no significant settlement in the interior of the Peninsula (Figure 3). No significant Late Woodland era village sites would be expected within this upland setting. However, there is a strong potential for the presence of temporary campsites associated with seasonal resource procurement activities.



Figure 3. *Virginia Discovered and Discribed* [sic.] (Smith 1624).

## HISTORIC CONTEXT

### Settlement to Society (1607-1750)

In May 1607, a small group of Englishmen under the authority of the Virginia Company of London arrived at Jamestown Island, where they established the first permanent English settlement in the New World. The first several years of settlement proved disastrous, with inconsistent leadership, food shortages, and depredations by the local Native American population consistently threatening to end the “Virginia experiment.” By 1619, conditions within the new colony were stable enough that four corporations, including James City, were established. The infamous Powhatan uprising of 1622 was a serious blow to the colony, however, which by this time had expanded to the east and west of Jamestown along both shores of the James River. Responding to this crisis, the

English crown assumed control over the colony in 1624, ending the era of Virginia Company authority (McCartney 1997: 29-59; WMCAR 1997: 50-51).

During the 1620s and 1630s, tobacco came to dominate Virginia's economy. The landscape was dominated by tobacco plantations worked by indentured servants, while settlement was still clustered primarily along the James River Valley. In the wake of a second native uprising in 1644, however, the English effectively pushed the Powhatan Indian population out of the area, allowing for the expansion of settlement further into the interior of what is now James City County. Although it is unclear exactly who first owned the land encompassed by the project area, land patents indicate that tracts in this general vicinity were first taken up by settlers during the 1650s and early 1660s (Nugent 1992).

Throughout the seventeenth century, and well into the eighteenth, tobacco remained Virginia's staple crop, completely dominating the colonial economy. Since tobacco plants required almost constant attention throughout the growing season, this form of monoculture was extremely labor-intensive. In fact, the amount of tobacco a planter could produce was directly related to the number of laborers he could get into the fields. Unfortunately, labor in the Chesapeake was perpetually in short supply, and therefore costly. In order to produce enough tobacco to yield even modest profits in the face of unpredictable markets, all planters, large or small, were forced to invest the bulk of their financial resources in labor. The corresponding shortage of skilled carpenters and masons also made building a traditional "English" house astronomically expensive. Certainly, Virginia's wealthiest elite could always afford a stately brick house. But the vast majority of Virginians could not, and so accommodated themselves to earthfast dwellings, which required relatively little capital investment, expensive materials, or skilled labor. And if their house required significant repairs after ten years, so be it (Carson et al. 1981).

#### **Colony to Nation (1750-1789)**

During the colonial period, a well-traveled stage road led north from the colonial capital of Williamsburg to ferry crossings on the Pamunkey River and beyond. A number of ordinaries, or taverns, were established along this route to accommodate travelers. One of these hostelrys was located northwest of the intersection of the old Williamsburg Stage Road (now Route 60) and Forge Road. While this tavern appears to have been in operation for a relatively short period, its ruins remained a local landmark for many years after it was destroyed by fire, and for at least a century this crossroads community was known as "Burnt Ordinary."

Despite decades of economic and political prominence, James City County's "Golden Age" would not survive beyond the American Revolution. By the second half of the eighteenth century all planters, great or small, were beginning to feel the pinch of a sputtering, century-old tobacco economy. After a few decades of prosperity, tobacco prices once again were on the decline by the 1760s and 1770s. Severe economic problems in England precipitated by the costly Seven Years' War reverberated throughout the colonies. Faced with economic ruin, English merchants began calling in

their debts, undermining the very foundation of the Tidewater economic system. For some time Virginians of all ranks had relied on British credit to maintain, and gradually increase, their consumption of imported goods, thereby raising their standard of living. This constriction of credit threatened to topple even the most prominent planters (Kaplan 1993: 55, 67).

After the close of the Revolution, the Peninsula recovered slowly from the effects of war. The relocation of Virginia's capital from Williamsburg to Richmond accelerated the area's decline as the locus of political and economic power shifted inland. The slow decline of the Tidewater tobacco economy also led to a prolonged phase of depopulation as residents moved westward in search of more productive land (CWF 1986: Section XII).

#### **Early National Period (1789-1830)**

During the late eighteenth and early nineteenth centuries, the Peninsula's population was in steady decline. During the first half of the nineteenth century James City County was almost exclusively rural in character. When architect Benjamin Henry Latrobe toured the county in 1796, he noted that "poverty and decay seem indeed to have laid their withering hands upon every building public and private between Hampton and Shockoe Creek at Richmond" (WMCAR 1997: 55). Between 1790 and 1820, James City County's population dropped a staggering 42 percent. Land and personal property tax records demonstrate that during this period the ranks of the middle class declined while the number of small farmers increased. Only the largest landowners became more secure economically (James City County Land Tax Records 1782-1861; CWF 1986: Section XII).

Whatever their social standing, James City County farmers found themselves confronted in the early years of the nineteenth century by land that was simply worn out by decades of tobacco farming. Meanwhile, the prevailing agricultural practice of crop rotation every three years insured that even wheat and corn depleted the soils at an alarming rate. But it was not long before a small group of Virginians dedicated to "scientific agriculture" helped to usher in a new era of productive farming. In his series of essays entitled *Arator*, Caroline County's John Taylor demonstrated the benefits of four-field crop rotation, in which soils could be improved significantly by rotating corn, wheat, fertilizer, and clover. Similarly, in the early 1820s, Edmund Ruffin publicized the effectiveness of marl in reducing soil acidity, a technique that could triple the productivity of Tidewater soils. Other agricultural improvements included contour plowing to reduce erosion, cast iron plows, threshing machines, and corn shellers. (Kaplan 1993: 87-88).

During the 1790s, a Methodist church known as the James City Chapel was established on the south side of the Williamsburg Stage Road within the limits of the study property. Little is known about this church or its congregation, although it was described by one observer as a "very good meeting house" (McCartney 1997: 547).

### **Antebellum Period (1830-1860)**

By the mid-nineteenth century, improved agricultural techniques and crop diversification led to a revitalization of the region's agricultural economy, which had shifted from tobacco cultivation to the production of grain crops. By the time of the Civil War, Tidewater's agriculture had evolved into a mixed crop system and beef production and other forms of animal husbandry were growing in importance. More sophisticated farming methods became prevalent, including the use of marl to restore soil that had been acidified by long-term tobacco production and erosion (CWF 1986: Section XII).

