

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
OCTOBER 3, 2007 - 7:00 p.m.

1. ROLL CALL
2. MINUTES
  - A. September 12, 2007 Regular Meeting
3. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC) Report
  - B. Policy Committee
  - C. Comprehensive Plan Update
  - D. Other Committee/Commission Reports
4. PLANNING COMMISSION CONSIDERATION
  - A. ZO-9-07 Initiating Resolution – Wireless Communications Facilities Height Waiver
  - B. ZO-10-07 Initiating Resolution – Affordable Housing
  - C. Direct Discharge Sewer Systems
  - D. December DRC Schedule Change
  - E. Disclosure Statement
5. PUBLIC HEARINGS
  - A. Z-5-07 Ingram Road Rezoning
  - B. Z-9-07 Michelle Point Proffer Amendment
  - C. Z-4-07/MP-4-07 Stonehouse Planned Community Amendment
  - D. SUP-21-07 Tiki Climbing & Grinding Professional Tree Services
  - E. Z-7-07/MP-5-07/SUP-20-07 Powhatan Terrace
  - F. SUP-25-07 Colonial Penniman Water Line Extension
  - G. SUP-27-07/MP-8-07 Freedom Park Amendment
  - H. SUP-24-07 4<sup>th</sup> Middle / 9<sup>th</sup> Elementary Schools
6. COMMISSION DISCUSSION AND REQUESTS
7. PLANNING DIRECTOR'S REPORT
8. ADJOURNMENT



A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE TWELFTH DAY OF SEPTEMBER, 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, Director of Planning  
Adam Kinsman, Assistant County Attorney  
David German, Planner  
Leanne Reidenbach, Planner  
Melissa Brown, Deputy Zoning Administrator  
Darryl Cook, County Engineer  
Terry Costello, Development Management Assistant

Absent:

None

2. PUBLIC COMMENT

Ms. Hughes opened the public comment period.

Hearing no requests the public comment period was closed

3. MINUTES

- A. July 11, 2007 Regular Meeting
- B. August 1, 2007 Regular Meeting

Mr. Fraley motioned to approve the minutes from the July 11 and August 1 regular meetings.

Ms. Jones seconded the motion.

In a unanimous voice vote the minutes of the July 11 and August 1 regular meetings were approved (7-0).

#### 4. COMMITTEE AND COMMISSION REPORTS

##### A. Development Review Committee (DRC) Report

Ms. Jones presented the report stating that the DRC met twice since last the Planning Commission Meeting. The DRC met on September 5, 2007 to review 4 cases. C-0097-2007 New Town Shared Parking, C-0094-2007 Moss Creek Master Plan Consistency, and SP-0036-2007 Depot Street Offices were unanimously approved subject to agency comments. C-0096-2007 Ironbound Square Phase II Setbacks was deferred by a vote of 4-0.

Mr. Fraley motioned to approve the report.

Mr. Krapf seconded the motion.

In a unanimous voice vote, the DRC report from September 5, 2007 was approved (7-0).

Ms. Jones stated that the DRC held a special meeting on September 10, 2007. This meeting was set back from the September 5<sup>th</sup> meeting as a result of staff error and to accommodate the applicant. THE DRC met to discuss one case, S-0037-2007, Fords Colony, Sec 35, Cul-de-sac waiver. The DRC granted preliminary approval 3-1 subject to certain conditions. Ms. Jones complimented Planning and Environmental staff, as well as Mr. Mulhare for working collaboratively to come up with an exceptional environmental and low impact development plan.

Ms. Hughes asked for questions and/or comments from the Commissioners.

Mr. Obadal asked if members would have an opportunity to discuss the decision of the DRC with regards to Section 35.

Ms. Hughes answered that it was open for discussion and questions at this time.

Mr. Obadal stated he had some problems with the case. He stated first however that he felt the Environmental staff and Mr. Mulhare did an outstanding job with respect to addressing environmental issues on this case. Mr. Obadal felt that he did not have enough information to make an effective decision on the DRC's decision. He felt that it is very clear from the site plan ordinance that it is the PC that must approve and that it cannot defer to the DRC simply because the decision comes out of the DRC. Mr. Obadal did not get the conditions from staff until the morning of September 12. The amount of the bond noted is not stated and he feels that it should be before this case is approved.

Ms. Jones asked if Mr. German or Mr. Kinsman would address the bond issue.

Mr. German stated due to the nature of the development it would be very difficult to establish what that bond amount would be at this point. The development is ongoing

with Mr. Mulhare and the Environmental staff and both parties are continuing to work out details that would be included in the various protections measures that are being taken. Mr. German felt that the figures will be available as the details are agreed upon by all parties involved. Mr. German also felt it was important to note that this was preliminary approval of the project.

Mr. Obadal felt that at this point it was the leverage point and that the Planning Commission can have some power of negotiation.

Ms. Jones stated that this is a by-right application.

Mr. Fraley stated for the record that this is a subdivision plan which the DRC is empowered to review and recommend action to the Planning Commission. He also stated that the applicant does not have to offer this because it is a by-right development. The ordinance does not require bond or water quality monitoring which the applicant has included in his development plan.

Mr. Obadal stated that this was offered as a condition for the variance and was expressed as such in the correspondence that he received.

Mr. Fraley said that the applicant is not required to have these measures.

Mr. Obadal agreed and said that the Planning Commission does not have to grant the variance. Mr. Obadal was also concerned that there was no dollar amount for the bond with regards to the roof capture. He also stated that if the amount was not available that maybe the decision should not be made until such amount is made available. He said that nothing is going to go forward with this until the water permit is issued and it might be beneficial to delay this decision until members got a clearer idea of what the dollar amounts might be.

Mr. Obadal then mentioned the modification of the Fords Colony Environmental Control Committee. His recollection is that homeowners play a role on this committee. He felt that the committee would determine when a violation has occurred. Mr. Obadal was not sure what the cooperation of this committee would be.

Mr. Obadal expressed a concern about the one dissent on the decision. He asked the question "Why was the longer road superior to the shorter designs that Ms. Hughes favored?" He expressed concern over the well issues in the Primary Service Area. (PSA) He brought up the fact that the pumping facility is in the PSA and it's being used to pump water into the NON-PSA area. Mr. Obadal felt further review would have been helpful. He would like to see the information made readily available. Mr. Obadal would have liked to review the minutes from the DRC meeting but they were not readily available. This he felt prevented him from making a sound and reasonable judgment.

Ms. Jones felt that there had been adequate time to review and that this case was supposed to go to DRC regular meeting but there was a ten day delay. She reiterated that

this is only preliminary approval subject to agency comments and there is still time to study it. Ms. Jones stated that the DRC members are appointed by the Planning Commission and felt that they as a group studied these issues thoroughly. She further stated that his involvement is important, however there is still plenty of time to study the case. She felt that the DRC studied this application diligently and decisions made were thoughtful.

Mr. Obadal said he felt the DRC did a fine job with respect to this decision.

Ms. Jones stated that the DRC is an advisory committee and their report is approved or not approved by the Planning Commission.

Mr. Obadal reiterated that the Planning Commission shall not approve any exception unless receives a recommendation from the DRC.

Ms. Jones stated that the recommendation of the DRC is to grant preliminary approval for this case.

Ms. Hughes stated that if there is a problem with the recommendation of the DRC, the opportunity is at this point to approve or deny the DRC's recommendation. If there is a problem with the process itself it needs to be addressed at a later date. The process is already established and if there is a need to review the process that is a valid point. If a member does not approve of the recommendation, then they vote for denial. If a member believes that the DRC was diligent and agrees with their findings they may approve their decision.

Ms. Hughes asked for a motion to approve or deny.

Mr. Obadal recommended that the Commission deny the recommendation of the DRC.

Mr. Kennedy made a motion to approve the recommendation.

Mr. Fraley seconded the motion to approve the recommendation.

Ms. Hughes asked for a roll vote to approve the recommendation.

The DRC report from September 10, 2007 was approved with a vote of 5-2. AYE: Fraley, Krapf, Jones, Kennedy, Hughes (5). NAY: Billups, Obadal (2).

#### B. Policy Committee Report

Mr. Fraley stated the Policy Committee met twice since the last Planning Commission meeting. The first meeting was August 17, 2007 to consider an amendment the ordinance in M-2 District to include heavy equipment sales and service, with major

repair limited to a fully enclosed building or screened from view by landscaping. The Policy Committee recommended approval and staff will be making a presentation later this evening. The Committee was presented materials to evaluate a change in the residential cluster development section of the Ordinance for master plan consistency for further discussion at the next meeting.

The Committee met on September 6, 2007. Staff presented changes to the Chesapeake Bay Ordinance concerning riparian buffers that will be recommended to the BOS. This was for information purposes only. Staff presented a report stating the need to update the definition of affordable housing in the Ordinance. A discussion was held on regarding the master plan consistency. The committee considered an amendment to the Ordinance allowing direct discharge sewer systems in certain areas of the County. Staff advised the committee against this amendment. The Committee supported Staff's position with a vote of 3-0.

Ms. Hughes mentioned that the Better Site Design Committee compiled their report and it has been distributed to Planning Commission and Board of Supervisors.

Mr. Fraley spoke about the Comprehensive Plan Update. He spoke about the need for citizens to participate on the Citizen Participation Team (CPT). He explained the requirement and what the commitment would be. He encouraged those interested to visit the County's website and complete an application.

## 5. PUBLIC HEARINGS

### A. Z-10-05/MP-12-06/SUP-37-06 The Candle Factory

Mr. Sowers stated staff's concurrence with the applicant's request for an indefinite deferral.

Mr. Kennedy motioned for deferral.

Ms. Jones seconded the motion.

In a unanimous voice vote the application was deferred (7-0).

### B. Z-5-07 Ingram Road Rezoning

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral.

Mr. Kennedy motioned for deferral.

Mr. Krapf seconded the motion.

In a unanimous voice vote the application was deferred (7-0).

C. Z-9-07 Michelle Point Proffer Amendment

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral.

Mr. Kennedy asked Mr. Sowers for staff to provide information as to why the need to increase the amount set for affordable housing such as material costs, etc.

Ms. Hughes opened the public hearing.

Ms. Hughes continued the public hearing.

Mr. Kennedy motioned for deferral.

Ms. Jones seconded the motion.

In a unanimous voice vote the application was deferred (7-0).

D. Z-4-07/MP-4-07 Stonehouse Planned Community Amendment

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral.

Ms. Hughes opened the public hearing.

Ms. Sarah Kadec, 3504 Hunters Ridge, spoke representing the James City County Citizens Coalition. She felt that the proposed plan is far superior to the one already approved. The Coalition has worked with the developers in completing their environmental assessment in the conceptual part of their plan. She believes they deserve to have their application heard and approved. The Coalition believes that this plan sets a high standard for future developments.

Mr. John Fulton, 9888 Sycamore Landing Road wanted to thank Mr. Obadal for his concerns expressed earlier concerning the DRC minutes and the bond issues.

Ms. Janet Whiteside, 10036 Sycamore Landing Road, expressed her concerns over the use of Sycamore Landing Road as an emergency egress road. This road is very narrow and winding and has a 30 foot right of way. She felt that emergency vehicles will not be able to use this narrow road in case of emergency. The Stonehouse Master Plan shows a parkway that will be a much wider road compared to Sycamore Landing Rd.

Ms. Judith Dean, 10225 Sycamore Landing Rd., questioned why the notice was sent to 10251 Sycamore Landing. She states there is no such address.

Mr. Sowers answered that staff uses the information from the real estate records on file. It will be addressed by staff.



Ms. Dean was also concerned with the emergency access to Sycamore Landing, it being a very narrow and small road. Citizens are concerned being there are children, animals, etc. and they will not support this road being used as an emergency access.

Mr. Tom Williams, 10005 Sycamore Landing Rd, expressed his view on using this road as an emergency access road. He asked whether if it were deemed as such would there be some device to keep it emergency only. He also agreed with what the other residents stated.

Mr. Kennedy stated there are several emergency access points throughout the County. They are usually controlled by a gate, switch, or some type of device. It would not be a road open to the general public.

Mr. Williams asked when does the emergency plan start.

Mr. Kennedy answered it will be determined by the application.

Ms. Hughes reiterated that fact that the applicant stated it would be a gated emergency access road and will keep all comments in mind when reviewing the plan.

Ms. Kelly Fulton, 9888 Sycamore Landing Rd., asked whether there were covenants against that road being a "thru" road. She had been informed that was the case.

Mr. Sowers stated that staff will research to see if that is the case.

Ms. Fulton also questioned whether once the road is deemed an emergency access road, is that a precursor to it becoming a complete access road in the future. She also asked whether there were any long term conditions to ensure it would remain an emergency access road.

Mr. Kennedy stated that he had requested long term conditions from the applicant that they have agreed to.

Ms. Hughes continued the public hearing.

Mr. Kennedy motioned for deferral.

Ms. Jones seconded the motion.

In a unanimous voice vote the application was deferred (7-0).

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

Ms. Leanne Reidenbach presented the staff report stating that Ms. Jessica Wright of Verizon Wireless, has applied for a special use permit to construct a 14 foot extension on an existing 185 foot tower, for a total height of 199 feet. The purpose of the extension is to allow co-location of one additional antenna array on the existing American Tower. The property is located at 3470 Brick Bat Road, is zoned A-1, General Agriculture, and designated as Rural Lands by the Comprehensive Plan. Staff noted that conditions #1, 4, and 6 had been amended for clarification since the staff report was written. Staff recommended that the Planning Commission recommend approval of this application with the amended conditions to the Board of Supervisors.

Ms. Sowers stated that changes to conditions #4 and #6 resulted from discussions the previous evening at the Board of Supervisors' meeting.

Ms. Hughes asked for comments and/or questions from the Commissioners.

Ms. Billups questioned whether the County is allowed to establish its own lighting system for towers in the County for safety purposes.

Mr. Kinsman answered that if it is safety related the County may be able to do it, but generally these kinds of things are the domain of the FAA. He was not sure if the FAA would allow the County to develop their own set of standards. The concern would be that lightening would increase the visual impact of the tower.

Ms. Sowers stated that there is a Board policy provision stating a clear preference that towers specially not be lighted. Staff spent a great deal of time to get this tower to a specific height that would no require light. The Board's policy is consistent with FAA safety regulations that towers be under 200 feet and not be lighted.

Ms. Hughes opened the public hearing.

Mr. Steve Romine, an attorney with LeClair Ryan, spoke on behalf of the applicant Verizon Wireless. Mr. Romine gave an overview of the cell phone industry. He stated that Verizon first looks to co-locate before erecting any new towers. Mr. Romaine showed the existing coverage area and also the area where no or unreliable coverage exists. Originally the application requested a 30 foot extension to the tower. In working with staff and realizing the sensitivity of the Route 5 corridor, the tower height was reduced to 199 feet. Mr. Romine showed photographs of different locations and what the tower visibility was. He did reiterate that 95% of the time the tower would not visible. These pictures were actually taken in the 5% area where it would be visible. Mr. Romine stated his belief that this application meets all County regulations stated in the Ordinance. Verizon has agreed to all conditions recommended by staff. Mr. Romine requested the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Obadal questioned what kind of assurance the County would have that this tower will be 199 feet.

Mr. Romine stated that Verizon has agreed to have a certified engineer verify the height as part of the conditions of this application.

Mr. Obadal stated that the applicant would be responsible for lowering the tower if it is too high.

Mr. Romine stated yes it would be the applicant's responsibility.

Ms. Jones stated that if there is an accurate measurement on the existing tower it would assist in making sure that when adding additional feet it would be consistent with the application.

Mr. Fraley asked how the County knows the tower's current height. He stated that it was suggested by the Board of Supervisors during a discussion on cell towers that staff somehow verify the height of structures currently in the County. Mr. Fraley stated that he did not have confidence on the accuracy of the current towers and their heights.

Mr. Sowers stated that staff is taking this under consideration.

Ms. Hughes asked if the height of the existing tower has been certified.

Mr. Romine said it was certified by an engineer to be 185 feet.

Mr. Sowers stated that prior to obtaining a final Certificate of Occupancy the applicant will have to prove correct height. Staff will work with the applicant to have these measures in place.

Ms. Jones stated that the concern is to not go over by 1 foot which would trigger FAA Regulations.

Mr. Sowers stated that there was a recent case where staff and applicant did measure by dropping a tape but that it was another proposed site not the current one.

Mr. Obadal asked the applicant if there was any alternative technology to the use of towers themselves.

Mr. Romine stated that at one time low flying satellites were used but were not very effective. His best estimate is that cell towers are expected to be used for the next 25 to 30 years. One type of technology, Distributed Antenna System (DAS), can be used but are more effective in a more urban environment. They are very costly though.

Mr. Fraley asked if DAS was operating in Canada or Rhode Island.

Mr. Romine did not know.

Mr. Fraley asked if there were any photos available that were taken in the winter since the towers may be more visible at that time.

Ms. Sowers stated that staff did take some pictures during that time period but did not have them present.

Mr. Fraley wanted the citizens to be aware of the difference.

Mr. Romine did have some photos available that were taken in February at the original proposed height (215 feet).

Ms. Hughes asked about the height of the tower in Charles City. She questioned whether that one could be extended or if it would be possible to modify that tower to achieve the goals of this application.

Mr. Romine stated that extending the tower in Charles City would not be effective because of the distance. There was not enough energy to power the gap.

Mr. Obadal questioned whether there were any indications that there were users on the other tower on this site.

Mr. Romine stated that yes there are other carriers. The tower on the right will handle two carriers, possibly a third. The conditions of this application are to remove the facilities no longer being used by the County before extending the tower. Mr. Romine stated that American Tower owns these towers and Verizon is just renting the space.

Mr. Joseph Chauvin, 3542 Brick Bat Rd., stated he has been a resident of the area since 1997. He stated that when these towers were first built he received no notification, but also indicated that he was not the property owner at the time of their original approval. The only notification he has received is with this application. Both of these towers are visible from all angles of his property. Mr. Chauvin stated he has no complaints with coverage at this time. His main concern is the 400 foot residential structure buffer around the tower. He stated he had future plans for other dwellings on the property which may be in that 400 foot buffer and is concerned about the effect. Mr. Chauvin stated he is also concerned about the future desirability of his property. He stated he has a home based business so the property is more than just his residence. He stated he is concerned about the assessment value since these towers are visible from all sections of his property and disputes the picture from Route 5 and feels the tower is very visible in the summer and winter.

Ms Hughes closed the public hearing.

Ms. Jones motioned for approval.

Mr. Krapf seconded the motion.

In a roll call vote the application was approved with the amended conditions. (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes

Mr. Fraley asked for comments from Mr. Sowers concerning the 400 foot buffer.

Mr. Sowers suggested the applicant contact Ms. Reidenbach to obtain more information. This tower was built before the wireless communication facility section of the Ordinance was created. Mr. Sowers was not sure what the collapse radius is, but staff will obtain that information and make it available to Mr. Chauvin.

Mr. Obadal suggested that maybe some plantings could be incorporated in application to address Mr. Chauvin's concerns.

Mr. Sowers stated there was an additional buffer attached to this Special Use Application. However, all plantings required are on the applicant's property.

Mr. Obadal suggested that maybe as a "good neighbor" incentive the applicant might be able to provide extra trees that might help with the visibility issue.

Mr. Sowers said staff will investigate that further with the applicant.

F. ZO-5-07 Zoning Ordinance Amendment – Heavy Equipment in M-2

Ms. Melissa Brown presented the staff report concerning the request to forward an amendment to permit "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 ordinance allows this use by-right in the M-1, Limited Business/Industrial, and MU, Mixed Use Districts. The James City County Planning Commission voted to approve the initiating resolution for this request at the July 12, 2007 meeting and forwarded the issue to the Policy Committee for review and recommendation. The Policy Committee unanimously voted to recommend approval of this amendment at its August 17, 2007 meeting. Staff finds this amendment provides consistency and flexibility within the industrial zoning districts. Staff recommends that the Planning Commission recommend approval of this ordinance to the Board of Supervisors.

Ms. Hughes asked for Commissioners' comments or questions. There being no comments she opened the public hearing. There were no public comments the public hearing was closed.

Ms. Jones made a motion to approve the application.

Mr. Kennedy seconded the motion.

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

G. ZO-6-07 Zoning Ordinance Amendment – Proffer of Conditions

Mr. Adam Kinsman presented a report to amend Section 24-16, Proffer of Conditions, of the James City County Code. The Ordinance Amendment proposed to change the reference to the section of the Code of Virginia from which the County derives its conditional zoning authority from the current Section 15.2-2298 to Section 15.2-2303 and to amend 24-16 to include those restrictions on conditional zoning as set forth in Section 15.2-2303 of the Code of Virginia. This change will give property owners the option of proffering new, innovative conditions in conjunction with a rezoning. Staff recommended that the Planning Commission recommend approval of the Ordinance amending Section 24-16 of the County Code.

Mr. Kinsman stated that Ms. Jones through an earlier email, suggested that the reference to the Comprehensive Plan remain in the amendment. Mr. Kinsman did not feel it is necessary but that leaving it in there probably would not make a big difference. When reviewing a rezoning looking at whether it conforms to the Comprehensive Plan is part of the process. Mr. Kinsman recommended not leaving it in.

Ms. Jones stated she is hesitant to remove the reference to the Comprehensive Plan and always looking for linkage between the Comprehensive Plan and the Ordinance. Ms. Jones stated she would like to pass that on to the Board of Supervisors as a recommendation.

Mr. Fraley supported leaving the reference in since it is already in the language.

Mr. Billups felt that the issue before them is that the State is giving the County flexibility. It leaves one thing in and the state has provided the flexibility to do something else. He felt that it does not matter with the removal of the reference to the Comprehensive Plan.

Ms. Hughes opened the public hearing.

There being no public comments, Ms. Hughes closed the public hearing.

Mr. Kennedy motioned to approve with the recommendation that the Comprehensive Plan reference remains.

Ms. Jones seconded.

Mr. Billups questioned whether it was the recommendation of Mr. Kinsman to keep the reference in.

Mr. Kinsman stated no, it was not his recommendation, The State has allowed flexibility and he would welcome the entire range set forth by the State.

Mr. Obadal asked whether Mr. Kinsman's recommendation was contained within the State Statute.

Mr. Kinsman stated it is.

Mr. Obadal felt comfortable following the State Statute. He felt like the broader language would give the County more flexibility.

Ms. Hughes suggested maybe sending the Ordinance Amendment to the Board of Supervisors with attachments expressing the Planning Commission's concerns.

Mr. Billups made a motion to amend the previous motion. His motion was to approve the proposed amendment that Mr. Kinsman presented, and send an attachment stating concerns about keeping the Comprehensive Plan language in.

Mr. Obadal seconded this motion.

In a unanimous roll call vote the amendment was approved (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes (7). NAY: (0).

#### H. ZO-7-07 Zoning Ordinance Amendment – Floodplain Ordinance

Mr. Darryl Cook presented the staff report requesting that the County's floodplain management regulations be amended to meet the requirements of the National Flood Insurance Program (NFIP). The Federal Emergency Management Agency (FEMA), which oversees the program, has completed updates to the County's Flood Insurance Study and Flood Insurance Rate Map. In order to continue participation in the NFIP, the County must ensure its floodplain management measures are compliant with the federal regulations so that FEMA can approve them. The proposed amendment consists of changes required to remain in compliance with federal regulations. Staff recommended that the Planning Commission recommend approval of the amended change to the Zoning Ordinance to the Board of Supervisors.

Ms. Hughes asked for Commissioners' comments or questions. There being no comments she opened the public hearing.

Ms. Sarah Kadec, 3504 Hunters Ridge, representing James City County Citizens Coalition, stated she understands this proposed amendment is aimed at making current ordinances consistent with federal regulations. James City County has numerous areas that are prone to flooding. Ms. Kadec stated that they are very pleased with the wording and definitions in the ordinance amendment. In Article 6, Division 3 of the Ordinance the statement of intent contains four points which they believe if followed by the County

will prevent any future development in floodplain areas. This is also true in Section 24-588 Compliance and Liability.

Ms. Kadec stated the Coalition believes that the County is responsible for short and long term results from decisions that permit development in floodplains. Section 24-588 D would appear to absolve the County as long as these regulations are followed. This Coalition is particularly pleased with Section 24-602 on existing structures in floodplain districts, recognizing the problems that exist in current floodplain areas. The Coalition has been consistent in raising floodplain issues when new applications are filed. With this amended ordinance, the Coalition will be even more persistent when working with developers, County staff and Planning Commissioners. The Coalition respectfully requested the Planning Commission approval of the above ordinance amendment.

There being no further public comments, the public hearing was closed.

Mr. Kennedy made a motion to approve the amendment.

Ms. Clark seconded the motion.

In a unanimous roll call vote the amendments were approved (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes (7). NAY: (0).

## 6. COMMISSION DISCUSSION AND REQUESTS

Ms. Hughes stated she wanted to let fellow Commissioners know that in speaking with Mr. McGlennon, Chairman of the Board of Supervisors, it has been arranged in a definitive place within the Board's agenda for the Planning Commission representative to receive any directives from the Board to take back to the Planning Commission. This is to ensure an open flow of communication.

Mr. Kennedy stated that at the next meeting he would like to discuss the Disclosure Statement that was brought up previously.

Ms. Hughes asked that all members review the packet that Mr. Kennedy sent and be prepared to discuss these issues.

Ms. Jones wanted to thank Ms. Hughes for all her work on the Better Site Design Committee.

Mr. Fraley wanted to commend Fords Colony in Section 35 for an innovative design to capture water run off. It includes a system that captures all water run off and infiltrates it directly back into the water table and recharges the system. Mr. Fraley asked Fords Colony to consider engineering a system for holding water and recycling for irrigation purposes, and the developers are going to recommend these options.



Ms. Hughes mentioned the Comprehensive Plan update process and the selection of the CPT Team. She also mentioned they will be determining which Planning Commission members will be on the Team.

7. PLANNING DIRECTOR'S REPORT

Mr. Sowers presented his report. He mentioned that the Board of Supervisors will have a work session on September 25, 2007 to discuss the Better Site Design report. Casetrak Phase 2 is up and online and gives the public access to access to records, status of cases, etc. The newest feature is the ability to review agency comments. Staff is continuing to refine and make improvements and any suggestions are welcomed.

Ms. Jones asked if there was a way to link maps or master plans to the cases.

Mr. Sowers said staff will look into it.

Mr. Fraley mentioned that he has seen new staff in the Planning Division.

Mr. Sowers mentioned that several interns have been hired that will be working throughout the year especially on the Comprehensive Plan Update. New positions that were also created and filled with Melissa Brown as Deputy Zoning Administrator, and Christy Parrish as Proffer Administrator, with Jennifer Vandyke has joined the front counter staff and Toya Ricks has recently resigned.

Ms. Hughes said staff is looking at the environmental inventory being done earlier in the Special Use Permit and Rezoning Process. She would like to see it occur in every process not only in those cases stated. This could prevent potential delays that occur in the process. Better Site Design has also made this recommendation with respect to open space design. Discussions with Environmental Staff have shown support for this as well.

Mr. Sowers stated staff has created an internal committee that is looking into this suggestion and report back to the Commission in the future.

7. ADJOURNMENT

There being no further business the Planning Commission meeting was adjourned at 9.05 p.m.

---

Sheeren Hughes, Chairperson

---

O. Marvin Sowers, Jr., Secretary

**AGENDA**

**DEVELOPMENT REVIEW COMMITTEE**

September 26, 2007  
4:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Conference Room, Building F

---

1. Roll Call
2. Minutes
  - A. September 5 & 10
3. Public Comment
4. Cases and DRC Discussion
  - A. SP-0085-2006 Settler's Market Phase II Matt Smolnik
  - B. SP-0025-2006 Prime Outlets Expansion Kate Sipes
  - C. White Hall Design Guidelines Kate Sipes
  - D. SP-0031-2007 The Colonies at Williamsburg Luke Vinciguerra
  - E. C-0096-2007 Ironbound Square Phase II Setbacks Jose Ribeiro
5. Public Comment
6. DRC Recommendations
7. Adjournment

MEMORANDUM

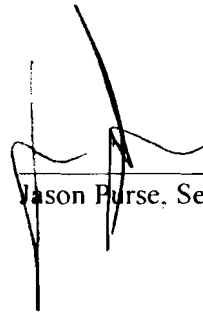
DATE: October 3, 2007  
TO: The Planning Commission  
FROM: Jason Purse, Senior Planner  
SUBJECT: Initiation of a Zoning Ordinance Amendment to allow WCF mounted on water towers

---

Staff has received a request from AT&T/Cingular wireless communications to amend the Zoning Ordinance to allow for alternative mounted wireless communication antennas atop water towers over the height of 120'.

This request is coming forward at this time because the antennas are currently located atop the water towers in the County that are scheduled to be torn down. The new water towers have already been approved, but under the current language in the Zoning Ordinance the antennas will not be allowed to relocate.

Staff recommends the Planning Commission adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance, and to refer this matter to the Policy Committee.

  
\_\_\_\_\_  
Jason Purse, Senior Planner

Attachments:

1. Initiating Resolution
2. Request Letter

**RESOLUTION**

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending Code Sections 24-218, 24-240, 24-261, 24-293, 24-314 (j), 24-335, 24-354, 24-375, 24-397, 24-219, 24-444, 24-473, 24-496, and 24-525 Height limits, to consider the possibility of allowing wireless communication facilities that utilize alternative mounting structures on water towers over a height of 120'. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

\_\_\_\_\_  
Shereen Hughes  
Chair, Planning Commission

ATTEST:

\_\_\_\_\_  
O. Marvin Sowers, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 3<sup>rd</sup> Day of October, 2007.

McGuireWoods LLP  
One James Center  
901 East Cary Street  
Richmond, VA 23219-4030  
Phone: 804.775.1000  
Fax: 804.775.1061  
www.mcguirewoods.com

Gloria L. Freye  
Direct: 804.775.1152

McGUIREWOODS



gfrey@mcguirewoods.com  
Direct Fax: 804.698.2055

VIA EMAIL and U.S. MAIL

September 5, 2007

Mr. Jason Purse  
Planner  
James City County Planning Division  
101 Mounts Bay Road  
Williamsburg, Virginia 23185-6569

Water Tank  
5900 Warhill Trail  
Parcel #3210100012B

Dear Jason,

Thanks so much for meeting with Susan Stancil and me on August 29, 2007 regarding the above referenced property. As we explained, New Cingular Wireless PCS, LLC ("Cingular") currently has telecommunications antennas on the water tank located at 5700 Warhill Trail (the "Old Tank"). This installation is subject to a lease agreement dated March 24, 2000 between James City Service Authority and Triton PCS Property Company L.L.C., who is a predecessor in interest to Cingular.

The Old Tank is expected to be decommissioned within the first six months of 2008. Cingular plans to relocate this installation to the new water tank located at 5900 Warhill Trail (the "New Tank"). The New Tank was designed to permit telecommunications antennas to be mounted on the top of the tank. The New Tank was reportedly constructed to a height of 140' in an R-8 zoning district.

Our understanding of the zoning ordinance Section 24-354 is that communications facilities mounted on alternative structures cannot exceed the height limitation of the underlying R-8 district. It appears that the height of wireless communications facilities that utilize alternative mounting structures may extend up to but not to exceed 120 feet in grade to the top of the structure. As the top of the water tank is 140', this ordinance provision will not permit relocating the antennas to the top of the New Tank.

September 5, 2007  
Page 2

Cingular is requesting that the appropriate sections of the zoning ordinance be amended in a manner such that the telecommunications antennas can be relocated from the Old Tank to the taller New Tank. We also understand that Cingular will need to apply for a height waiver to be approved by the Board of Supervisors at a public hearing, provided that the zoning ordinance has been amended.

Cingular needs to avoid any interruption of service and would like the zoning ordinance amendment and height waiver application to be processed as companion papers for review and approval.

Please advise me of what information needs to be provided by Cingular to initiate the zoning ordinance amendment and height waiver application.