During this period, the vicinity of the project area was almost entirely rural. The nearest settlement was Burnt Ordinary, a small, but active, rural community in western James City County. In 1845, local schoolteacher Robert Morris noted that he did most of his shopping at the store at Burnt Ordinary, attended militia musters, and caught the stage for Richmond or Williamsburg there, as well. In 1854, local entrepreneur Felix Pierce described Burnt Ordinary as "a healthy, prosperous community," with a post office, churches, and stores (Preliminary Information Form [PIF] for Toano Historic District, VDHR File #047-5147).

### **Civil War (1861-1865)**

By the time of the Civil War, the vicinity of the project area was characterized by scattered farmsteads located along the Williamsburg Stage Road and smaller side roads. One detailed map of the area prepared under the direction of Confederate Chief of Engineers Jeremy Francis Gilmer in 1863 indicates the location of the "Method. Chapel." The project area appears to have consisted of cleared farmland or pasture at this time, and no other built improvements were noted (Figure 4).

During the Confederate withdrawal after the Battle of Williamsburg in May 1862, Captain John Pelham of the Stuart Horse Artillery reported that he briefly left a howitzer at "the Methodist Church, about 1½ miles beyond Burnt Ordinary, under Lieutenant Breathed," while he proceed east to fire on the advancing Union army. Both Confederate and Federal troops camped in and around Burnt Ordinary during the Peninsula Campaign of 1862, and a small cavalry skirmish was fought nearby in January 1863. After the end of the 1862 Peninsula Campaign, this area remained nominally under Union control, although Confederate marauders frequently harassed Federal troops behind the lines (McCartney 1997: 310-11).

### **Reconstruction and Growth (1865-1917)**

The devastation wrought by the Civil War left the Peninsula depopulated and depressed. The emancipation of the African-American slave population resulted in a scarcity of laborers, and rural families shifted to less labor-intensive modes of agriculture. Many farms were operated by white landowners who struggled to survive, and by black sharecroppers who chose to stay in their old neighborhoods after the war. During this period, Tidewater's agricultural productivity dropped by more than half, and farm size decreased as larger parcels were subdivided and sold (McCartney 1997: 337-40; WMCAR 1997: 59-60)





**Figure 4.** Detail, *New Kent, Charles City, James City and York Counties* (Gilmer 1863).

James City County remained largely rural and agricultural throughout this period, though the arrival of the Chesapeake and Ohio Railroad in the early 1880s helped spur the county's economic development by providing ready access to the region's major urban markets. By now, the old "Burnt Ordinary" had completely vanished from the landscape, and the burgeoning community of Toano had sprung up around it. Toano was the focus of considerable commercial activity at the end of the nineteenth century, with a post office, law offices, train station and freight depot, a hotel, numerous stores, a bank, and a barrel factory. When potato production was at its peak, Toano generated the most revenue of any freight stop on the C & O Railroad route between Newport News and Richmond. With its advantageous location on the railroad line, Toano emerged as an important truck farming center, shipping large crops of fruits and vegetables to northern and western markets. Despite the agricultural profits made possible through improvements in the transportation system, however, the average size of the James City County farm dropped significantly during this period, and tenancy became more prevalent. Farm bankruptcies were common, and many immigrants arrived from the north to take advantage of depressed land prices. Timber companies also bought up large quantities of inexpensive real estate, and many properties throughout the county were cut

over to feed the growing local timber industry (PIF for Toano Historic District, VDHR File #047-5147; WMCAR 1997: 59-60).

The earliest surviving deed for the study property dates to 1871, and records the sale of the tract, known as "Ratcliffe's"<sup>1</sup>, to R.L. Henley. The previous owner, Richard E. Taylor, had declared bankruptcy, and the property was subsequently sold at auction (Table 1). In October 1887, Henley sold the land to Virginia H. Jennings of James City County. According to the deed, the tract was bounded to the north by "Drinking Spring Swamp," which divided the property from the adjoining estate of Mary A. Hubbard called "Drinking Spring," and to the south by "Chapel Spring Swamp," evidently named for the nearby James City Chapel. The property to the south, owned by Mary Piggott, was named "Farmville." Jennings used the property as collateral for a loan in 1887, and when she failed to repay it, the property reverted to Henley. The land was sold at public auction, and was purchased by Lillian (Lilly) M. Jennings in January 1894. Jennings sold the tract, then consisting of 97.5 acres, to Hans H. Holen of Cashton, Wisconsin, in May 1900. Two years later, Holen sold Ratcliffe's to Melvin N. Dunham, and in February 1905, Dunham deeded it to Hans J. Kinde. Kinde held the property until July 1917, when he and his wife Minnie transferred it to Joe H. Hughes.

The U.S.G.S. 15' Toano quadrangle of 1917 indicates a single structure, most likely a farm dwelling, within the study property along an unimproved road that led south from the old Stage Road, now Route 60 (Figure 5).

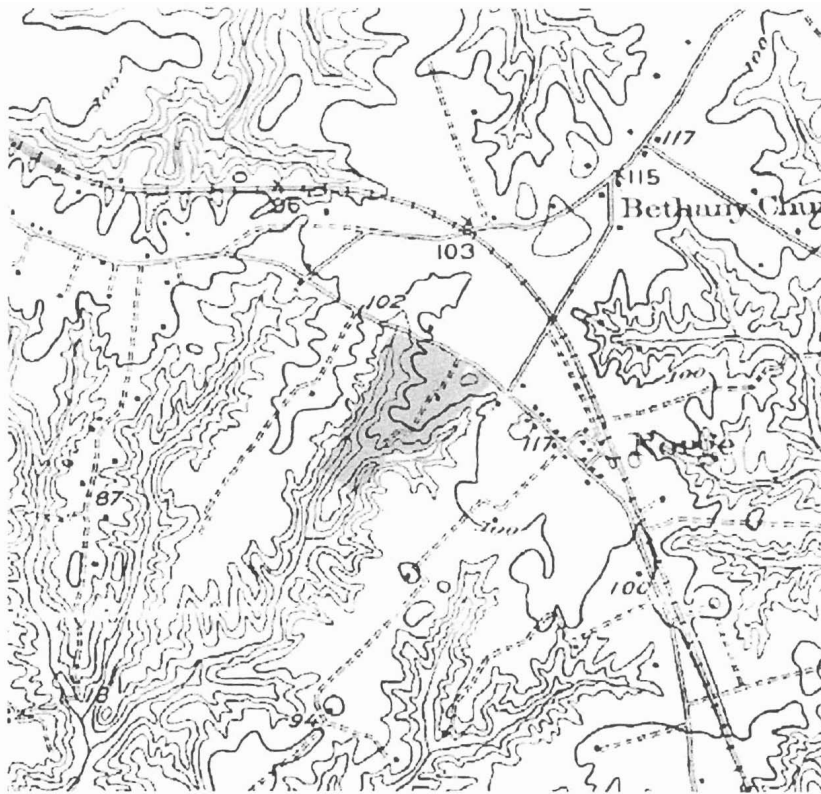
By the mid-1880s, the congregation of the James City Chapel had dwindled to the point that parish leaders decided to buy land in nearby Toano and relocate the church. The structure was partially dismantled and moved by rail to what later became Church Street, while oxen pulled it uphill to its final destination. By 1897, the building had been enlarged and renamed the Mount Vernon Methodist Church. However, the congregation continued to use the cemetery at the former church site; still in use, the cemetery occupies a small parcel on Route 60 adjoining the study property.

### **World War I to World War II (1917-1945)**

Aside from a few significant changes—chiefly the emancipation of the slave population—life in James City County in the early twentieth century proceeded much as it had before the Civil War. Most county residents remained relatively isolated on self-sufficient farms; roads were poor, and communication slow. Daily life still revolved around the agricultural schedule, while local churches continued to be important social institutions. Despite the rapid progress witnessed in urban America during these years, few in James City County would have access to automobiles, electricity, or telephones for many years to come. Most county roads remained unimproved into the 1930s, when the former stage road (Route 60) was first paved (WMCAR 1997: 60).

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<sup>1</sup> From the 1870s through 1990, the property was consistently referred to as "Ratcliffe's" (variously spelled "Ratcliffe" and "Ratcliff"). This name most likely refers to an earlier owner.



**Figure 5.** Location of the study property, U.S.G.S. 15' Toano quadrangle (1917).

#### **The New Dominion (1945 to Present)**

James City County was revitalized during the early part of the twentieth century as the result of population growth, industrial development, stimulation of the tourist industry, and the construction of military bases. Although agriculture remained an important component of the county's economy until the 1940s, the improvement of road networks in other parts of the state brought increased competition for area farmers. The mechanization of agriculture and growth of industrial development indirectly fostered increasing ethnic diversity, as skilled workers moved into the area. Greater Williamsburg's population also increased as a result of the wartime military build-up, and continued to grow in the post-war period. The development of the tourism industry also fueled this remarkable population increase. Meanwhile, the rapid expansion of Williamsburg and its residential suburbs has been accompanied by the proliferation of local service centers—including shopping centers, supermarkets, and office parks—to meet the community's expanding needs (CWF 1986: Section IV).

When Joe H. Hughes died in July 1955, he left the farm "on which I now reside" to his daughter Marguerite Hughes. By 1964, the estate had come into the hands of her brother, J. Guy Hughes, who sold it to John B. Barnett, Sr. In 1986, Barnett transferred the acreage to the Barnett Development Company, which he co-owned with his son, John B. Barnett, Jr. As the sole surviving partner in the company, John B. Barnett, Jr. deeded

three parcels totaling nearly 124 acres to himself in December 1990. During this period, the northern portion of the property was developed as a commercial site occupied by the Williamsburg Soap and Candle Co.

**Table 1.** Summary of project area ownership, ca. 1871-2006<sup>2</sup>  
(DB = Deed Book; WB = Will Book)

Grantor	Grantee	Date	Acres	Reference
Barnett Development Co.	John B. Barnett, Jr.	12-14-1990	123.9	DB 498: 77
John B. Barnett, Sr. & Mary J. Barnett	Barnett Development Co.	10-23-1986	105.99	DB 319: 502
J. Guy Hughes, trustee (Joe H. Hughes estate)	John B. Barnett, Sr.	3-16-1964	105.99	DB 95: 17
Joe H. Hughes estate	Marguerite Hughes	7-29-1955	105.99	WB 6: 67
Hans J. Kinde & Minnie Kinde	Joe H. Hughes	7-26-1917	97.5	DB 17: 90
Melvin N. Dunham & Lizzie S. Dunham	Hans J. Kinde	2-18-1905	97.5	DB 9: 559
Hans H. Holen	Melvin N. Dunham	1-3-1902	97.5	DB 8: 101
Lillian M. Jennings & A.W. Jennings	Hans H. Holen	5-10-1900	97.5	DB 7: 270
R.L. Henley, trustee	Lillian M. Jennings	1-9-1894	87	DB 5: 589
Virginia H. Jennings	R.L. Henley	8-6-1888	87	DB 5: 28
R.L. Henley & Ida D. Henley	Virginia H. Jennings	10-28-1887	98	DB 5: 167
James F. Hubbard, trustee (Richard E. Taylor bankruptcy)	R.L. Henley	4-19-1871	100	DB 2: 403

<sup>2</sup> James City County's circuit court records were destroyed in Richmond at the end of the Civil War, so there is only fragmentary deed and will information available for the period prior to 1865. However, county land books dating from 1782 have survived, allowing at least a partial reconstruction of land ownership. More extensive documentary research using this source may provide additional information concerning the earlier history of the tract.

## IV. PREVIOUS RESEARCH

### Archaeological Sites

According to the records in the archives of the VDHR, the study property has not previously been surveyed archaeologically, and no sites on the tract have been inventoried. Five archaeological sites have been recorded within a one-mile radius (Table 2, Figure 6). These include the archaeological components of two nineteenth-century churches, two historic domestic sites dating to the eighteenth- and nineteenth centuries, and one prehistoric Native American site of unknown date.