With appreciation for your assistance, I am

Sincerely yours,



Gloria L. Freye

cc: Ms. Susan Stancil

GLF/rcm

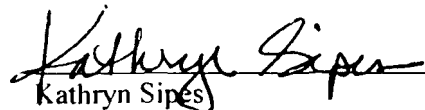
V4731755.1

**MEMORANDUM**

DATE: October 3, 2007  
TO: The Planning Commission  
FROM: Kathryn Sipes, Senior Planner  
SUBJECT: Zoning Ordinance Amendment- Initiating Resolution: Affordable Housing

---

Based on the review of several recent cases staff would like to consider amending the Zoning Ordinance definition of affordable housing. Staff recommends the Planning Commission adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance, and to refer this matter to the Policy Committee.

  
Kathryn Sipes

Attachments:

- Initiating Resolution

**RESOLUTION**

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending Article 1. In General, Section 24-2, Definitions, Affordable housing. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

\_\_\_\_\_  
Shereen Hughes  
Chair, Planning Commission

ATTEST:

\_\_\_\_\_  
O. Marvin Sowers, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 3rd Day of October, 2007.



## MEMORANDUM

DATE: October 3, 2007

TO: Members of the Planning Commission

FROM: Leanne Reidenbach, Planner

SUBJECT: Direct-Discharge Systems Consideration Item

---

As presented in last month's Policy Committee report, staff and the Committee have been reviewing a proposal to permit direct-discharge sewer systems in certain areas outside the Primary Service Area (PSA). As part of this consideration and based on the Policy Committee's recommendation that staff not proceed with the potential ordinance amendment, staff believes that it is important to involve the entire Commission in the policy decision prior to proceeding to the Board of Supervisors for final direction on whether to draft the amendment. This memorandum will provide a brief summary of the proposal, potential issues, and recommendations for the Commission's consideration. Staff respectfully requests that the Commission consider this proposal and provide a recommendation to the Board.

### *Summary*

Mr. Tripp Clark of 7665 Cypress Drive has received a DEQ Virginia Pollutant Discharge Elimination System permit to allow a direct discharge septic system which would discharge treated effluent into the Chickahominy River. Current County ordinances do not permit private septic facilities in the A-1 zoning district. If amended, direct discharge systems serving single family units producing less than 1,000 gallons per day would be permitted either by special use permit or by-right provided the proposal meets certain outlined performance measures. Additionally, staff would recommend examining a similar ordinance amendment for the R-1, Limited Residential, R-2, General Residential, and R-8, Rural Residential areas outside of the PSA simultaneous to a consideration of the proposed change in A-1.

### *Alternative Discharging Sewage Treatment Systems Defined*

The Virginia State Board of Health defines this as "any device or system which results in a point source discharge of treated sewage... Such a system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all weather stream, an intermittent stream, a dry ditch, or other location approved by the (health) department."

### *Proposed System*

Mr. Clark has proposed an AdvanTex system which uses a primary treatment tank and synthetic media to filter wastewater beyond the filtration possible with traditional septic tanks. The wastewater in Mr. Clark's proposal would then be exposed to tertiary treatment by ultraviolet radiation to further eliminate bacteria. Once processed, effluent would be discharged into the Chickahominy River.

***Department of Environmental Quality (DEQ) and VA Department of Health (VDH) Responsibilities***

There are currently 2 direct-discharging systems located in James City County. Both were installed prior to the current Zoning Ordinance regulations and both service 2 single-family dwellings each. Due to the fact that the discharge is in excess of 1,000 gallons, the monitoring and inspection responsibilities fall to DEQ. Generally, DEQ does not monitor these systems with much regularity due to the small effluent output. The VDH, through the issuance of a General Permit by DEQ, is responsible for monitoring and permitting alternative discharging systems for single-family units that discharge less than or equal to 1,000 gallons per day. In order to obtain a permit, the owner must prove through site inspections by the Health Department and an Authorized Onsite Soils Evaluator and a certified letter, that there is no suitable site for a traditional or alternative septic system and that a direct-discharge system is the only viable option for that lot. The local health department must issue a letter to this effect before a General Permit is issued by DEQ but there is no requirement for a joint site visit.

***James City County (JCC) Development Scenario***

By design, potential locations of these systems would be limited because they would need to be adjacent to an adequate stream, dry ditch, or waterway to accept the discharge and be no less than 500 feet apart from other points of discharge. Additionally, only the A-1, R-1, R-2, and R-8 Ordinance are proposed to change to allow for these systems. Several general areas of the County can be defined as having relatively poor soils including areas of the Route 5 corridor where sewer is unavailable, areas around Nayses Bay, Nettles Creek, and Gordon Creek, Chickahominy Riverfront Park and surrounding parcels, and some areas of Brick Bat and Bush Neck Roads, some of which are located in areas not in the above-mentioned zoning districts and so would not be subject to this amendment. Overall, it is difficult to inventory areas with poor soils on a large scale basis because though a lot may appear to have soil with severe limitations on the County soils map, there may be a section of the parcel with appropriate soils that is large enough for a drain field.

According to the Peninsula District office of the VDH, very few applications for traditional and advanced septic systems have been denied (approximately 9 within the last few years), with the Clark property being one such example. According to the Peninsula Health District Environmental Health Office, *most* applications for onsite systems are approved for some type of “conventional” system, requiring primary or more advanced treatment, thus making the sites ineligible for a direct discharge permit. Mr. Clark’s property is one example of a parcel that did not receive approval for a “conventional” system.

***Results of Staff Research***

Staff, in consultation with the Virginia Department of Health and a private maintenance professional, investigated the technology behind direct-discharge systems, their use, maintenance and monitoring in other Virginia localities, and ways to resolve outstanding problems to ensure that the systems operate as intended. Basically, if well maintained, the systems have been demonstrated to adequately treat wastewater, but overall, there were several reoccurring themes throughout staff’s research which merit special consideration.

- **Monitoring.** Monitoring system performance once they are installed remains one of the larger potential issues. Though several localities permit direct-discharge sewage

disposal, it does not appear that any have developed a successful method to ensure all systems are properly functioning at all times.

- **Maintenance.** Homeowners must ultimately conduct some routine maintenance of their systems, which affects the degree of effluent treatment. It is not a guarantee that this maintenance will be performed.
- **Staffing and budgetary effects.** While VDH has expressed that current staff could likely handle the extra responsibility, there are concerns regarding situations when legal action by the County Attorney's office needs to be taken to correct violations in addition to the budgetary implications of such a work load increase. Overall, it is important to acknowledge that the ability of staff (VDH, Attorney's office, Zoning, and Planning) to handle this change is very dependent on the number of direct-discharge systems which are permitted. Though a policy change currently appears to only impact a limited number of lots, there is no definitive way of knowing the long-term impacts on the change. Likewise, unforeseen difficulties may arise while incorporating the new policies and procedures into JCC and VDH workloads.
- **Intermittent use.** VDH guidelines state that "Systems serving weekend cottages or other intermittent uses will not reliably treat effluent prior to discharge. Therefore, the use of discharging systems for dwellings subject to intermittent use is prohibited." This regulation is extremely difficult to enforce and yet could have significant impacts on effluent treatment. In fact, continual maintenance and constant power supply are two of the most important components of a properly functioning system.
- **Public safety.** Potential problems of system maintenance and the implications that improperly treated discharge could have on primary waterways that are frequently used for recreation present new public health and safety and environmental concerns.
- **Environmental concerns.** The Environmental section of the 2003 Comprehensive Plan outlines that the County should promote "development and land use decisions that protect and improve the water quality of the Chesapeake Bay and the bodies of water that discharge into the Bay." To permit such direct-discharge systems that could have long-lasting effects on the health of surrounding waterways if they fail appears to be in direct opposition to such goals.

### ***Recommendation***

Staff and the Policy Committee examined several potential special use permit conditions/performance measures including the requirements to have a back-up generator, a maintenance contract recorded at the Courthouse, technical restrictions on permitted discharge systems, provision of test results to the County, and online monitoring and reporting of problems. All conditions attempted to supplement VDH regulations and to address the above mentioned concerns; however, they would be difficult to enforce after the initial approval of the operating permit and building permit.

Furthermore, the only viable remedy if one of these conditions were not met or if a system fails is to revoke the SUP or operating permit from the Health Department and require the homeowner to pump and haul sewage until the system is brought in compliance. The process to suspend a permit may take between 7 and 10 days to complete, during which the discharge system may be failing to treat waste and discharging effluent into the receiving body of water. If a failure goes unseen, effluent may continue to be pumped through the system without adequate treatment.

Staff believes that the conditions considered are insufficient and do not adequately mitigate issues with the systems, their maintenance, and overall long-term impacts on public and environmental health. Additionally, staff does not believe that the Ordinance amendment would be compatible with objectives laid out in the Comprehensive Plan.

At their meeting on September 6, 2007, the Policy Committee voted 3-0 (with one member absent) to support staff's recommendation not to pursue an amendment to the Ordinance to permit direct-discharge systems.

Staff advises that the Planning Commission not recommend the proposed Ordinance amendment to the Board of Supervisors.

---

Leanne Reidenbach, Planner

**REZONING CASE NO. Z-0005-2007-Ingram Road**  
**Staff Report for the October 03, 2007 Planning Commission Public Hearing**

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

**PUBLIC HEARINGS**

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

Planning Commission:	August 01, 2007	7:00 p.m. (applicant deferral)
Planning Commission:	September 12, 2007	7:00 p.m. (applicant deferral)
Planning Commission:	October 03, 2007	7:00 p.m.
Board of Supervisors:	November 13, 2007	7:00 p.m. (tentative)

**SUMMARY FACTS**

**Applicant:** Mr. Scott Evans, Scott Evans Contracting, LLC

**Land Owner:** Evans Development Corporation

**Proposal:** To rezone 0.37 acres from R-8, Rural Residential, to B-1, General Business, with proffers, for the construction of an approximately 3,978-sqaure foot, three-unit office building with storage room

**Location:** 112 Ingram Road

**Tax Map/Parcel:** (47-1)(1-23)

**Parcel Size:** 0.37 acres

**Existing Zoning:** R-8, Rural Residential

**Comprehensive Plan:** Mixed Use

**Primary Service Area:** Inside

**STAFF RECOMMENDATION**

The applicant has requested deferral of this case to the November 07, 2007 Planning Commission meeting. Staff concurs with the request.

Staff Contact: Jose-Ricardo Linhares Ribeiro

Phone: 253-6685

---

Jose-Ricardo Linhares Ribeiro

**ATTACHMENTS:**

1. Deferral request letter



# Scott Evans Contracting, Inc.

Industrial • Commercial • Residential

---

September 26, 2007

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

RE: Z-0005-2007, 112 Ingram Road Rezoning

Dear Mr. Ribeiro:

I would like to request a deferral on the submission of our rezoning application until we can resolve the setback issues the County has raised.

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

Sincerely,

Scott Evans  
President

**REZONING 0004-2007/MASTER PLAN 0004-2007. Stonehouse Amendment  
Staff Report for the October 3, 2007, Planning Commission Public Hearing**

---

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

---

**PUBLIC HEARINGS**

Planning Commission:	<b><u>Building F Board Room; County Government Complex</u></b>	
	September 12, 2007	7:00 p.m. (deferred)
	October 3, 2007	7:00 p.m.
Board of Supervisors:	November 13, 2007	7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant: David Guy

Land Owner: David Guy (GS Stonehouse Green Land Sub, LLC)

Proposal: Amendment of the master plan and proffers to accomplish the following: change land use designations within the development; make revisions to the approved proffers related to traffic improvements, environmental protections, and other matters; incorporate tax parcels 0630100001, 1310100008A, 1310100019, all currently zoned A-1, General Agricultural, into the Planned Unit Development Zoning District; and adjust the boundary line between PUD-Commercial and PUD-Residential.

Location and Tax Map/Parcel Nos.:

3820 Rochambeau Drive, also known as tax parcel: 1310100008A.  
170 Sand Hill Road, also known as tax parcel: 1310100019.  
3900, 3600 Mt. Laurel Road, also known as tax parcels: 1310100022, 130100021.  
9100, 9150, 9250, 9300, 4051, 9400, 9650, 9700, 9750, 9800, 9801, 9751, 9601, 9501, 9404, 9451, 9301, 9251, 9475, 9101, 9455, 9770 Six Mount Zion Road, also known as tax parcels: 0540100013, 0540100012, 0540100011, 0540100009, 0630100003, 0540100010, 0630100001, 0630100003, 0630100002, 0610100002, 0610100001, 0630100002, 0540100009, 0540100008, 0540100007, 0540100006, 0540100005, 0540100004, 0540100014, 0540100002, 0530100021, 0640100001.  
4100, 4130, 4150, 4170 Ware Creek Road, also known as tax parcels: 0630100004, 0640100002, 1320100028, 1320100027.  
9551, 9501, 9675, 10251 Sycamore Landing Road, also known as tax parcels: 0740100020 and 0740100022, 0740100029, 0740100021, 0710100001.  
9020 Westmont Drive, also known as tax parcel: 1210100048.  
9225, 9300, 9354, 9235, 9360, 9370, 9354, 9415, 9423, 9431, 9451 Fieldstone Parkway, also known as tax parcels: 0440100028, 0440100027, 0440100025, 0440100029, 0440100030, 0530100009, 0440100025, 0530100025, 0530100024, 0530100023, 0530100022.  
9400, 9760, 3029 Mill Pond Run, also known as tax parcels 0440100025A, 0530100010, 0530100020.  
Unaddressed parcels which are tax maps 1210100047, 0440100026.

Parcel Size: Approximately 4,537 acres

Existing Zoning: PUD, Planned Unit Development, A-1, General Agricultural

Proposed Zoning: PUD, Planned Unit Development

Comprehensive Plan: Mixed Use (Majority), Conservation Area, Rural Lands, and Low  
Density Residential development

Primary Service Area: Inside

**STAFF RECOMMENDATION**

The applicant has requested a deferral to the November 7, 2007 Planning Commission meeting. Staff concurs with the request.

Staff Contact: Ellen Cook

Phone: 253-6685



**SPECIAL USE PERMIT-0025-2007. Colonial Penniman, LLC Waterline & Force Main Extensions**  
**Staff Report for the October 3, 2007, Planning Commission Public Hearing**

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

**PUBLIC HEARINGS**

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

Planning Commission: October 3, 2007 7:00 p.m.  
Board of Supervisors: October 23, 2007 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant: Mr. James Bennett

Land Owner: Williamsburg Developments, Inc., the Economic Development Authority of James City County, BASF Corporation, and Colonial Penniman, LLC

Proposal: The authorize the construction of a 16-inch water transmission main, and two force mains to serve adjacent parcels within the James River Commerce Center and the property and facilities owned by Colonial Penniman, LLC at the BASF complex

Location: 8925, 8961, 8963 and 8965 Pocahontas Trail

Tax Map/Parcel Nos.: 5920100045, 5940100003, 5940100004, 5940100005A

Parcel Size: 2.4 acres disturbed out of the total 710 acres

Zoning: M-1, Limited Business/Industrial and M-2, General Industry

Comprehensive Plan: Mixed Use and General Industry

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff believes that this proposal, with the attached conditions, would not impact surrounding properties and believes it is consistent with the 2003 Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this 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**

Mr. James Bennett has applied on behalf of Williamsburg Developments, Inc., the Economic Development Authority of James City County, BASF Corporation, and Colonial Penniman, LLC for a special use permit to allow for the construction of a 16-inch waterline, a 4-inch force main, and 2-inch force main between the James River Commerce Center and the Colonial Penniman, LLC property, which is located at the BASF site in Grove. Special use permit 03-2002 was approved by the Board of Supervisors on April 9, 2002 for a waterline extension to the former Trusswood, LLC property, which is now the Colonial Penniman, LLC property. Condition No. 11 on SUP-03-2002 stated that a land disturbing permit shall be obtained by the developer within 24 months of the issuance of the special use permit or the permit shall be void. A land disturbing permit was not obtained within the 24 month period, therefore the previous special use permit is void and the new land owners are applying for a new special use permit for the waterline and force main extensions.

Colonial Penniman, LLC recently purchased two lots within the BASF site. The BASF property is a 649 acre parcel located off Route 60 in Grove. Most of the BASF property fronts on the James River and is currently a vacant site. Colonial Penniman, LLC intends on speculatively developing the two parcels purchased. One lot is 16 acres in size and the other is 3.2 acres in size. Both properties have existing building and parking lot infrastructure and are served by a small private water and sewer line, which have been generally adequate for rest room and potable water needs. However, the existing water and sewer lines are outdated, privately owned by BASF, and are not large enough for any new industrial user which may require processed water or an automatic fire suppression system (e.g. sprinklers). Additionally, BASF is not going to allow the occupants of the Colonial Penniman, LLC property to utilize the current private water and sewer system.

The largest, closest existing water main to tap into is the 12-inch waterline located within the right-of-way of Columbia Drive. The proposed force mains will connect to existing force mains that are located near the terminus of the existing Columbia Drive. Should the special use permit be approved, Colonial Penniman, LLC would extend the water main and force mains from Columbia Drive to their two properties. The location of the proposed waterline and force mains are shown on the enclosed Master Plan and will be located entirely within the applicant's property.

Colonial Penniman, LLC will not actually need the amount of water that is delivered by a 16-inch waterline. Therefore, should the special use permit be approved, the new waterline would have excess capacity to serve the remaining property within the James River Commerce Center. The incremental costs of installing the larger size pipe are relatively small given the total project costs, with the benefits going to the undeveloped land. The 2-inch force main will serve the Colonial Penniman, LLC property while the 4-inch force main will serve the remaining properties within the James River Commerce Center.

## **PUBLIC IMPACTS**

### **Archaeology**

- Condition #2 - The standard County archaeological condition has been placed on this special use permit application.

### **Environmental**

**Watershed:** College Creek

- Condition #3 – A condition has been placed on this special use permit to require the waterline and force mains to be bored underground should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer.

**Staff Comments:** The Environmental Division does not have any further comments on this special use permit application. Previously approved site plans for this project may result in the project being grandfathered under the previous Chesapeake Bay Ordinances.

## Public Utilities

The Colonial Penniman, LLC properties will be served by public water and sewer. The Planning Commission and Board should note that the water being supplied to this pipeline extension will come from Newport News Water Works, while the properties will connect the James City Service Authority sanitary sewer system.

### **Conditions:**

- Condition #4 – Any crossing of the BASF sanitary sewer line and/or pump station shall be reviewed and approved by the James City Service Authority.
- Condition #5 – The James City Service Authority shall review and approve implementation and timelines on how the Colonial Penniman, LLC parcels will be served prior to the issuance of preliminary site plan approval.
- Condition #6 – All required permits and easements, including the necessary approvals from the Newport News Water Works shall be obtained prior to the start of construction.
- Condition #7 – Construction, operation, and maintenance shall comply with all local, State, and Federal requirements, including all Newport News Water Works requirements.

**Staff Comments:** There is currently a 16-inch waterline within the right-of-way for Endeavor Drive, which splits into two 12-inch lines at the Endeavor Drive / Columbia Drive intersection. The 12-inch section of waterline within the Columbia Drive right-of-way was originally intended to be a 16-inch diameter waterline, but Newport News Water Works would only approve a 12-inch waterline for this area. Although not ideal, the connection of a 16-inch waterline to an existing 12-inch waterline should not create any issues to provide adequate water service to all intended customers.

## Transportation

**2005 Traffic Counts:** 10,402

**2026 Volume Projected (Pocahontas Trail):** 8,000

**2026 Volume Projected (Route 60 Relocation):** 25,000

**Staff Comments:** The Comprehensive Plan traffic model suggests the need for Pocahontas Trail to be a four-lane facility in both the section extending from the York County line to BASF Road and the section extending from BASF Road to the Newport News City line unless the existing road is widened to 4-lanes. The project has been split into two phases with the intent to relocate the section from BASF Road to the Newport News City line first, and then assess the need for widening or relocating the upper section at that time. Careful coordination of transportation and development is extremely important along this road. Staff believes that the waterline and force main extensions will lead to additional traffic along Pocahontas Trail. However, the waterline will serve currently zoned industrial land and help re-use an existing industrial facility all of which are in the James River Enterprise Zone, an area that was deliberately designated for economic and commercial development.

## COMPREHENSIVE PLAN

### Land Use Map

Designation	<p><i>General Industry (Page 123):</i> General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses. General industrial uses usually require access to interstate and arterial highways and public water and sewer.</p> <p><i>James River Commerce Center Mixed Use (Page 129):</i> Principle suggested land uses are limited industrial and office development.</p> <p><b>Staff Comment:</b> Staff believes the waterline and force main extensions will encourage commercial growth in an appropriate area of the County and will encourage new businesses to locate in the James River Enterprise Zone on what is a primarily vacant site.</p>
Development Standards	<p><i>Commercial &amp; Industrial Land Use Standard #1-Page 136:</i> Locate proposed commercial and industrial developments adjacent to compatible uses.</p> <p><b>Staff Comment:</b> The proposed waterline and force mains will encourage commercial and light industrial growth within the James River Enterprise Zone.</p>
Goals, strategies	<p><i>Goal #2 (Page 138):</i> Direct growth into designated growth areas in an efficient and low-impact manner.</p>

and actions	<p><i>Strategy #4 (Page 138):</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA.</p> <p><i>Action #11 (Page 139):</i> Extend water and sewer service in the Primary Service Area according to a pre-determined phased plan as set forth in this plan and the County’s master water and sewer plans.</p> <p><b>Staff Comment:</b> Staff believes the extension of the waterline and force mains will encourage commercial growth in an appropriate area inside of the PSA.</p>
-------------	---

**Economic Development**

Goals, strategies and actions	<p><i>Strategy #2 (Page 20):</i> Continue to maintain a supportive economic environment for existing industry and business and undertake public actions and cooperate in private actions that support and promote desirable commercial and industrial development.</p> <p><i>Action #7c (Page 21):</i> Utilize the James City Service Authority and Newport News Water Works to promote desirable economic growth through the provision of water and sewer infrastructure consistent with the Comprehensive Plan policies and the regulations governing utility service.</p> <p><i>Action #8 (Page 21):</i> Promote the location of new business and industry within the County’s Enterprise Zone.</p> <p><b>Staff Comment:</b> The James River Commerce Center is currently developing as an industrial park. The Colonial Penniman, LLC properties are re-developing and the BASF property should redevelop in the future. The installation of the waterline and force mains should encourage industrial growth on these properties that all lie within the James River Enterprise Zone.</p>
Goals, strategies and actions	<p><i>Strategy #2 (Page 138):</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.</p> <p><i>Strategy #4 (Page 138):</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA.</p> <p><b>Staff Comment:</b> The James River Commerce Center is currently developing as an industrial park. The Colonial Penniman, LLC properties are re-developing and the BASF property should redevelop in the future. The installation of the waterline and force mains should encourage industrial growth on these properties that all lie within the James River Enterprise Zone.</p>

**Environment**

Goals, strategies and actions	<p><i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><b>Staff Comment:</b> A condition has been placed on this special use permit to require the waterline and force mains to be bored underground should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer.</p>
-------------------------------	--

**Transportation**

Goals, strategies and actions	<p><i>Strategy #3-Page 80:</i> Encourage commercial and industrial development patterns that maintain or improve the planned function and character of County roadways.</p> <p><b>Staff Comment:</b> Staff acknowledges Route 60’s current traffic limitations. However, this site and the area are planned for continuing industrial use and development. Route 60 is planned to be relocated in the southern end of the County, which should accommodate additional traffic from commercial and industrial development in this part of the County. Partial funding has been obtained and the County is pursuing the remaining funds necessary for construction.</p>
-------------------------------	---

**Comprehensive Plan Staff Comments**

Staff believes the waterline and force main extensions will provide a needed utility to support investment, development, redevelopment and expansion within the James River Commerce Center, Colonial Penniman, LLC and BASF sites. Therefore, staff believes the proposal is consistent with the Comprehensive Plan.

**RECOMMENDATION**

Staff believes that this proposal, with the attached conditions, would not impact surrounding properties and believes it is consistent with the 2003 Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this application to the James City County Board of Supervisors with the acceptance of the following special use permit conditions.

1. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, as determined by the Director of Planning, seedlings shall be planted and shall be shown on a reforestation or re-vegetation plan to be approved by the Director of Planning. This plan shall be submitted within one year of the initial clearing of the easement. The reforestation or re-vegetation of any temporary construction easements shall be completed, as determined by the Director of Planning, within two years of the initial clearing of the easement. It shall be the responsibility of the developer to provide surety prior to final site plan approval guaranteeing implementation of the reforestation or re-vegetation plan and to secure the necessary means to plant any temporary construction easements after the easements reverts back to the property owner.

2. A Phase I Archaeological Study for the disturbed area 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 site and the clearing, grading or construction activities thereon.

3. The final location of the waterline and force mains and all construction related activity shall avoid previously undisturbed areas of the RPA and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterlines and force mains shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed, except as approved by the Director of the Environmental Division.

4. Any crossing of the BASF sanitary sewer line and/or pump station shall be reviewed and approved by the James City Service Authority.

5. Prior to the issuance of preliminary site plan approval, an agreement and plan between the developer and the James City Service Authority, including implementation time lines, must be reviewed and approved by the James City Service Authority on how the two Colonial Penniman, LLC properties, Tax Map IDs (59-4) (1-4) and (59-4) (1-5A), will be served with public sewer.

6. All required permits and easements, including the necessary approvals from the Newport News Water Works, shall be obtained prior to the start of construction, as defined in the James City County Zoning Ordinance.

7. Construction, operation, and maintenance shall comply with all local, State, and Federal requirements,

including all Newport News Water Works requirements.

8. A Land Disturbing Permit shall be obtained by the developer within twenty-four (24) months from the date of the issuance of this special use permit, or this special use permit shall be void.

9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

---

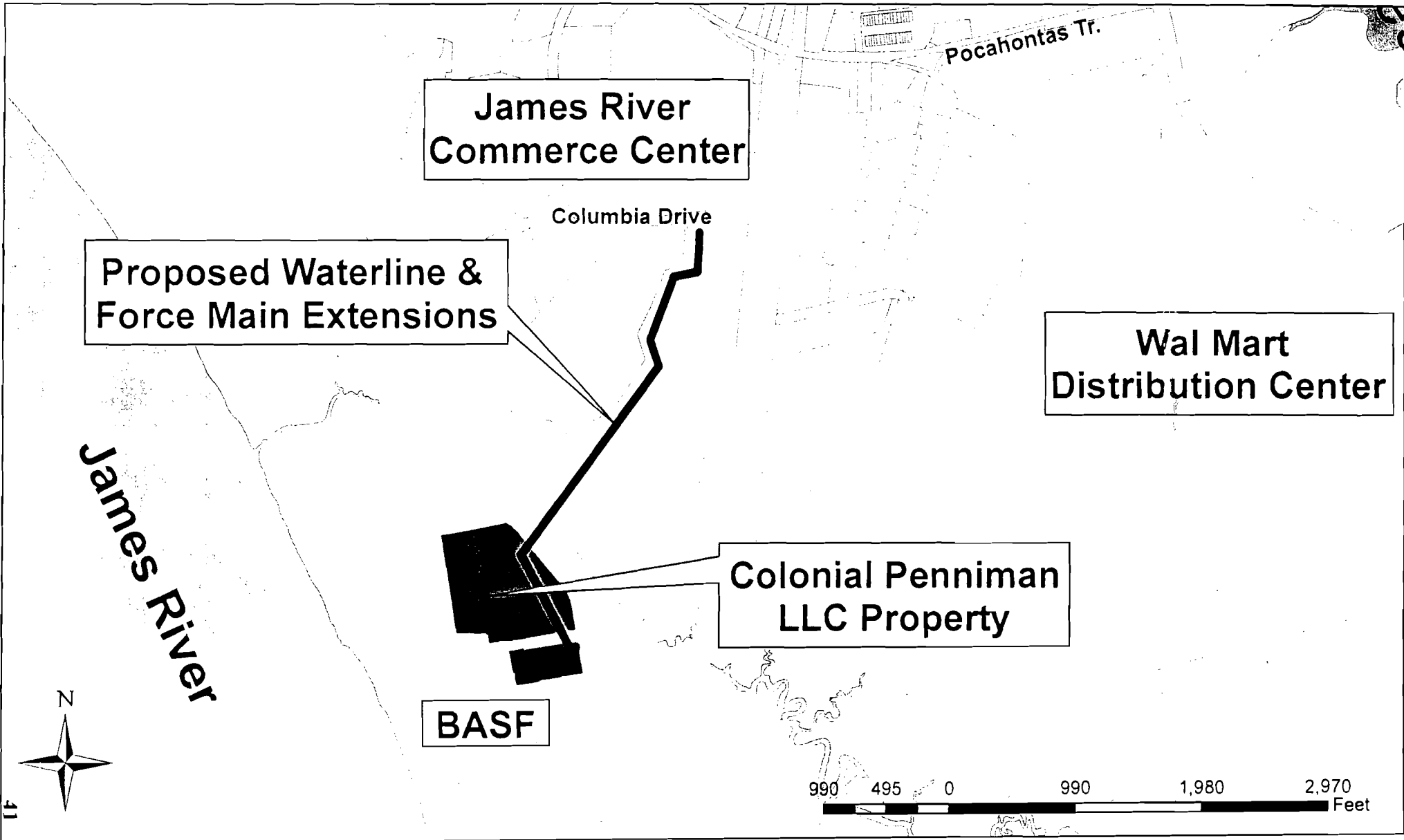
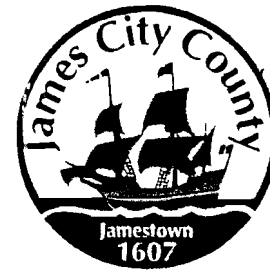
Matthew J. Smolnik

ATTACHMENTS:

1. Location Map
2. Master Plan dated September 14, 2007

# JCC-SUP-0025-2007

## Colonial Penniman, LLC Waterline and Force Main Extensions



**REZONING 0009-2007. Michelle Point Proffer Amendment.  
Staff Report for the October 3, 2007 Planning Commission Public Hearing**

---

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

---

**PUBLIC HEARINGS**

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

Planning Commission: September 12, 2007 (deferred) 7:00 p.m.  
October 3, 2007 7:00 p.m.  
Board of Supervisors: November 13, 2007 (tentative) 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Joel Almquist, Health E Community Enterprises  
Land Owner: Michelle Point, LLC  
Proposal: Mr. Almquist has requested revised language for proffers #4, Affordable Housing, and #14, Cash Contributions for Community Impacts, to increase the sales price of the affordable units.  
Location: 9001 Barhamsville Road  
Tax Map/Parcel Nos.: 1210100003  
Parcel Size: 38.58 acres  
Existing Zoning: R-5, Multi-family Residential, Cluster Overlay, with proffers  
Proposed Zoning: R-5, Multi-family Residential, Cluster Overlay, with amended proffers  
Comprehensive Plan: Low Density Residential  
Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff still finds that the overall project is generally consistent with the surrounding development and zoning and consistent with the Comprehensive Plan. However, based on revised policies that significantly alter the standards for proffer packages and based on the County’s housing needs, staff believes it is not prudent public policy to approve proffer amendments and rezoning proposals in a piecemeal fashion. Staff recommends denial of the proposed proffer amendments. Should the Planning Commission recommend approval to the Board of Supervisors of the proposed proffer amendments, staff finds the amended sales prices to be within the range of affordability as defined by the James City County Office of Housing and Community Development, but believes the provision of soft second mortgages should be added to the amended housing proffer language.

Staff Contact: Kathryn Sipes

Phone: 253-6685



## **PROJECT DESCRIPTION**

The Michelle Point development is located on Barhamsville Road (Route 30) across from Stonehouse Commerce Park. Case Z-13-03, approved by the Board of Supervisors February 10, 2004, rezoned the property from A-1, General Agricultural, to R-5, Multifamily Residential, Cluster Overlay, with proffers. The approved project contains 90 single-family houses and 20 townhouses, with 20 percent affordable housing, at a gross density of 2.8 units per acre. A development plan has been approved for this project, but the units have not been built.