**Table 2.** Previously identified archaeological sites in the study area vicinity.

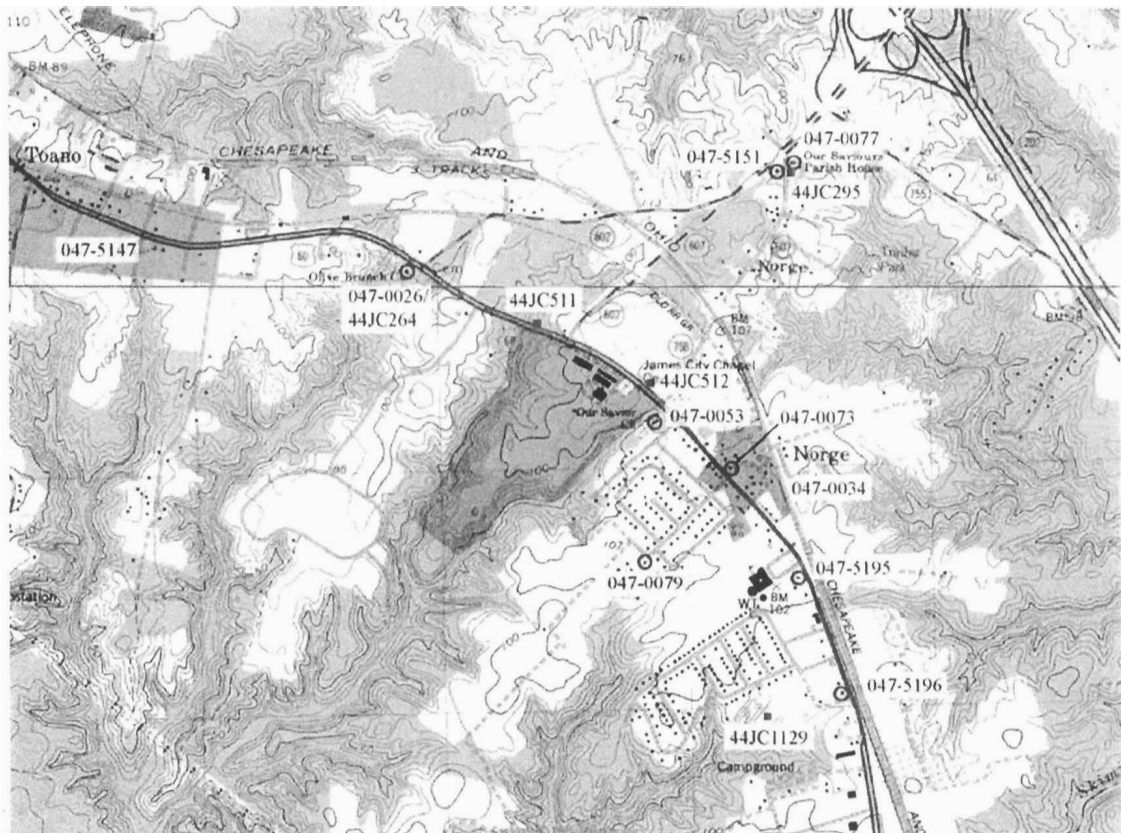
VDHR #	Type/Function	Date
44JC264	Historic church	19 <sup>th</sup> c.
44JC295	Historic church	19 <sup>th</sup> c.
44JC511	Historic domestic	19 <sup>th</sup> c.
44JC512	Prehistoric Native American, unknown	Undetermined
44JC1129	Historic domestic	18 <sup>th</sup> -19 <sup>th</sup> c.

### Architectural Resources

No previously inventoried architectural resources are located within the study property. Two historic districts (Norge and Toano), as well as nine individual architectural resources are located within a one-mile radius (Table 3, Figure 6). These include two nineteenth-century churches, and dwellings dating from the nineteenth- and early twentieth centuries.

**Table 3.** Previously identified architectural resources in the study area vicinity.

VDHR Number	Description	Date	National Register Eligibility
047-0026	Olive Branch Christian Church and cemetery	1835	Not evaluated
047-0034	Norge Historic District	1840	Determined eligible
047-0053	Our Saviour's Lutheran Church	1900	Not evaluated
047-0073	Vaiden (Foster) House	1800	Not evaluated
047-0077	Lutheran Parish House	1890	Not evaluated
047-0079	Bick House/Farmville	1800	Not evaluated
047-5147	Toano Historic District	1870	Not evaluated
047-5151	Bethany Parish Lutheran Residence	20 <sup>th</sup> c.	Not evaluated
047-5195	House, 7355 Richmond Road	1900	Not evaluated
047-5196	House, 7301 Richmond Road	1900	Not evaluated
047-5260	Hoar House, 7147 Richmond Road	1948	Determined not eligible

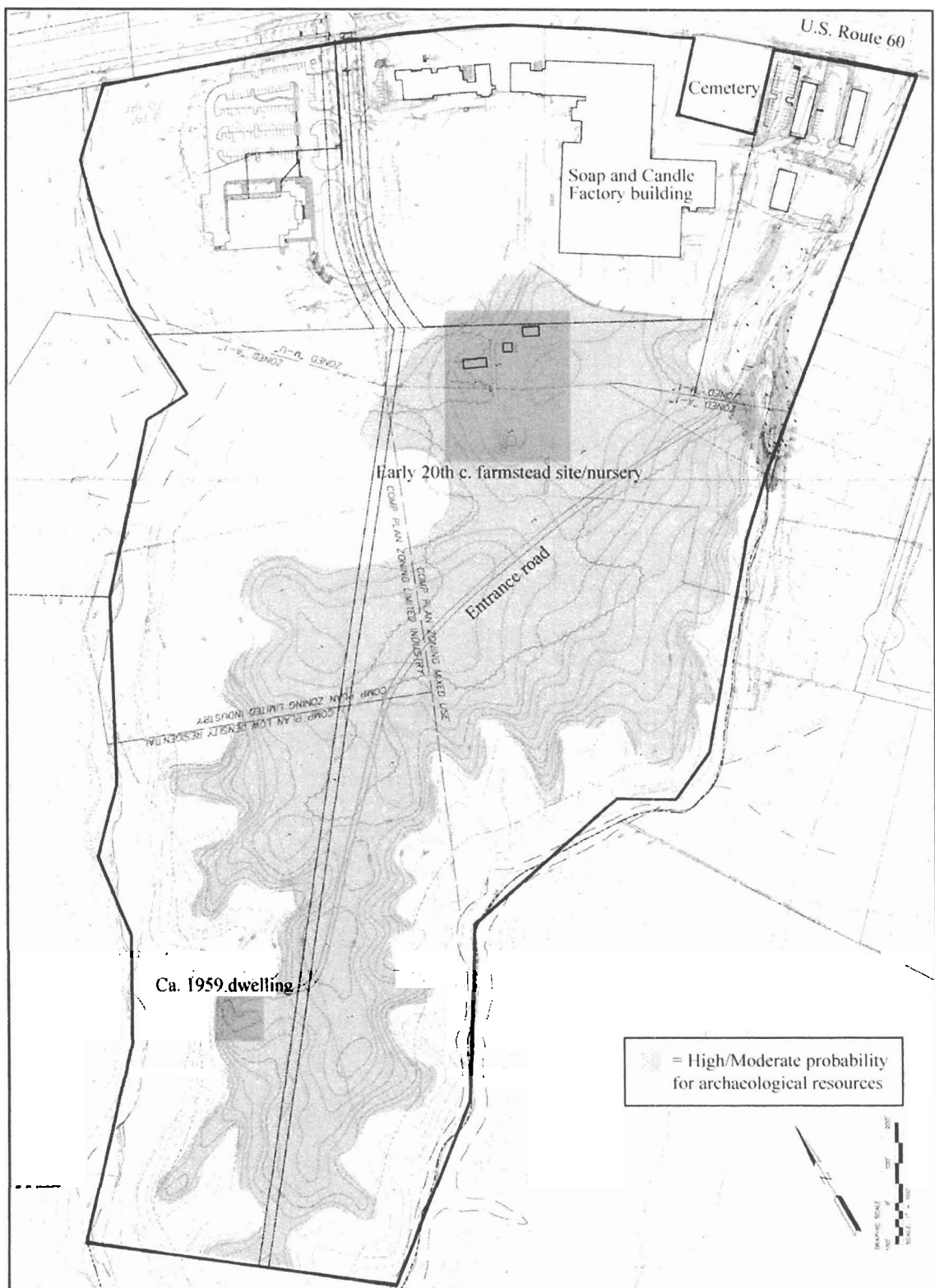


**Figure 6.** Location of previously identified historic resources in the study area vicinity.

## V. RESULTS OF PEDESTRIAN SURVEY

The pedestrian survey of the property indicated that a number of standing structures are located on the property. The only of these that is currently occupied is a two-story frame dwelling located in the southwest portion of the tract (Figure 7). James City County real estate records indicate that the dwelling was built in 1959. The other structures are clustered in the north-central portion of the property, in the vicinity of the structure that was indicated on the U.S.G.S. 15' Toano quadrangle sheet of 1917. A remnant road leading to the site, which was visible on the 1917 map, is still evident (Figure 9). A number of large, mature trees and other perennial plantings (e.g. crape myrtle) remain from when the property was occupied as a farmstead; however, the original dwelling is no longer extant. The oldest remaining structure appears to be a 1 ½-story frame barn or storage building; constructed with wooden nails and set on machine-made brick piers, this structure likely was built in the late nineteenth- or early twentieth century (Figure 10). Other structures include a large metal garage/storage building, an open carport/shelter, and several small storage buildings, all of which appear to be relatively modern (Figure 11). The property was used as a nursery in the recent past, evidence of which survives in the form a large trellis/arbor structure that is now completely overgrown.

No visible evidence of archaeological resources was observed in the course of the pedestrian survey. A large mound immediately to the southeast of the former farmstead site reportedly represents earth-moving activities associated with the construction of the Williamsburg Soap and Candle Company building to the north. This complex occupies the former site of the James City Chapel, which stood at this location from the 1790s until it was moved in the mid-1880s. The associated cemetery, which is still in use, is surrounded by, but not included within the study property.



**Figure 7.** Location of major project area features and archaeological probability areas.





**Figure 8.** Entrance road to property, view to southwest.



**Figure 9.** Former entrance road to farmstead site, view to south.



**Figure 10.** Barn, view to southeast.



**Figure 11.** Garage/storage building, view to north.

## VI. RECOMMENDATIONS

A preliminary review of the available documentary and cartographic evidence indicates that the study property was encompassed by a farm historically known as “Ratcliffe’s.” The most significant known historic feature on the tract was the James City Chapel, a Methodist church which stood adjacent to the old stage road (U.S. Route 60) from the 1790s until the mid-1880s, when the structure was moved to Toano. It appears that the former church site is now occupied by the Williamsburg Soap and Candle Company complex. The associated cemetery, which is still in use, is not included within the study property.

Aside from the James City Chapel, detailed military mapping from the Civil War era depicted no structures on the property. Additional documentary research remains to be done; however, the association with “Ratcliffe’s” suggests that that one or more sites associated with an eighteenth- or early nineteenth-century occupation may be present. Project area soils are well-suited to local crops, particularly tobacco, and this tract would have been considered prime farmland during the colonial and antebellum periods. The situation of the property at the confluence of two tributary streams suggests that there is high potential for the presence of temporary Native American campsites dating from the Archaic and Woodland periods, as well.

A late nineteenth-/early twentieth-century farmstead was located on the property, although the main dwelling is no longer extant. The associated outbuildings do not appear to meet the eligibility criteria for listing in the National Register of Historic Places. It is likely that this site includes an archaeological component, although its significance is not likely to be great. Finally, the ca. 1959 dwelling on the property is less than 50 years old, and thus not eligible for inclusion in the National Register.

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1986 7.5' Toano quadrangle sheet.

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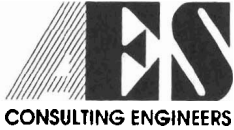
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June 8, 2007

Mr. José Ribeiro  
James City County Planning  
101-A Mounts Bay Road  
Williamsburg, Virginia 23187

**RE: Candle Factory – May 2, 2007 Planning Commission Meeting Comments**  
**County No. Z-10-06/MP-12-06/SUP-37-06**  
**AES Project No. 6883-11 & 12**

Dear Mr. Ribeiro:

Our responses to comments received follow.

**Planning Commission Comments**  
*May 2, 2007 Meeting; May 16, 2007 Letter*

Master Plan:

- Community Character Corridor: The CCC should be restored to 50 feet.

**Response:** It should be noted that there has never been a 50' buffer at this location. KTP Development, LLC cannot convert existing parking to the buffer along the existing shop frontage of Candle Factory. This existing parking is too important to existing, new, and prospective commercial lessees. There is, however, considerable excess pavement across this frontage that could be made up as landscape buffer without losing valuable parking. Exhibit A, provided with this submittal, illustrates how this additional landscape area can be accomplished and the applicant will agree to this additional buffer as an SUP condition.

- Project Design: Lacks vision, commercial and business uses should be better defined; cluster uses around open spaces.

**Response:** The vision of the proposed plan for Candle Factory is to cluster a variety of land uses around a large (3 acre) open space at the center of the community. This open space is the glue binding the commercial and residential components of the plan together. Additional units that do not directly front the park either back up to natural open space or are within residential blocks that are connected to the central park by trails and sidewalks. All units within the central core of the residential area are within 800 feet of the park's center. Only 20 units are outside of a 5 minute stroll to the park (1/4 mile or 1,320 lf) and these units back up to natural open space. The longest walk to the park is 1,900 lf. While



**the central park offers the largest single area for gatherings and open play areas, the Master Plan also identifies other recreation opportunities in generous open space areas including trails, overlooks, seating areas, and access to Marston's Pond.**

- Impervious surface areas: 31% of impervious surface seems to be excessive; additional LID features should be considered in order to counterbalance the amount of impervious surfaces.