Approved proffer #4 provides that eleven of the townhouse units will be offered for sale at a price at or below \$99,300, and eleven of the single family detached units will be offered for sale at a price at or below \$110,000. This represents 22 total affordable units or 20% of the total 110 units in the project. The proffer also allows for an annual adjustment based on the Consumer Price Index (CPI). Applying this adjustment, the 2007 sales price for the townhouse units would be at or below \$108,713 and the sales price for single family detached units would be at or below \$120,548.

Approved proffer #14 provides for a cash contribution of \$750 per non-affordable or price restricted unit to the County to mitigate impacts on the county from the physical development and operation of the property. The proffer allows the County to use these funds for any project in the County's capital improvement plan, including emergency services, school uses, off-site road improvements, library uses, and public use sites. At the time of the rezoning approval the total cash contribution was \$66,000 for 88 units. This proffer also allows for an annual adjustment based on the CPI. Applying this adjustment, the 2007 cash contribution would be \$825.50 per unit for a total of \$72,644 for 88 units.

The applicant has submitted a request to amend the affordable housing and cash contribution proffers to change the adjustment methodology from the CPI to the Marshall-Swift Index. Using the Marshall Swift index, the 2007 sales price for the townhouse units would be at or below \$126,771 and the sales price for single family detached units would be at or below \$140,431. For the cash contributions the 2007 figure would be approximately \$1335 per unit, or \$117,480 for 88 units. The Marshall-Swift Index has been the adjustment factor used in recent cases and is now the method preferred by James City County.

The reason cited by the applicant for the amendment is that the currently proffered price restrictions are not financially feasible due to building material shortages and price increases, International Building Code changes, sharp increases in labor prices, and increased project costs due to the newly adopted JCSA fees and transportation authority, as well as RPA, stream and wetlands mitigation costs. While the applicant's costs may have increased, the County's costs of providing facilities have also increased.

## **PUBLIC IMPACTS**

### **Archaeology**

#### **Proffers:**

- Existing Proffer 5 is the County archaeological policy.

**Staff Comments:** The County archaeological policy was proffered under the existing proffers and subsequently satisfied. No change is proposed.

### **Environmental**

**Watershed:** Ware Creek

#### **Proffers:**

- Existing Proffer 6 commits the applicant to creating Conservation Areas with recorded conservation easements.

**Staff Comments:** No change to environmental proffers is proposed and no other environmental protections were included in the approved rezoning. A development plan has been approved for this

project. Final plat(s) have not yet been approved; approval will not be granted without proffered easements. Staff notes the development plan proposed impacts to RPA, as well as impacts to wetlands and streams. The applicant received approval for the RPA impacts from the Chesapeake Bay Board, conditional upon certain mitigation measures, including treatment of offsite stormwater, RPA restoration where feasible, and additional planting within the BMP to increase water quality efficiency. Additionally, the project required a permit from the Virginia Department of Environmental Quality (DEQ) for stream and wetland impacts; this permit was subsequently approved with mitigation measures totaling \$425,000 (based on information provided by the applicant).

**Fiscal**

At the time of the rezoning this project was determined to have a negative net fiscal impact. The fiscal analysis submitted by the applicant at that time indicated the County would be required to spend an additional \$410,900 per year once the development was built out and occupied. James City County Financial and Management Services concurred with this conclusion.

**Proffers:**

- Existing proffer 14 commits the applicant to cash contributions (\$750 per non- affordable or price restricted unit, or \$66,000 for 88 units) for use for projects in the County’s Capital Improvement Plan to mitigate impacts on County emergency, school, library, and other services.
- Proposed proffer 14 changes the adjustment factor from CPI to the Marshall-Swift Index.

**Staff Comments:** Existing proffer language uses the CPI to adjust this figure annually. At staff’s suggestion, the applicant is proposing an amendment to this language changing the adjustment to the Marshall-Swift Index. If approved, this amendment results in language consistent with the proposed affordable housing proffer language. Based on staff calculations, the \$750 per unit becomes \$1335 per unit using Marshall-Swift, versus \$825.50 using the CPI. This results in \$117,480 total for 88 units.

**Housing**

**Proffers:**

- Existing proffer 4 provides that eleven of the townhouse units will be offered for sale at a price at or below \$99,300, and eleven of the single family detached units will be offered for sale at a price at or below \$110,000. This represents 22 total affordable units or 20% of the total 110 units in the project. The proffer also allows for an annual adjustment based on the Consumer Price Index (CPI). Applying this adjustment, the 2007 sales price for the townhouse units would be at or below \$108,713 and the sales price for single family detached units would be at or below \$120,548 (see Table 1 below).
- Proposed proffer 4 changes the adjustment factor from CPI to the Marshall-Swift Index (M-S). Please see Table 1 below for a price comparison.

Table 1.

<u>Dwelling unit type</u>	<u>Current proffer</u>	Current proffer with <u>CPI adjustment</u>	Current proffer with <u>M-S adjustment</u>
Townhouses	\$99,300	\$100,713	\$126,771
Single family detached	\$110,000	\$120,548	\$140,431

**Staff Comments:** The applicant had originally submitted a request to amend the affordable housing proffer to increase the sales price for all affordable units in the development to \$140,000 and \$160,000 for townhouses and single family detached units respectively. The original proposal also included the provision of soft second mortgages, a feature that preserves the affordability of the unit for a period of time. Staff, in consultation with Rick Hanson, Director of the JCC Office of Housing and Community Development (OHCD), prefers proffer language that includes soft second mortgages. However, staff

believed the proposed sales prices were too high. Staff notes that all below market price housing meets an identified County need, and Mr. Hanson indicated there were clients on his waiting list that could be placed in the residential units at the higher price. However, Mr. Hanson also indicated the importance of providing housing at multiple price points in order to serve a wide spectrum of residents. Table 2 below summarizes some past cases with proffered affordable housing relative to sales price and overall percentage of the development. It is the position of Mr. Hanson and the OHCD that modifying the sales prices of this project to more closely align with recently approved cases would result in all affordable units in the County being priced to a slice of the market. Consequently, no progress would be made in meeting the wider need.

Table 2.

Project Name	Case Number	Affordable Housing Proffered	Affordable units proffered	Approval Date
New Town Sections 2 & 4	Z-03-01	\$105,000 and \$140,500	4% at \$105,000 and 7% at \$140,500	11/1/01
Pocahontas Square	Z-03-03	\$100,000 and \$110,000	75% at \$100,000 & 25% at \$110,000	7/31/03
Michelle Point	Z-13-03	\$99,300 and \$110,000	10% at each price	1/28/04
Lightfoot Mixed Use	Z-06-04	\$110,000 and \$135,000	5% at each price	11/24/04
Pocahontas Square Proffer Amendment	Z-14-04	\$110,000 and \$155,000	25% at \$110,000 & 40% at \$155,000	2/24/05
Jennings Way	Z-19-05	\$135,000 and \$160,000	6% at each price	3/22/06
Chestnut Grove	Z-02-07	\$135,000 and \$165,000	20% (or 8 units) at each price level	5/15/07

Discussions between staff and the applicant resulted in a modified request to change the adjustment methodology from the CPI to the Marshall-Swift Index in lieu of unit price adjustment. Using the Marshall Swift index, the 2007 sales price for the townhouse units would be at or below \$126,771 and the sales price for single family detached units would be at or below \$140,431. This modified proposal did not include the provision of soft second mortgages.

The negotiations highlighted for staff two significant factors: it is critical that piecemeal adjustments not be made that may result in the entire proposal package no longer acceptable by the County, and it is equally critical that we strive to comprehensively address the County's market for affordable housing.

### **Public Utilities**

The property is located inside the Primary Service Area (PSA) and will be served by public water and sewer.

#### **Proffers:**

- Existing proffer 3 commits the applicant to providing Water Conservation Standards subject to the approval of the James City Service Authority. A development plan has been approved for this project and this proffer has been satisfied.
- Existing proffer 14 commits the applicant to a cash contribution (\$750 per non-affordable or price restricted unit, or \$66,000 for 88 units) to the James City Service Authority to mitigate impacts on the County from the physical development and operation of the property. Final plat(s) have not yet been recorded; approval will not be granted until this proffer is satisfied.
- Proposed proffer 14 changes the adjustment factor from CPI to the Marshall-Swift Index, resulting in a 2007 cash contribution of \$1335 per non-price restricted unit, or \$117,480 for 88

units.

**Staff Comments:** The modified request, as described in the housing section in this staff report, included only language in the housing proffer be modified to use the Marshall-Swift Index as opposed to the CPI. At staff's request, the applicant also agreed to revise language in proffer 14 in order to maintain a consistent adjustment factor for all cash adjustments.

### **Public Facilities**

#### **Proffers:**

- Existing proffer 14 provides a cash contribution to help offset the cost of county services, as discussed above in the Fiscal Impacts section.
- Proposed proffer 14 changes the adjustment factor from CPI to the Marshall-Swift Index.

**Staff Comments:** At the time of the original rezoning the applicant expected this project to generate 22 elementary students, 12 middle school students, and 15 high school students, and was to be served by the Stonehouse Elementary, Toano Middle, and Lafayette High Schools. The project was found to not meet the adequate public facilities schools test at that time; existing proffer 14 and the provision of affordable housing were accepted as mitigation. The project is now located within the Warhill High School district and the estimated student generation is 18 elementary students, 10 middle school students, and 13 high school students, based on revised student generation rates.

School	Design Capacity	Effective Capacity	Estimated 2007 Current Enrollment	Projected Students Generated	Enrollment + Projected Students
Stonehouse Elementary	588	650	699	18	717
Toano Middle	775	822	859	10	869
Warhill High	1250	1250	958	13	971

The Board of Supervisors first adopted a cash proffer policy for schools in September 2005, after this project was originally approved. The Board amended their cash proffer policy for schools at their July 24, 2007 meeting, which took effect for all rezoning applications received after June 12, 2007. This application was received after June 12. Staff notes the only proposed changes to the approved proffers are amending the adjustment factor from CPI to the Marshall-Swift Index. Staff further notes the proposed amendments do not result in increased units or increased density, and a development plan consistent with MP-12-03 (the master plan approved with the original rezoning application) has been approved. However, the original and revised cash proffer policies acknowledge the costs of specific impacts of residential development. Staff feels rezoning cases are considered for approval based on the total package of products and amenities proposed; modifying certain components of the project could result in a development that no longer meets County approval. Therefore, staff believes proposed amendments warrant careful consideration. For example, the Jennings Way and Chestnut Grove proffer packages provide some cash contributions for both affordable and non-affordable units. Staff notes the approved proffers for Michelle Point, however, do not provide for similar cash contributions.

### **Parks and Recreation**

#### **Proffers:**

- Existing proffers 10 and 13 commit the applicant to provide walking trails and specific recreational facilities for the project.
- Existing proffer 15 binds the applicant, at the request of the County Administrator, to granting an easement within the existing Virginia Power easement in the buffer along Route 30 for a greenway trail.

**Staff Comments:** A development plan has been approved for this project; the amenities outlined in proffers 10 and 13 must be installed or bonded prior to final subdivision plat approval, per the proffer.

Final plat(s) have not yet been approved. No changes are proposed.

### **Transportation**

The traffic impact study provided with the original rezoning application indicated that this development would generate approximately 77 a.m. peak hour vehicle trips and approximately 102 p.m. peak hour vehicle trips. The existing traffic conditions were deemed at that time to provide ample capacity for this development.

#### **Proffers:**

- Existing proffers 7 and 17 commit the applicant to provide a 150-foot right turn taper to be constructed at the development entrance and emergency access through a connection with Highfield Drive to the south and, as requested by the Fire Department, a gravel emergency-only crossover from the westbound traffic lanes of Barhamsville Road.

**Staff Comments:** A development plan has been approved for this project satisfying both proffer 7 and proffer 17. No changes are proposed.

### **COMPREHENSIVE PLAN**

The Comprehensive Plan designates Barhamsville Road (Route 30) as a Community Character Corridor. At the time of the original rezoning application the applicant requested a waiver from the buffer requirements in Section 24-544 to allow the minimum right-of-way buffer along Route 30 to be reduced from 150 feet to 90 feet in some areas, primarily to the northeast and east of the townhouse units. Existing proffer 11 commits the applicant to provide supplemental landscaping consisting of at least 125 percent of Zoning Ordinance requirements in areas where the buffer was less than 150 feet. The waiver request was approved by the Planning Commission.

The property is designated low-density residential on the James City County Comprehensive Plan Land Use Map. Low density residential developments are residential developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units 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 community with a gross density up to three units per acre may be permitted with a special use permit when the following is provided: implementation of the Streetscape Guidelines Policy and the Archaeological Policy; provision of sidewalks on one side of all internal streets; provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Plan; provision of pedestrian trails which connect cul-de-sacs throughout the development to each other and to the recreation area or sidewalks on both sides of all internal streets, or a combination; and construction of curb and gutter design on all streets within the development. The approved development plan for Michelle Point includes satisfies all of the above. Additionally, density bonuses allowing a gross density up to four units per acre may be permitted with a special use permit for such features as affordable housing and superior layout and quality design. This project was approved at a gross density of 2.8 units per acre. No density bonus was awarded to Michelle Point, though affordable housing was proffered in the original rezoning.

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.

The housing section of the Comprehensive Plan supports increased density in developments that provide affordable housing (Action #5, page 107).

### **RECOMMENDATION**

Staff still finds that the overall project is generally consistent with the surrounding development and zoning and consistent with the Comprehensive Plan. However, based on revised policies that significantly alter the

standards for proffer packages and based on the County's housing needs, staff believes it is not prudent public policy to approve proffer amendments and rezoning proposals in a piecemeal fashion. Staff recommends denial of the proposed proffer amendments. Should the Planning Commission recommend approval to the Board of Supervisors of the proposed proffer amendments, staff finds the amended sales prices to be within the range of affordability as defined by the James City County Office of Housing and Community Development, but believes the provision of soft second mortgages should be added to the amended housing proffer language.

Attachment:

Proposed proffers

**SPECIAL USE PERMIT- 0021-2007. Tiki Climbing and Grinding  
Staff Report for the October 3 2007, Planning Commission Public Hearing**

---

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

---

**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

October 3, 2007                      7:00 p.m.  
November 13, 2007                 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:                                 Mr. Timothy Soderholm  
  
Land Owner:                                Mr. Timothy Soderholm  
  
Proposal:                                    Contractors office and storage  
  
Location:                                    6293 Centerville Road  
  
Tax Map/Parcel Nos.:                    2340200001  
  
Parcel Size:                                0.94 acres  
  
Zoning:                                      A-1, General Agricultural  
  
Comprehensive Plan:                      Low Density Residential  
  
Primary Service Area:                    Inside

**STAFF RECOMMENDATION**

Staff recommends denial of this application for several reasons. First, the proposed use is not compatible with surrounding land uses and is inconsistent with the County's Comprehensive Land Use Plan. Second, the approval of the proposed contractors office and storage and its commercial use at this location would make it more difficult to defend against other similar commercial proposals in this area and in other low-density residential areas throughout the County. There is nothing unique about the site or proposed use that warrants special consideration or an exception to the Low Density Residential Comprehensive Plan designation. Such exceptions should generally support the attainment of the land use goals in the Comprehensive Plan. Staff believes that permitting such a use at this location would begin to undermine the long-range land use objectives of the County's Comprehensive Land Use Plan for residential uses in this area.

Should the Planning Commission wish to recommend approval, staff recommends that the attached conditions be placed on the case.

Staff Contact: Ellen Cook

Phone: 253-6685

**PROJECT DESCRIPTION**

Mr. Soderholm is currently operating a contractor's office and storage use from his residence on Centerville Road. The property is zoned A-1, and a Special Use Permit is therefore required for this use. Mr. Soderholm is pursuing this SUP in order to bring his operation into conformance with the zoning requirements. Staff would note that the operation on the property exceeds the Home Occupation standards as defined in the Ordinance, and therefore falls within the SUP category, due to two factors: having outdoor storage of equipment on-site, and having employees visit the site.

According to information provided by the applicant, the operation is a professional tree and landscaping service. In addition to the existing single family house, permanent site features include a gravel parking/storage area, carport, and storage shed. The applicant has indicated that other items on-site associated with the business include three trailers, three pick-up trucks, a chipper, two stump grinders, a bobcat, one mower, and hand tools (chainsaws, weed whackers). The shed has personal items in half of it, and business items stored in the remaining half. There are some business related items in the garage such as work tools for repair/maintenance of equipment.

The applicant has indicated that operating hours are generally 7 a.m. to 5 p.m. with employees picking-up equipment in the morning and dropping it off at night. The applicant has stated that there are four total employees (including the applicant). Two employees park their trucks at the property during the day, and one employee is generally dropped off. Employees do not return to the site at lunch time. Job related materials are dropped off at the dump at the end of each day and processing of trees does not occur on site. The applicant has indicated that occasionally the employees will miss the dump hours and the full trailer will be parked on-site at the end of the day and taken to the dump in the morning.

Currently there is no screening fencing (fencing that would diminish visibility) or landscaping along the property lines. Surrounding property on the north side of Centerville is all zoned A-1, and property on the south side is zoned R-8. Most surrounding property is residential in nature. There are two existing legally nonconforming businesses in the general vicinity (Crow's Auto, Handy-Ice); and one business which obtained a SUP in 1997 (Cobb's Striping).

The property was subdivided in the 1960's as part of the "James-Shire Settlement" which included all the lots along Settler's Lane. According to an adjacent property owner, the property was at one time subject to certain private covenants that may have prohibited the applicant's proposed business. The applicant has assured staff that these private covenants do not apply to his property, which appears correct based upon staff's research. Even assuming that the private covenants are in force and apply to this property, the County does not enforce such private covenants and it is a private matter to determine whether he is in conformance with them.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Yarmouth Creek

**Conditions:**

- Condition 2a specifies requirements that would need to be met by the applicant at the plan of development stage.

**Environmental Staff Comments:** The final site plan for the project will need to address increased stormwater runoff from the site. Based on impervious cover, stormwater management/BMPs will be required for the project. Stormwater quantity control will be necessary as well as ensuring the increased site runoff or discharge from stormwater management facilities is discharged into a well-defined, natural or manmade receiving channel. If the receiving channel is situated offsite, drainage easements may be necessary.

### **Public Utilities**

The property is served by public water and sewer.

**Staff Comments:** JCSA staff reviewed the application and had no comments on, or objections to, the project.



**Transportation**

The property fronts on both Centerville and Settlers Lane. It takes access from Settler’s Lane, which is a cul-de-sac street about 1,400 feet in length that also serves the James-Shire Settlement subdivision.

**2005 Traffic Counts (Daily Traffic Volume):** 10,364 (Route 60 to Ruth Lane)

**2026 Volume Projected (Daily Traffic Volume):** 15,000 (Longhill Road to Route 60)

**Conditions:**

- Condition 5 limits the property to one access from Settler’s Lane.

**VDOT Comments:** VDOT staff has reviewed the application and found that the trips generated from the use appear to be negligible. VDOT staff recommended that all access to the property be obtained solely from Settler’s Lane.

**Staff Comments:** In addition to the trip generation associated with the single family house, the proposal would generate the arrival and departure trips of two of the employees in the a.m. and p.m. respectively (the two that leave their vehicles on-site), and two daily round-trips associated with the employee who is dropped off. Based on ITE standards, 16 total trips would be generated with this use compared to an average of 10 for single family.

**COMPREHENSIVE PLAN**

**Land Use Map**

<p>Designation &amp; Development Standards</p>	<p>Low Density Residential (Page 120): 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. Non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located and should have traffic, noise, lighting and other impacts similar to surrounding or planned residential uses. Very limited commercial establishments, schools, churches, and community-oriented facilities should generally be located on collector or arterial roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.</p>
	<p>General Standard #1 (Page 134-35): Permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed. Particular attention should be given to addressing such impacts as incompatible development intensity and design, building height and scale, land uses, smoke, noise, dust, odor, vibration, light and traffic.</p>
	<p><b>Staff Comment:</b> Staff does not find the proposal consistent with this designation. Examples of commercial establishments that have been approved by the Board in the past in Low Density Residential areas include limited day care establishments and beauty salons inside existing structures. While the traffic and incidental noise impacts of the proposal are not tremendous or atypical for a commercial use, staff does not find them to be materially similar to the surrounding residential uses. Furthermore, given the small size of the lot, and the intensity of the use on it (approximately 5,800 square feet of gravel area with a variety of equipment stored on it), staff finds that the use does not complement the residential character of the area. Staff believes the use would be best suited in an area of the County zoned and designated for Limited Industry.</p>
<p>Goals, strategies and actions</p>	<p><i>Strategy #2-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods. <i>Strategy #4-Page 138:</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA. <b>Staff Comment:</b> While there are several businesses within a half mile or so of the property along Centerville, two of the three are nonconforming, and the area in the immediate vicinity of the property is clearly residential in nature including the balance of Settlers Lane.</p>

**Environment**

General	<i>Yarmouth Creek Watershed Management Plan-Page 47:</i> A final watershed management plan with recommendations on preserving this watershed was completed in 2003.
	<b>Staff Comment:</b> The use of the property for the contractors office and storage is existing, and has not gone through environmental review for conformance with Environmental regulations or the provisions of the Management Plan. Should the SUP be approved, a plan of development that meets these criteria would need to be submitted and approved. Special Stormwater Criteria would apply to the project.
Goals, strategies and actions	<i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.
	<b>Staff Comment:</b> There is approximately 5,800 square feet of impervious area associated with the operation of the use on the property, or approximately 14%. (Additional impervious area exists on site associated with the residential use.)

**Transportation**

General	<i>Centerville Road (p.79):</i> The projected 2026 volumes suggest the road should be monitored (especially the section from Longhill Road to Route 60 West) to assess the need for possible turn lanes or other improvements.
	<b>Staff Comment:</b> The operation of the use would generate more trips than a typical single family dwelling, but do not warrant any type of road improvements on Settler’s Lane or Centerville Road. If approved, Condition 5 would limit the number of entrances to the property to a single driveway off of Settler’s Lane.

**Community Character**

General	<i>Centerville Road Community Character Corridor-Page 83-84:</i> 150 feet for residential and 50 foot buffer recommendation for commercial uses along this road. The commercial recommendations also include parking and other auto-related areas clearly as a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the urban corridor.
	<b>Staff Comment:</b> Currently, the operation of the use on the property occurs in the area to the side and rear of the existing residence; this area is the on the portion of the lot furthest (over 50 feet) from Centerville Road. Prior to the current owner (the applicant for this SUP), this lot was an undeveloped forested lot. Since development, most trees on the property have been cleared, including the portion of the lot closest to Centerville Road. If the SUP were approved, Conditions 2c, 7 and 8 would require, respectively, screening of the use on the property; limitation on the signage to match “Home Occupation” standards in the ordinance; and limitations on lighting to reduce light impact on adjacent properties and public roads. In addition, Condition 2 would restrict the storage area to its current location on the lot.

**Comprehensive Plan Staff Comments**

As stated above, staff does not find the proposal to be consistent with the Comprehensive Plan Land Use Designation. While staff believes that certain conditions such as those related to screening, access, hours of operation and lighting (see attached conditions) could help alleviate some of the impact of the proposal, staff believes that even with conditions, fundamental concerns about the use within this Land Use Designation would remain.

**RECOMMENDATION**

Staff recommends denial of this application for several reasons. First, the proposed use is not compatible with surrounding land uses and is inconsistent with the County’s Comprehensive Land Use Plan. Second, the approval of the proposed contractors office and storage and its commercial use at this location would make it more difficult to defend against other similar commercial proposals in this area and in other low-density residential areas throughout the County. There is nothing unique about the site or proposed use that warrants special consideration or an exception to the Low Density Residential Comprehensive Plan designation. Such exceptions should generally support the attainment of the land use goals in the Comprehensive Plan. Staff

believes that permitting such a use at this location would begin to undermine the long-range land use objectives of the County's Comprehensive Land Use Plan for residential uses in this area.

Should the Planning Commission wish to recommend approval, staff recommends that the conditions listed below be placed on the case. Staff would note that as of the writing of this staff report, the applicant has expressed concern with: (1) the limitation on storage area in Condition 2, and (2) the sign condition, Condition 6. Staff continues to believe that if the SUP were approved, these conditions would be most appropriate as written. For the first one, staff would note that the ordinance requires maintenance of an all weather surface for areas of outdoor operation and storage (Section 24-41), and that while additional gravel could be put down in other areas of the lot to meet that requirement and allow a larger area for storage, staff finds that doing so would increase impervious cover and increase the intensity of the use on the lot. For the second, the size limitation is consistent with the Home Occupations limit in the ordinance and is similar to the sign condition placed on other commercial proposals which have been approved in Low Density Residential designated areas.

1. This Special Use Permit shall be valid for the operation of one contractors warehouse, shed and office and accessory uses thereto ("the Project") as shown on the master plan titled "Tiki Contracting Master Plan" date stamped September 3, 2007 (the "Master Plan") on the parcel, located at 6293 Centerville Road, and identified as James City County Real Estate Tax Map No. 2340200001 (the "Property"). Development of the Project shall be generally in accordance with the Master Plan as determined by the Development Review Committee ("the DRC") of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the Project.

2. All storage of equipment and parking of vehicles associated with the Project shall be located inside the "Storage Shed", under the "Car Port" or within the "Driveway/Outside Storage" as shown on the Master Plan. The driveway/outside storage shall be located as shown on the Master Plan, and shall be limited to the side and rear of the dwelling (not the front). At a minimum the driveway/outside storage shall comply with the requirements of Section 24-41 of the Zoning Ordinance, and each of the following shall also be required:

a) A plan addressing stormwater drainage and management shall be submitted as a component of the site plan specified in Condition 8.

b) Maintenance of an all-weather surface of gravel, asphalt or better for the area shown on the Master Plan as "Driveway/Outside Storage."

c) Submission of a landscape and screening plan to be approved by the Planning Director or his designee. The landscape and screening plan shall show, at a minimum, that such landscaping shall effectively screen the storage of Project equipment and motor vehicles associated with the Project from public roads and from adjacent properties. Specifically, there shall be provided an average 15 foot wide landscape area along the property lines adjacent to JCC Real Estate Tax Map Parcels 3120100018 (northern property line only), 3120100004, and 2340200002, and the 15 feet shall be landscaped in accordance with the "General Landscape Area Standards (Section 24-94 of the Zoning Ordinance), except that the owner shall provide enhanced landscaping so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements. In addition, a landscape area shall be provided along Centerville Road such that it meets the standards specified in the "Landscape area(s) along right(s)-of-ways" (Section 24-96 of the Zoning Ordinance), except that the owner shall provide enhanced landscaping so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements. The applicant may use a fence to meet, in whole or in part, this screening requirement if specifically approved by the Planning Director after a finding that it would exceed the effectiveness of any such landscaping in screening the property and would not cause additional adverse impacts to adjacent properties. Any such fence shall be of a natural wood color, and of a design and height to screen the outside storage area from the adjacent properties. The landscape and screening plan shall be submitted in conjunction with the site plan specified in Condition 9, and shall be installed or bonded in a manner satisfactory to the County Attorney within one year of issuance of this SUP.

3. There shall be no tree stumps, trunks, limbs, tree roots, chipped wood, mulch, sawdust, wood or plant by-products, or other related products, stored, placed or processed on the property, except that material may be stored on site on an occasional overnight basis.

4. Hours of operation shall be limited to 6 a.m. to 6 p.m. Monday through Saturday.
5. Only one entrance shall be allowed for the Project, from the Property onto Settlers Lane, as shown on the Master Plan.
6. Signage shall be limited to one sign, not to exceed four square feet. Such sign shall be attached to the dwelling and shall not be illuminated.
7. Should new exterior site or building lighting be installed for the operation of the Project, any new exterior site or building lighting shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. No glare, defined as 0.1 footcandle or higher, shall extend outside the boundaries of the Property.
8. Site plan approval shall be obtained within one year of issuance of this SUP, or the SUP shall be void.
9. Any office use for this operation located in the residential dwelling on-site shall be limited to not more than 25 percent of the first floor area.
10. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

---

Ellen Cook

ATTACHMENTS:

1. Master Plan
2. Location Map
3. Picture of Site

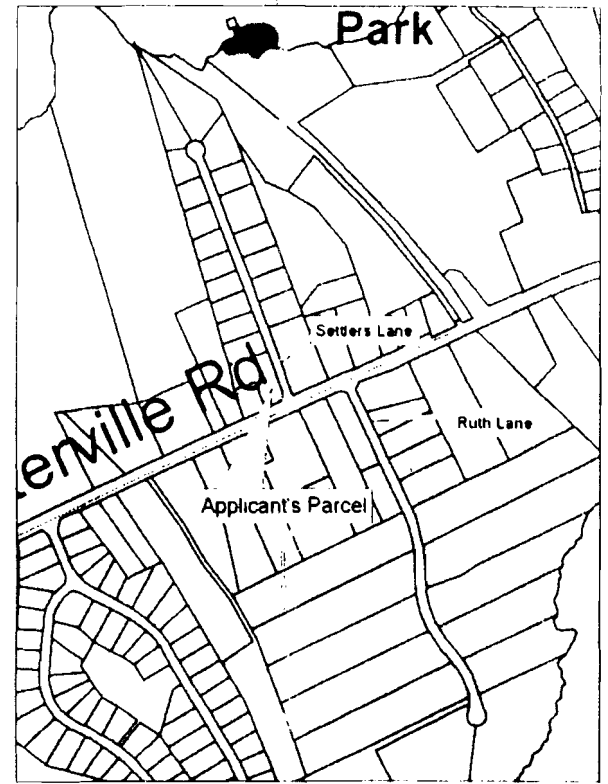
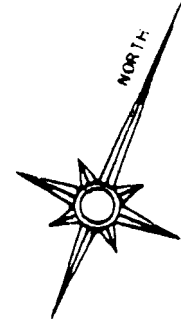
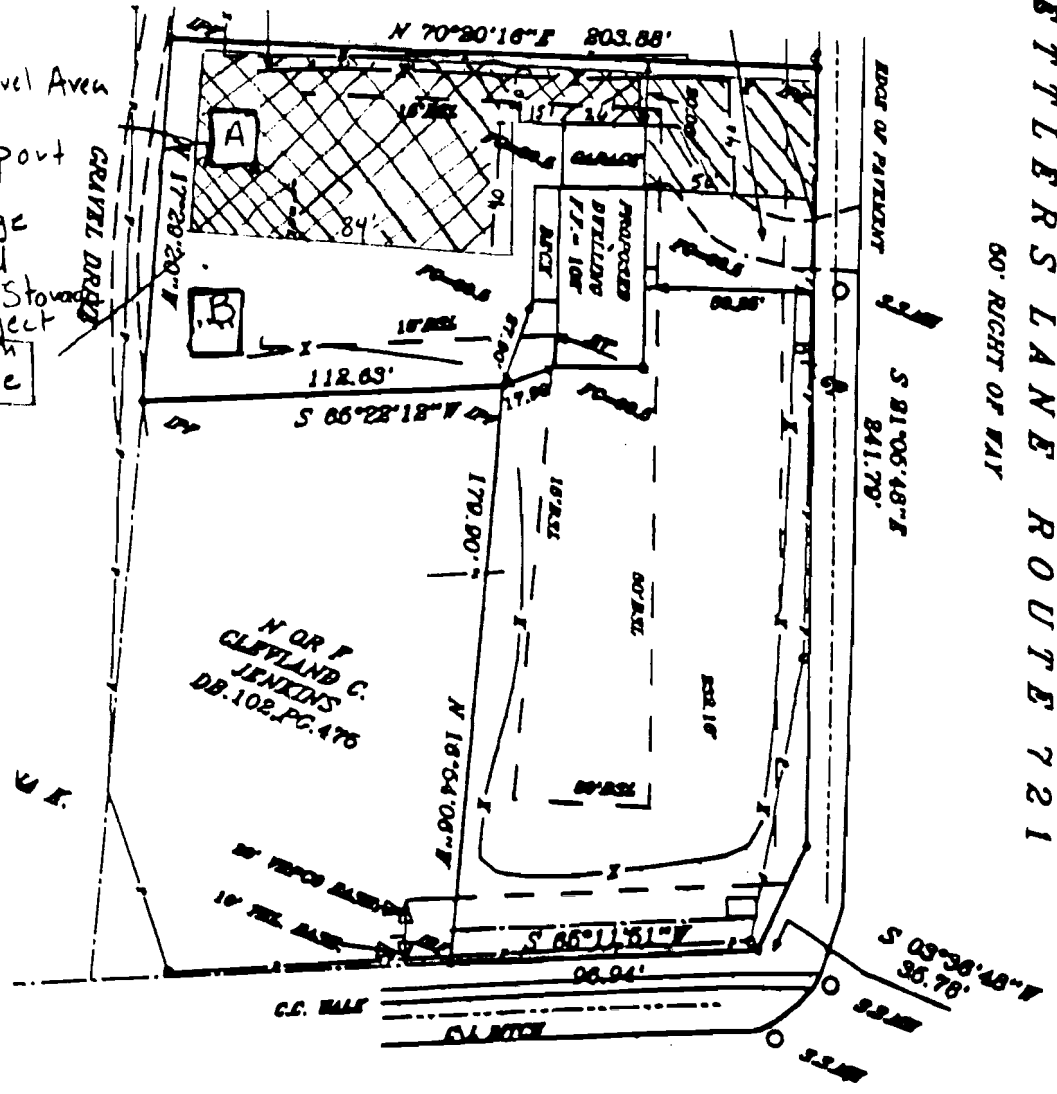


# Tiki Contracting Master Plan

1. Parcel is zoned A-1
2. Property is served by public water and sewer
3. Property is not in a RPA
4. Approx. total impervious cover associated with gravel is 7,860 square feet; approx 5,800 for "Driveway/Outside Storage" for Project.
5. Project is situated within subwatershed 105 of the Yarmouth Creek watershed.
6. Special stormwater criteria will apply to this project.