**Response:** The rezoning area of the Master Plan is estimated at 31% impervious. The uses proposed include commercial and mixed use with a variety of residential unit types including condominiums, townhomes, duplexes, and single family lots. The Yarmouth Creek Watershed Study made predictions that impervious surfaces within subwatershed 103 would grow from around 5% at the time the study was conducted to around 11% at buildout. In order to make these projections the study assumed percentages of impervious cover for different types of land use. For the land uses of the types proposed within Candle Factory, the study assumed over 65% for commercial lands, over 40% for condominiums, over 39% for townhomes, and over 30% for small lot single family and duplexes. These percentages would seem to put the proposed 31% into better and more positive perspective. It is also important to note that the study would have assumed that the developable portion of the 15 acre area designated Light Industrial on the Comprehensive Plan would have had a projected impervious cover between 60 and 65%.

Required and additional LID features have been outlined and proffered for Candle Factory. In most cases these features are located in soil types best suited for infiltration practices. The May 2, 2007 staff report noted that the Environmental Division agreed that, along with proffers, the Candle Factory met the County's 10-point Stormwater Management requirements; and that further, it complied with the Special Stormwater Criteria for the Yarmouth Creek watershed, and that Low Impact Development (LID) features such as bioretention basins, dry swales, and pervious pavement have also been included in the Master Stormwater Conceptual Plan and are proffered throughout the site.

- Connectivity: Improve access to areas outside the project area (e.g. access to libraries, groceries stores, post office, etc.)

**Response:** A cash proffer has been added that would cover costs of an additional 800' of offsite sidewalk that the County can use at its discretion to improve pedestrian connectivity in the vicinity of Candle Factory.

- Open Space: 37% of the net developable area as open space appears to be inadequate. Needs creativity in designing open space areas.

**Response:** The net developable open space provided was calculated using the criteria described in the Cluster Overlay District of the Zoning Ordinance which is the only district recommended by the Comprehensive Plan as representative of open space design. Candle Factory, as revised, provides 34.4% of net developable acres or 17.95 acres as open space. Mixed Use developments are required to provide 10% of the net developable area or, in the case of Candle Factory, just 5.21 acres. The applicant believes that the difference between the 10% required and the 34.4% provided is significant. Further, it is important to note that open space cluster designs are required to provide 40% of the net developable acres as

open space but open space cluster designs that provide 10% of the total units at affordable rates are required to provide 30% of the net developable acres as open space.

As stated above, the project vision for Candle Factory hinges on the provision of an important and generous (3 acre ) central open space and the Master Plan employs the basic building blocks of Traditional Neighborhood design such as meaningful open space, tree lined streets, shops within walking distance, a variety of housing types, and a variety of home prices.

- Residential Units: Reduce the number of residential units

**Response:** The total number of units has been reduced from 219 to 180. The density has been revised from 3.4 units per acre to 2.79 units per acre on 64.45 acres.

- Traffic Impacts: Provide additional improvements to better mitigate traffic issues.

**Response:** Additional traffic proffers have been provided.

- BMPs: Need to verify the suitability of soil types for the BMPs.

**Response:** Wet pond design is only partially dependent on parent soil suitability. Low Impact Development (LID) features are often more dependent on soils with good infiltration characteristics. Most of the areas targeted for placement of LID features contain soils with these characteristics.

Proffers:

- Affordable housing: Incorporate soft second mortgage practices (resolve any legal issues with County Attorney Office). Also consider raising the number of affordable units.

**Response:** The affordable housing proffer has been revised to both incorporate use of soft second mortgages and increase the percentage of homes that will be provided at and below affordable rates as currently defined by the Department of Housing and Community Development from 5% to 10%.

- Development Phasing: Placing a residential cap specifying the number of residential units that can be built per year (fiscal balance).

**Response:** The applicant has offered a cumulative cap on residential units. The applicant does not agree to a separate per year cap.

- Yarmouth Creek Restoration: The \$500.00 contribution per lot appears to be inadequate. Also consider proffering a baseline study of the Yarmouth Creek prior to beginning of the project.

**Response:** The streams adjacent to Candle Factory are not in need of restoration. The cash proffer for County us in off-site stream restoration is offered as an item over and above County requirements in an attempt to improve the watershed off-site. It is not targeted to any specific area.

Mr. J. Ribeiro  
June 8, 2007  
Page 4 of 4

- Green Building Practices: Provide specifics and guarantees as to how green building practices will be applied to this project.

**Response:** A proffer is being provided that addresses specific green building practices that shall be employed at Candle Factory.

- School contributions: Inadequate dollar amounts.

**Response:** Cash proffers for schools have been made in accordance with the current school proffer policy adopted by the Board of Supervisors.

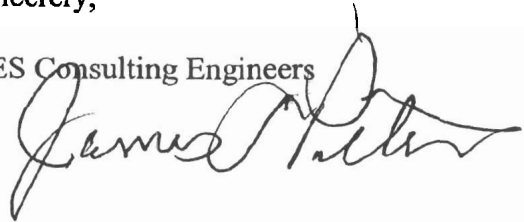
- The Planning Commission also requested that the applicant meet with concerned citizens to discuss the plan.

**Response:** A meeting between the applicant and Mr. Jerry Johnson of J-4-C with County Environmental personnel in attendance was held and the concerns previously voiced by Mr. Johnson were addressed. The applicant will make a presentation to the Stonehouse District Civic Association at its meeting on June 18<sup>th</sup>.

Please contact me if you have any questions concerning our response.

Sincerely,

AES Consulting Engineers

A handwritten signature in black ink, appearing to read "James S. Peters", is written over a light gray rectangular background.

James S. Peters, L.A.  
Landscape Architect / Planner

## THE CANDLE FACTORY

### PROFFERS

THESE PROFFERS are made this \_\_\_ day of June, 2007 by CANDLE DEVELOPMENT, LLC (together with its successors in title and assigns, the "Owner").

### RECITALS

A. Owner is the owner of two tracts or parcels of land located in James City County, Virginia, with addresses of 7551 and 7567 Richmond Road, and being Tax Parcels 2321100001D and 2321100001E, containing approximately 64.356 acres, being more particularly described on Schedule A hereto (the "Property").

B. The Property is now zoned A-1, M-1 and MU. The Property is designated Mixed Use, Light Industrial and Low Density Residential on the County's Comprehensive Plan Land Use Map.

C. The Owner has applied to rezone the Property from A-1, M-1 and MU to MU, with proffers.

D. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC and KTP Development, LLC" prepared by AES Consulting Engineers dated November 29, 2006, last revised May 22, 2007 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

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

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

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

#### CONDITIONS

1. **Owners Association.** There shall be organized a master owner's association for the Candle Factory development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual neighborhoods and for commercial uses within the Property in which all owners in the neighborhood or commercial area, by virtue of their property ownership, also shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, if any, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall authorize the Association to develop, implement and enforce a water conservation plan and nutrient management plan as provided herein.