## Key

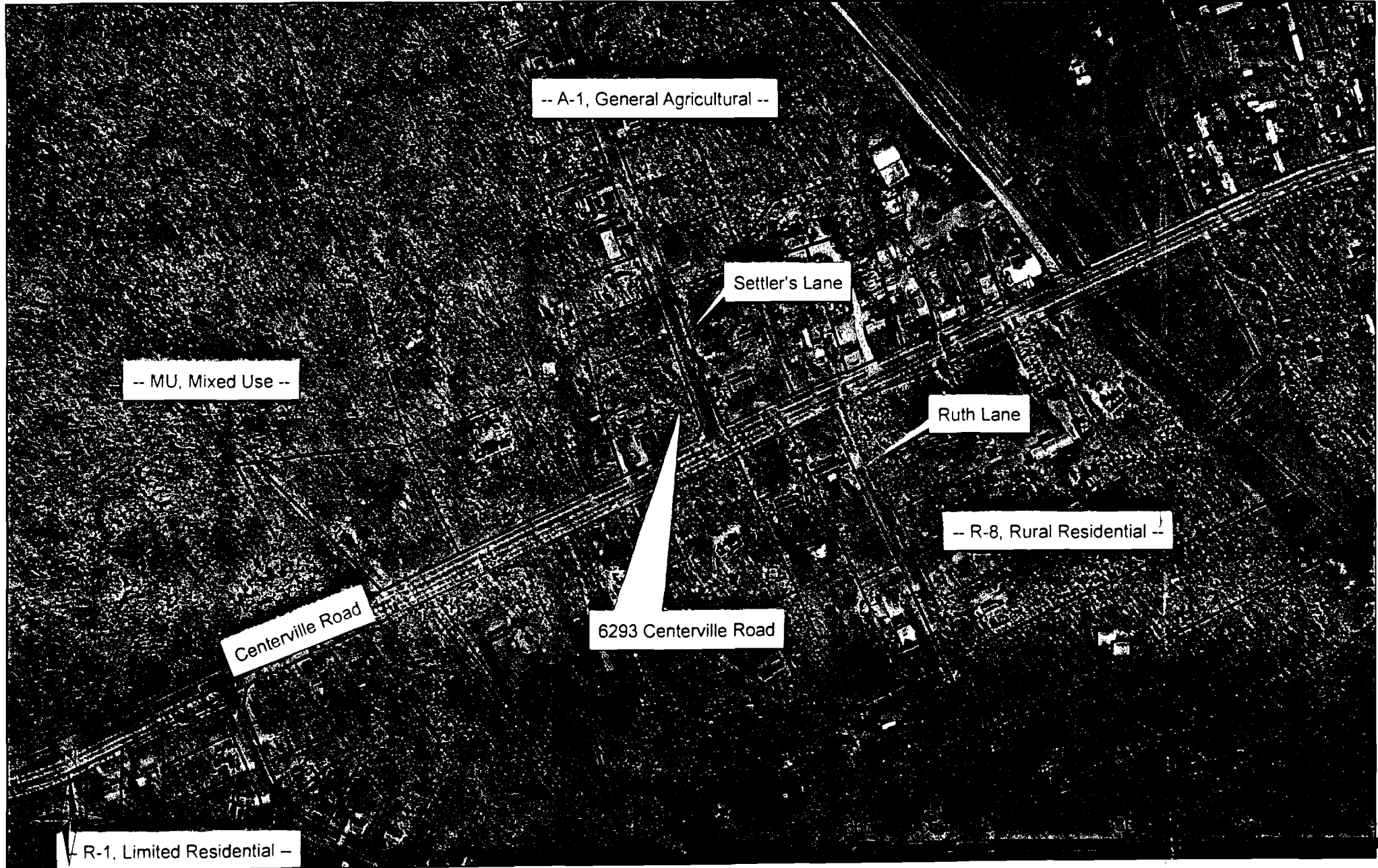
- [Hatched Box] = Existing Gravel Area
  - A = 18x21 ft. Carport
  - B = 10x26 ft storage shed
  - [Cross-hatched Box] Driveway/Outside Storage for Project
- Note: Dimensions shown are approximate



57 CENTERVILLE ROAD ROUTE 614 70' RIGHT OF WAY



# Tiki Climbing and Grinding





**REZONING-0007-2007. Powhatan Terrace  
MASTER PLAN-0005-2007. Powhatan Terrace  
SPECIAL USE PERMIT-0020-2007. Powhatan Terrace  
Staff Report for the October 3, 2007 Planning Commission Public Hearing**

---

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

---

**PUBLIC HEARINGS**

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

Planning Commission: October 3, 2007 7:00 p.m.  
Board of Supervisors: November 13, 2007 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant: Mr. Vernon Geddy, III on behalf of Associated Developers, Inc.

Land Owner: Investment Properties of Virginia, LLC

Proposal: The applicant has proposed to rezone three parcels of land to R-2, General Residential with a Cluster Overlay and to construct six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 dwelling units per acre.

Location: 1676 & 1678 Jamestown Road and 180 Red Oak Landing

Tax Map/Parcel Nos.: (47-3) (1-36), (47-3) (1-37) and (47-3) (1-39)

Parcel Size: 16.5 acres

Existing Zoning: LB, Limited Business (4.7 acres) and R-2, General Residential (11.8 acres)

Proposed Zoning: R-2, General Residential with a Cluster Overlay

Comprehensive Plan: Low Density Residential and Conservation Area

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends that the Planning Commission recommend approval of this project to the Board of Supervisors with the acceptance of the voluntary proffers.



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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water	\$844 per residential unit
CIP projects (including schools)	\$1,000 per residential unit
Schools only	\$4,870 per residential unit
<b>Total Amount (2007 dollars)</b>	<b>\$241,704</b>
<b>Total Per Unit</b>	<b>\$6,714</b>

### **PROJECT DESCRIPTION**

Mr. Vernon Geddy, III has applied on behalf of Associated Developers, Inc. to rezone approximately 16.5 acres located at 1676 & 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential to R-2, General Residential with a Cluster Overlay, with proffers. If approved, the developer will redevelop the property with six 2-story buildings containing a total of 36 townhouse units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest Jamestown Road are currently zoned LB, Limited Business and is currently vacant. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential and is currently undeveloped. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.18 units per acre. This figure of 2.18 is used to compare the density of this development against the low density residential standards of the Comprehensive Plan.

The Master Plan will bind the developer to the following key features of the development: total number of dwelling units; type of dwelling units, type and location of recreational amenities, open space, and LID sites. If the five buildings associated with this proposal contain a floor area that exceeds 30,000 square feet, the site plan will require development review committee review.

### **PUBLIC IMPACTS**

#### **Archaeology**

The County archeological policy is proffered

#### **Environmental**

**Watershed:** Powhatan Creek

#### **Proffers:**

- The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement, and enforce the program, which will apply to both any private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
- Development of a stormwater management plan is proffered with the use of low-impact development techniques utilized where feasible, in accordance with the Powhatan Creek Watershed Management (PCWM) Plan.
- The applicant has proffered to conduct a survey for rare, threatened, and endangered species on the

property prior to any land disturbing activity.

- The applicant has proffered to remove the existing underground storage tanks on the property in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.
- Each residential unit is proffered to be certified under the EarthCraft House Virginia certification process.

**Staff Comments:** Proposed revisions as indicated in the current Community Impact Statement (dated September 18, 2007), the revised proffers and revised master plan/concept drawings collectively have resulted in the Environmental Division having no further comment on the rezoning application in its current format. Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property. Staff has noted minor changes that can be addressed during the site plan development stage. Wetlands permits and Chesapeake Bay exceptions may be necessary for this project depending on the design.

### **Fiscal**

The applicant has indicated but not guaranteed (with the exception of 3 units) that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development. Adjusting for the average sales price of the units and the school expenditures on a per student basis, results in a positive revenue flow to the County of \$314 per unit per year.

#### **Proffers:**

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- A cash contribution of \$1,000 for each dwelling unit on the property shall be made to James City County to be used for CIP projects.

**Staff Comments:** Financial and Management Services has reviewed the Fiscal Impact Statement and concurs with the conclusion that, at build-out, the project would either break even or generate a modest positive fiscal impact.

### **Housing**

The applicant has indicated that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development.

#### **Proffers:**

- The applicant has proffered a minimum of three units shall be reserved and offered for sale at a sales price at or below \$195,000.

**Staff Comments:** Staff would prefer that the restricted units be offered for sale as affordable units as defined by the County by lowering the maximum sales price of these units.

### **Public Utilities**

#### **Proffers:**

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- Appropriate water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

**Staff Comments:** This site is served by public water and sewer. A preliminary water model will be completed and submitted to JCSA prior to or with the site plan for their approval.

**School Facilities**

**Proffer:**

- Total contributions of \$4,870 per residential unit are proffered to the County for each residential unit developed on the property.

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action number four 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. With respect to item (2), the County has identified methods for calculating cash proffer amounts for schools, recreation and water supply facilities.

Powhatan Terrace is located within the Rawls Byrd Elementary School, Berkeley Middle School and Lafayette High School districts. Under the proposed Master Plan, 36 units are proposed. Per the adequate public school facilities policy all special use permit or rezoning applications should meet the policy for adequate public school facilities. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg - James City County schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the following information is offered by the applicant:

School	Design Capacity	Effective Capacity	2005 Enrollment	Projected Students Generated	Enrollment + Projected Students
Rawls Byrd Elementary	638	524	850	2.6	853
Berkeley Middle	725	816	890	1.5	892
Lafayette High	1,250	1,230	1,702	1.9	1,704

Based on the information provided by the applicant, both design and effective capacities are exceeded at Rawls Byrd Elementary School, Berkeley Middle School and Lafayette High School. Although the design capacity of all three schools are clearly exceeded, the policy states that if physical improvements have been programmed through the County CIP then the application will meet the policy guidelines. A new middle school is scheduled to open in 2009; therefore staff believes this proposal meets the policy guidelines for the middle school level. Matoka Elementary School and Warhill High School opened in September 2007 and staff believes that with the opening of the eighth elementary school and third high school, this proposal meets the policy guidelines for the high school level.

Staff contacted the Williamsburg-James City County School district to obtain updated student enrollment figures for the three schools that would serve Powhatan Terrace. As of September 18, 2007 the student enrollment for the three schools was: Rawls Byrd Elementary – 469 students, Berkeley Middle School – 827 students, and Lafayette High School – 1,272 students.

## **Parks and Recreation**

### **Proffer:**

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

**Staff Comments:** The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail and a 2,500 square foot playground.

## **Transportation**

A traffic impact study was not required because the proposed project would not generate more than 100 peak hour trips. According to the trip generation rates, the proposed townhouse units will generate approximately 16 AM peak hour vehicle trips, approximately 19 PM peak hour vehicle trips and approximately 211 daily trips.

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

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

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

### **Proffers:**

- There will be one entrance into the property to and from Jamestown Road. The applicant has proffered a northbound left turn lane with a taper and transition and a southbound right turn taper at the entrance to the property. The turn lanes will be constructed in accordance with VDOT standards and shall be completed prior to the issuance any certificates of occupancy.

**VDOT Comments:** VDOT agreed on the technical merits of the study and the general conclusions after reviewing the Master Plan and the traffic impact analysis. Their preliminary analysis indicates that warrants for a left-turn lane will be marginal based on existing PM peak hour volumes on Jamestown Road. However, due to periodic heavy opposing volumes from the ferry operations to the north, VDOT recommends that a northbound left-turn lane at the site entrance be constructed. VDOT also recommends that all improvements at the site entrance shall incorporate the existing shoulder bike lane.

**Staff Comments:** Staff concurs with VDOT. Staff notes, however, that the new turn lane will have impacts on the appearance of Jamestown Road. Jamestown Road currently has sufficient capacity to accommodate the development west of Neck O'Land Road, with volumes ranging from 7,072 to 10,100 vehicles per day. However the section east of Neck O'Land Road is in the "watch" category due to projected volumes above the road's capacity. The Comprehensive Plan states that "Residential or commercial developments that add significant traffic along this corridor beyond that currently planned is strongly discouraged" in recognition that more intensive development will negatively impact all of Jamestown Road. Despite the site's LB and R-2 zoning, it was deliberately designated for low density residential use in the Comprehensive Plan due to traffic concerns on Jamestown Road. Staff believes that the intent of the Comprehensive Plan is to encourage developments that have less of a traffic impact than those uses permitted by existing zoning and more akin to the uses supported by the Low Density Residential land use description. Staff believes that one of the public benefits of this proposal will be the lessened volume of traffic created on Jamestown Road compared to the volume of traffic that may be generated by other potential uses on the property. Powhatan Terrace is predicted to produce 211 daily trips on Jamestown Road. By comparison, a by-right development consisting of 9,999 square feet of retail space and 11 single family dwelling units is predicted to produce up to 549 daily trips on Jamestown Road. If the property was designed to accommodate the

maximum Comprehensive Plan density of 4 dwelling units per acre, the site could generate up to 616 trips per day.