2. **Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (“JCSA”) and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscaping materials and warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

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

3. **Affordable and Mixed Costs Housing.** A minimum of 10% of the residential units shall be reserved and offered for sale at a sales price to buyer at or below \$160,000 subject to adjustment as set forth herein (“Affordable Units”). A minimum of an additional 5% of the residential units shall be reserved and offered for sale at a price at or below \$250,000 subject to adjustment as set forth herein. The maximum prices set forth herein shall be adjusted annually, or January 1st of each year, by increasing such prices by the cumulative rate of inflation as

measured by the Marshall and Swift Building Costs Index (the "Index") annual average change for the period from January 1, 2008 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). Owner shall consult with and accept referrals of, and sell to, potential buyers qualified for the Affordable Housing Incentive Program ("AHIP") from the James City County Office of Housing and Community Development on a non-commission basis. At the request of the Office of Housing and Community Development, Owner shall provide downpayment assistance second deed of trust notes and second deeds of trust for the Affordable Units for the difference between the appraised value of the Affordable Unit and its net sale price to the purchaser in accordance with AHIP using the approved AHIP form of note and deed of trust. The Director of Planning shall be provided with a copy of the settlement statement for each sale of an Affordable Unit and a spreadsheet prepared by Owner showing the prices of all of the Affordable Unit that have been sold for use by the County in tracking compliance with the price restrictions applicable to the Affordable Units. Affordable Units shall not be all the same unit type or constructed all in the same location.

**4. Cash Contributions for Community Impacts.** (a) A contribution of \$4,011 for each single family detached dwelling unit on the Property other than Affordable Units shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$1,000 for each dwelling unit other than an Affordable Unit on the Property shall be made to the County in order to mitigate impacts on the County from the

physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, school uses, off-site road improvements, future water needs, library uses, and public use sites.

(c) A contribution of \$1,125.80 for each single family detached dwelling unit and of \$844.00 for each single family attached dwelling unit, in each case other than an Affordable Unit, on the Property shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development of the Property, including without limitation for water system improvements.

(d) A contribution of (i) \$443.50 for each single family detached dwelling unit, (ii) \$532.00 for each single family attached dwelling unit other than an Affordable Unit or Restricted Unit and (iii) ) an amount equal to \$1.77 per gallon per day of average daily sanitary sewage flow as determined by JCSA for each non-residential building based on the use of the building(s) shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds to defray the costs of the Colonial Heritage Pump Station and Sewer System Improvements or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.



(e) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or final site plan approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(f) The contribution(s) paid in each year pursuant to this Section and Sections 5(d), 6(b) and 13(b) shall be adjusted annually beginning January 1, 2008 to reflect any increase or decrease for the preceding year in the Index. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section and Sections 5(d), 6(b) and 13(b). The adjustment shall be made by multiplying the contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the Index, then the contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

**5. Entrances; Traffic Improvements.** (a) At the intersection of Route 60 and Croaker Road, a right turn lane with 200 feet of storage and a 150 foot taper and with shoulder bike lane from east bound Route 60 into the Property shall be constructed.

(b) At the intersection of Route 60 and Croaker Road, the existing left turn lane from eastbound Route 60 onto northbound Croaker Road shall be extended to have 250 feet of storage and a 200 foot taper.

(c) The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall be constructed with a minimum 14 foot inbound receiving lane, a 10 foot grass median and two minimum 11 foot outbound lanes (one shared through/left turn lane and one dedicated right turn lane).

(d) A southbound left turn lane on Croaker Road at the Croaker Road/Route 60 intersection shall be provided using existing pavement and a southbound through lane with 400 feet of storage and a 600 foot transition and a southbound left turn lane with 250 feet of storage and a 200 foot taper shall be constructed using a combination of new and existing pavement.

(c) The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation (“VDOT”) standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (d) shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy for buildings on the Property. All dimensions for turn lanes set forth herein may be modified with the approval of VDOT.

(e) Within 180 days after the County issuing building permits for more than 135 of the residential units on the Property, Owner shall pay to County its pro rata share of the costs of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of that signal and the signal at the Croaker Road/Route 60 intersection.

(f) With the prior approval of VDOT and when sidewalk has been constructed on the north side of Route 60 at the Croaker Road/Route 60 intersection to receive pedestrians, Owner shall install or pay the costs of installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection ("Pedestrian Improvements"). The County shall not be obligated to issue certificates of occupancy for more than 100 residential units on the Property until either (i) the Pedestrian Improvements have been installed, or (ii) Owner shall have paid the costs of such improvements to the County or posted a bond in form satisfactory to the County Attorney for the installation of such Pedestrian Improvements.

**6. Connections to Adjacent Properties.** (a) Owner shall provide pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001C) generally as shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Property. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of final site plan approval for the phase of the development in which such connection is located.

(b) Owner shall install a sidewalk five feet in width and 800 feet in length on the south side of Croaker Road from the intersection of Croaker Road and Route 60 northbound toward the bridge over the railroad tracks (the "Sidewalk"). The County shall not be obligated to issue

certificates of occupancy for more than 100 residential units on the Property until either (i) the Sidewalk has been installed, or (ii) Owner shall have posted a bond in form satisfactory to the County Attorney for the installation of such Sidewalk.

7. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy or, with the permission of VDOT, the plantings (meeting County standards for plant size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the subdivision or site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential or non-residential units adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential or non-residential units in adjacent structures.

8. **Recreation.** (a) The following recreational facilities shall be provided: approximately three acres of parkland; one centrally located, shared playground at least 2,500 square feet in area with at least five activities either in composite structures or separate apparatus; one picnic shelter of at least 625 square feet; a minimum eight foot wide, concrete or asphalt shared use path along one side of the entrance road approximately .3 miles in length and an additional approximately .87 miles of soft surface walking trails generally as shown on the Master Plan; one paved multi-purpose court approximately 50' x 90' in size; and one multi-purpose field large enough for softball approximately 200' x 200' in size. The exact locations

and design of the facilities proffered hereby and the equipment to be provided at such facilities shall be shown on development plans for the Property and approved by the Director of Planning.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan as determined by the Director of Planning or in lieu of such additional facilities Owner shall make cash contributions to the County in an amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(h)) or some combination thereof. All cash contributions proffered by this Proffer shall be used by the County for recreation capital improvements and shall be paid at the time of final site plan or final subdivision plat approval for the final phase of the development.

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

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

**10. Design Guidelines and Review.** Owner shall prepare and submit design review guidelines to the Director of Planning for his review and approval setting forth design and architectural standards for the development of the Property attempting to capture the architectural character embodied in the Supplemental Submittal materials submitted as a part of the rezoning application and the general intent of the design standards outlined in Comprehensive Plan for the Norge Community Character Area and incorporating appropriate and suitable sustainable building practices as recommended in the NAHB Model Green Building Guidelines, 2006 edition, including, without limitation, energy efficiency features such as use of air sealing packages, energy star rated windows, heat pump efficiency, water efficiency features such as low flow fixtures, and use of recommended lot design, preparation and development practices, such as use of native plant species, water conservation features, nutrient management and limiting development on steep slopes, for the approval of the Director of Planning prior to

the County being obligated to grant final approval to any development plans for the Property (the “Guidelines”). Once approved, the Guidelines may not be amended without the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

11. **Sidewalks.** There shall be sidewalks installed on one side of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design.

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

13. **Master Stormwater Management Plan.** (a) Owner shall submit to the County a master stormwater management plan for the Property consistent with the Master Stormwater Conceptual Plan prepared by AES Consulting Engineers dated April 20, 2007 (“Stormwater Plan”) and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County’s 10 point stormwater management system requirements and the special stormwater criteria applicable in the Yarmouth Creek watershed (“SSC”) and, in addition, including features and measures over and above those necessary to meet the 10 point and SSC requirements, which shall include, without limitation, the features and measures listed on the Stormwater Plan subject to the criteria and conditions set forth on the Stormwater Plan. The master stormwater plan shall be approved by the

Environmental Director or his designee prior to the submission of any development plans for the Property. The master stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior approval of the Environmental Division. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(b) A contribution of \$500 per residential unit shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property to be paid at the time of final subdivision plat or final site plan approval. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for stream restoration or other environmental improvements in the Yarmouth Creek watershed.

14. **Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual single family lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 25% of the units shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients



applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

15. **Private Streets.** All private streets, if any, and alleys on the Property shall be maintained by the Association. The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee prior to final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

16. **Development Phasing.** The County shall not be obligated to grant final subdivision plat or site plan approval for more than the number of lots/units on a cumulative basis set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Lots/Units</u>
1	55
2	110
3	165
4 and thereafter	180

17. **Water and Sanitary Sewer Master Plan.** Owner shall submit to the JCSA for its review and approval a master water and sanitary sewer plan for the Property prior to the submission of any development or subdivision plans for the Property.

18. **Route 60 Median Landscaping.** Subject to VDOT approval, Owner shall install landscaping as provided herein in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet. The landscaping shall consist of 20 street trees at least 125% of Ordinance size requirements. A landscape plan for the median shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer. The median shall be planted or the planting bonded in a form satisfactory to the County Attorney prior to the County being obligated to issue building permits for buildings located on the Property.

19. **Economic Development.** (a) The County shall not be obligated to issue certificates of occupancy for more than 110 residential dwelling units on the Property until the County has issued certificates of occupancy for at least 10,000 square feet of floor area of non-residential uses and construction thereof (defined as footings dug and foundations poured and passed required inspections) has commenced.

(b) No more than 15% of the floor area of any building in Land Bay 2D shall be used for retail uses.

(c) Owner shall submit a conceptual plan for development of Land Bay 2D for the review and approval of the Development Review Committee prior to the submission of development plans for that Land Bay.


(d) Each building in Land Bay 2C shall contain a mix of commercial and residential

uses.

20. **Crosswalks.** Owner shall provide a crosswalk across Croaker Road from Tax Parcel 2321100001B to Tax Parcel 2321100001C and crosswalks proving access to the central park on the Property both in the locations generally as shown on the Master Plan at the time the final layer of pavement is placed on the segment of Croaker Road where the crosswalks are located.

WITNESS the following signatures.

CANDLE DEVELOPMENT, LLC

By:   
Manager

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF York, to-wit:

The foregoing instrument was acknowledged this 27th day of  
June, 2007, by Peter V. Henderson as Manager of Candle Development, LLC  
on behalf of the company.

  
NOTARY PUBLIC

My commission expires: 12/31/09

Exhibit A  
Property Description

Parcel D1

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel D1 as shown on a certain plat entitled "PLAT OF SUBDIVISION ON THE PROPERTY OWNED BY JOHN B. BARNETT JR., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 6, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. .

and

Parcel E

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel E as shown on a certain plat entitled "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY JOHN B. BARNETT JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 4, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 060013607.

PLANNING DIRECTOR'S REPORT  
July 2007

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

- Rural Lands Study. Staff has been working with the consultant to translate the narrative ordinance into specific ordinance language for the Planning Commission's and Board of Supervisor's consideration later this year. Staff reviewed a draft ordinance and is working on revisions for the consultant to incorporate into a second draft.
- New Town. The Design Review Board reviewed seven cases in July. Three were for signage. The other cases included a revised lighting plan for Langley Federal Credit Union, a subdivision plat in Block 11, and elevations for both the Circuit City store and "National Supermarket and Pharmacy" for the DRC retail portion of Settler's Market.
- Better Site Design. The Committee is forwarding final items to the Committee Chair. The Committee has discussed sending the final document to the Planning Commission and Board as a reading file item (for August meetings) with following up as needed.
- Direct Discharge Septic Systems. Staff has developed a set of proposed performance measures and is working with the Health Department and County Attorney's office on several unresolved questions regarding enforcement and workload. Staff plans to present the additional research to the Policy Committee for a recommendation later this month.
- Public Land District. The Public Land District Ordinance amendment came before the Planning Commission at their June 6, 2007 meeting. The Commission recommended approval of the Ordinance to the Board of Supervisors by a vote of 7-0. The BOS will hear the Ordinance amendment at their July 10, 2007 meeting. At that time the BOS will also review an initial list of parcels that are recommended for inclusion in the new District. Should a rezoning of the recommended parcels be initiated by the BOS at that time, the Planning Commission will tentatively start hearing those cases at their August 1 meeting.
- Board of Supervisors/Planning Commission Work Session. The annual Board/Commission work session is scheduled for Wednesday, July 24 at **5:00 p.m.**
- Board Action Results June 12 & 26.
  1. Case No. Z-02-07. Chestnut Grove **Adopted 5-0**
  2. Case No. SUP-1-07. Stat Restoration Services **Adopted 5-0**
  3. Case Nos. Z-09-06/MP-10-06. Ironbound Square Redevelopment **(Continued to July 10, 2007)**
  4. Case No. SUP-13-07. Denley Brown Contractor's Warehouse (Deferred from June 12, 2007) **(Adopted 4-0)**

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O. Marvin Sowers, Jr.