**COMPREHENSIVE PLAN**

**Land Use Map**

<p>Designation</p>	<p><i>Low Density Residential (Page 120):</i> Examples of acceptable land uses within the Low Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p><i>Conservation Area (Page 129):</i> Examples of preferred land uses within the Conservation Area designation include fish and game preserves, parks and other open space that complement the natural environment.</p> <p><b>Staff Comment:</b> The Comprehensive Plan identifies the land across from the Grace Covenant Baptist Church as an area which has inconsistencies between their Zoning and Land Use Map designations. These parcels include the site (partially zoned LB, Limited Business) and TK Oriental (zoned LB, Limited Business). The zoning was determined prior to or without recognition of the County’s Land Use Map. Unlike the zoning for these parcels, the Comprehensive Plan designation for these parcels was deliberate after considerable analysis. It recognizes adjacent land uses, traffic conditions, zoning and a variety of other considerations. Given the traffic concerns and the fact that this area is predominantly residential in character, the low density residential designation is appropriate for this are and should remain unchanged.</p>
<p>Development Standards</p>	<p><i>General Land Use Standard #1 (Page 134):</i> To permit new development only where such developments are compatible with the character of adjoining uses and where the impact of such new developments can be adequately addressed.</p> <p><i>General Land Use Standard #4 (Page 134):</i> To ensure protection of sensitive resources areas such as watersheds, historic, and archaeological resources, through the use of better site design, buffers and screening.</p> <p><i>General Land Use Standard #7 (Page 134):</i> Require underground utilities in new developments.</p> <p><i>Residential Land Use Standard #1 (Page 137):</i> Ensure that gross housing densities are compatible with the local environment, the scale and capacities of public services, facilities and utilities available or planned, and the character of development in the vicinity.</p> <p><i>Residential Land Use Standard #6 (Page 137):</i> Locate residential development on internal roads as both an aesthetic and safety measure.</p> <p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and the commercial development of TK Oriental. The front six acres of Raleigh Square has a density of 8.2 dwelling units per acre and contains 47 2-story attached units and 2 single family detached dwellings. Appropriate environmental and Community Character Corridor buffers have been provided with this application. All new utilities will be placed underground. The 11.8 acres currently zoned R-2, General Residential and the 4.7 acres currently zoned LB, Limited Business are both designated Low Density Residential on the Comprehensive Plan due to traffic concerns along this section of Jamestown Road.</p>
<p>Goals, strategies and actions</p>	<p><i>Strategy #2 (Page 138):</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development.</p> <p><i>Strategy #3 (Page 138):</i> Ensure that all land uses are located at appropriate sites in the Primary Service Area.</p> <p><i>Strategy #6 (Page 138):</i> Promote the use of land consistent with the capacity of existing and</p>

	<p>planned public facilities and services.</p> <p><i>Action #1 (Page 139):</i> Provide for low density and moderate density residential development in appropriate locations inside the Primary Service Area.</p> <p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and commercial development. The Powhatan Terrace property is located inside the PSA. The 11.8 acres currently zoned R-2, General Residential and the 4.7 acres currently zoned LB, Limited Business are both designated Low Density Residential on the Comprehensive Plan due to traffic concerns along this section of Jamestown Road.</p>
--	---

### Parks and Recreation

Goals, Strategies and Actions	<p><i>Strategy #9 (Page 39):</i> Encourage new developments to proffer neighborhood and park facilities and trails as outlined in the Parks and Recreation Master Plan.</p> <p><i>Action #4 (Page 39):</i> New development should dedicate right-of-way and provide sidewalks, bikeways, and greenway trails for both transportation and recreational purposes.</p> <p><b>Staff Comment:</b> The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail and a 2,500 square foot playground, which is consistent with the Parks and Recreation Master Plan.</p>
-------------------------------	---

### Environment

General	<p><i>Natural Resources Protection and Management, Powhatan Watershed Management Plan (Page 47) and Action #18 (Page 67):</i> To fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006</p> <p><b>Staff Comment:</b> Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property.</p>
Goals, strategies and actions	<p><i>Strategy # 1 (Page 65):</i> Utilize existing techniques and develop new regulations and non-regulatory techniques to preserve the County’s environmental quality.</p> <p><i>Strategy # 2 (Page 65):</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action # 5 ( Page 65):</i> Encourage the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs) to mitigate adverse environmental impacts by reducing the rate of increase of impervious cover.</p> <p><i>Action # 18 (Page 67):</i> Fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006.</p> <p><i>Action #23 (Page 67):</i> Encourage residential and commercial water conservation.</p> <p><b>Staff Comment:</b> Appropriate wetland buffers have been provided and there are several LID sites shown on the binding Master Plan. Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property. Water conservation standards have been proffered by the applicant.</p>

### Transportation

General	<p><i>Roadway Components of County Transportation Planning, Jamestown Road (Page 76):</i> Although traffic volume projections warrant the widening portions of Jamestown Road to a divided</p>
---------	--

	<p>four-lane, the Comprehensive Plan recommends that this road be maintained as a two-lane facility. Residential or commercial development that adds significant traffic along this corridor beyond that currently planned is strongly discouraged.</p> <p><b>Staff Comment:</b> The current proposal will produce an estimated 211 daily trips on Jamestown Road. This estimate is less than what may be produced with a by-right commercial development in conjunction with residential development on this property.</p>
Goals, strategies and actions	<p><i>Goal #2 (Page 80):</i> Ensure that the transportation system supports a land use pattern that is consistent with the Comprehensive Plan.</p> <p><i>Strategy #5 (Page 80):</i> Support the provision of sidewalks and bikeways in appropriate areas.</p> <p><i>Action #5 (Page 81):</i> Encourage land use densities, intensities, and development patterns that recognize the capacities, roadway functional classification, and scenic corridor designations of existing and proposed roads.</p> <p><i>Action #15 (Page 82):</i> Encourage the design of roads that allow automobiles, public transit, pedestrians, and bicyclists to coexist safely on roads and streets in residential and commercial areas.</p> <p><b>Staff Comment:</b> The Comprehensive Plan suggests that the Powhatan Terrace property be developed in accordance with the Low Density Residential standards due to traffic concerns along Jamestown Road. The bike lane along Jamestown Road will be worked into the design of any required road improvements to Jamestown Road and sidewalks will be constructed along the interior roads and along the Jamestown Road frontage.</p>

### Community Character

General	<p><i>Community Character Corridors (Page 84):</i> The Comprehensive Plan designates Jamestown Road as a Community Character Corridor, which are roads that promote the rural, natural or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of the area and believes these roads warrant a high level of protection. This section of Jamestown Road is considered a Suburban Community Character Corridor. The objective of this type of Community Character Corridor is to ensure that the County retains a unique character and does not become simply another example of standard development. The predominant visual character of the Suburban Community Character Corridor should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general and an emphasis on innovative design solutions. The scale and placement of buildings in relation to each other, the street and parking areas should be compatible. In these areas the Community Character Corridor designation suggests enhanced landscaping, preservation of specimen trees and shrubs, berming and other desirable design elements which complement and enhance the visual quality of the corridor.</p> <p><b>Staff Comment:</b> Staff believes the Master Plan and proffers for Powhatan Terrace will adequately protect the Suburban Community Character of Jamestown Road. A 150-foot wide Community Character Corridor buffers enhanced with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved and a streetscape package has been proffered to provide street trees. All new utilities will be placed underground and parking will be located behind the buildings, away from Jamestown Road. The turn lane and taper at the new entrance will widen the pavement along this section of Jamestown Road expanding the scale of the roadway from its current appearance.</p>
Goals, Strategies And actions	<p><i>Strategy # 2 (Page 95):</i> Ensure that development is compatible in scale, size, and location to surrounding existing and planned development.</p> <p><i>Strategy #3 (Page 95):</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area,</p>

<p>maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Strategy #6 (Page 95):</i> Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views.</p> <p><i>Action # 8 (Page 96):</i> Continue to require or encourage the planting of street/curb side streets.</p> <p><i>Action #11 (Page 96):</i> Continue to require underground utilities in all new developments.</p> <p><i>Action #24b (Page 97):</i> Maintain the small town, rural, and natural character by encouraging new developments to employ site and building design techniques that reduce their visual presence and scale. Design techniques include berms, buffers, landscaping and low visibility parking locations.</p> <p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and commercial development. A 150-foot wide Community Character Corridor buffers enhanced with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved and a streetscape package has been proffered to provide street trees. All new utilities will be placed underground and parking will be located behind the buildings, away from Jamestown Road.</p>
---

**Comprehensive Plan Staff Comments**

According to the 2003 Comprehensive Plan, low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development and the degree to which the development is consistent with the Comprehensive Plan. The Comprehensive Plan states, “In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community... Depending on the extent of the benefits, developments up to four units per acre will be considered for a special use permit”. The R-1, Limited Residential, R-2, General Residential and the Residential Cluster Development Overlay districts of the Zoning Ordinance specially permit developments with densities greater than one dwelling unit per acre. They are also the only zoning districts that specifically mention the benefits that must be provided in order to achieve densities up to four units per acre.

Staff believes that the proposed master plan with a gross 2.18 dwelling units per acre offers sufficient public benefits, such as lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County’s Archeology Policy, implementation of the County’s Natural Resource Policy, and implementation of the County’s Streetscape Guidelines to warrant a density greater than one unit per acre. The project will also remove the underground storage tanks on site.

While the Comprehensive Plan uses gross acreage to calculate density, the applicant has also provided density calculations for this project with the removal of the land designated as Conservation Area on the Comprehensive Plan. There are 6.3 acres of land designated as Conservation Area, which when removed, leads to a density of 3.53 dwelling units per acre. It should be noted that this density calculation was requested of staff for comparison purposes only.

In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a SUP for residential cluster developments of more than two units per acre, but no more than three units per acre if the



developer provides the following *with staff comments in bold italics*:

1. Implementation of the County's Streetscape Guidelines, ***which has been proffered for Powhatan Terrace.***
2. Implementation of the County's Archaeological Policy, ***which has been proffered for Powhatan Terrace.***
3. Provision of sidewalks along one side of all internal streets, ***which has been proffered for Powhatan Terrace.***
4. Provision of recreation facilities in accordance with the County's Parks and Recreation Guidelines, ***which has been proffered for Powhatan Terrace.***
5. Implementation of the County's Natural Resource Policy, ***which has been proffered for Powhatan Terrace.*** Additionally, the Department of Conservation and Recreation has searched its Biotics Data System for occurrences of natural resources on the property associated with this application. Due to the scope of the activities and the distances to the resources, the Department of Conservation and Recreation does not anticipate that Powhatan Terrace will adversely impact known natural heritage resources in the project area.
6. Provision of pedestrian and/or bicycle trails; ***which have been proffered for Powhatan Terrace.***
7. Construction of curb and gutter design on all streets within the development; ***which has been proffered for Powhatan Terrace.*** This requirement may be waived or modified by the Planning Commission along those segments of road, including the entrance road, where structures are not planned.

In summary, staff believes Powhatan Terrace meets the criteria of the Cluster Overlay District to achieve the requested densities.

#### **RECOMMENDATION**

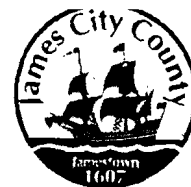
Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends that the Planning Commission recommend approval of this project to the Board of Supervisors with the acceptance of the voluntary proffers.

---

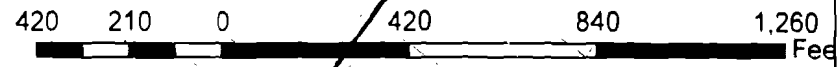
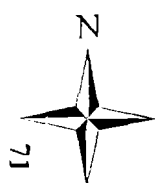
Matthew J. Smolnik

#### **ATTACHMENTS:**

1. Location Map
2. Master Plan dated September 18, 2007
3. Community Impact Statement dated September 18, 2007
4. Proposed Building Elevations dated September 14, 2007
5. Proffers



# Powhatan Terrace



**SPECIAL USE PERMIT CASE NO. SUP-0027-2007/MP-0008-2007 Freedom Park Master Plan Amendment**

**Staff Report for the October 3, 2007 Planning Commission Public Hearing**

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

---

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

Planning Commission: October 3, 2007 7:00 PM  
Board of Supervisors: November 13, 2007 (tentative) 7:00 PM

**SUMMARY FACTS**

**Applicant:** Mr. John Carnifax, James City County Parks and Recreation

**Land Owner:** James City County

**Proposal:** To amend existing SUP-0011-2004 and MP-0003-2004 to remove approximately 90 acres in order to accommodate a proposed combined public middle and elementary school and associated fields. The area to be removed is on the southeast side of Jolly Pond Road, and is approximately 1,000 feet west of Jolly Pond's intersection with Cranston's Mill Pond Road.

**Location:** 5537 Centerville Road

**Tax Map/Parcel:** 3010100009

**Parcel Size:** 689+/- acres

**Existing Zoning:** PL, Public Land

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

**Primary Service Area:** Outside

**STAFF RECOMMENDATION**

Staff finds the proposal, with the amended conditions, 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 the Planning Commission recommend approval of the special use permit/master plan application for Freedom Park with the amended conditions to the Board of Supervisors.

Staff Contact: Leanne Reidenbach, Planner Phone: 253-6685

## PROJECT DESCRIPTION

Mr. John Carnifax of James City County Parks and Recreation has applied for an amendment to the existing Freedom Park Special Use Permit and Master Plan to remove approximately 90 acres in order to accommodate a proposed combined public middle and elementary school and associated fields. Other minor changes in the location of facilities are proposed, including the relocation of some hiking trails and the grouping of sport courts. All these uses were approved under the original SUP and are only being moved. The property is located at 5537 Centerville Road and can be further identified as JCC Real Estate Tax Map 3010100009. The area to be removed is on the southeast side of Jolly Pond Road, and is approximately 1,000 feet west of Jolly Pond's intersection with Cranston's Mill Pond Road.

A Special Use Permit is required for this proposal because it requires changing a condition that was placed on the park's original Special Use Permit to operate in an A-1, General Agricultural District (and now in a PL, Public Land District) and a Master Plan is required as it proposes the removal of a portion of the Park plan previously designated for unprogrammed open space, hiking trails, and road connection. As shown on the revised master plan, the removal will still allow the County to retain a variable width (between 50 and 70 feet) strip of land from Freedom Park, running along parcel 3020100003, to connect to the "dog leg" fronting on Jolly Pond Road. This area may be used as a trail connection to the schools and Freedom Park in the future.

## PUBLIC IMPACTS

### Environmental

**Watershed:** Gordon Creek  
**Staff Comments:** The Environmental Division has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

### Public Utilities

Freedom Park is located outside of the Primary Service Area, though the portion to be used for this school site will be served by public water and sewer. An SUP for the utility extension will be submitted for review at an upcoming public hearing.

**Staff Comments:** The James City County Service Authority has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

### Transportation

While the joint school site will generate additional traffic impacts, they will not be addressed with this application to remove the site from the Freedom Park Master Plan.

**2005 Traffic Counts (Centerville Road):** From Route 60 to Ruth Lane there were 10,364 trips. From Jolly Pond Road to Forest Glen there were 8,935 trips.

**2026 Volume Projected:** From the Route 60 interchange to Longhill Road there is the projection of 15,000 trips. This portion of Centerville Road is listed in the "watch" category.

## COMPREHENSIVE PLAN

### Land Use Map

Designation	Park, Public, or Semi-public Open Space (Page 129): Land included in this designation generally consists of large, undeveloped areas owned by institutions or the public. Areas typically serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.
	<b>Staff Comment:</b> While land is proposed for removal from an existing park, the area will

instead be used to provide land for a joint middle and elementary school. The location of the schools site was chosen due to its ability to serve a need within the community for a facility close to the population in this area. For the purpose of a public use, this large, County-owned site provides a better opportunity to meet community needs than any available parcel in the area within the Primary Service Area.

Along with this use, several athletic facilities will be provided, including 2 gymnasiums, multiple ball and multi-use fields, play areas, and an outdoor environmental study area. These facilities will be used to serve the active recreation needs of the community at-large. Given this trade off, staff believes that the removal of this portion of parkland meets the intent of the Comprehensive Plan Land Use designation.

While the Comprehensive Plan does not suggest that such facilities be developed outside the Primary Service Area (PSA), Strategy #2 stresses that the location of new public facilities should be close to the greatest number of people served, and located so that accessibility is maximized with minimum neighborhood effects. The Comprehensive Plan also stresses the need for construction of public facilities in a timely manner to meet the needs of the County. A public elementary and middle school is needed in this area of the County in order to meet current demand. Additionally, the James City County Board of Supervisors reviewed a number of sites in and outside of the PSA and chose this site as best meeting all of the criteria for construction of the ninth elementary and fourth middle school. As stated above, the site has also been designed in order to provide additional fields and play areas that can jointly be used by Parks and Recreation.

### **Comprehensive Plan Staff Comments**

Overall, staff feels that this application, as proposed, is generally in compliance with the Comprehensive Plan. The removal of this portion of Freedom Park from the Master Plan is essential to the development of the fourth middle school/ninth elementary school site. The James City County Board of Supervisors reviewed a number of sites in and outside of the PSA and chose this site as best meeting all of the criteria for school construction. Additionally, the school will provide for other recreation needs for the community, including lighted fields, play areas, and an environmental study area.

### **RECOMMENDATION**

Staff finds the proposal, with the amended conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Please note that the conditions have been restated from the original SUP to ease future plan review. The only conditions that have been altered are #1 (to reference the new Master Plan date) and #5 (to require the traffic study within 3 years of the date of approval of SUP-0011-2004, July 27, 2004). If the date for condition #5 had not been altered, approval of this SUP would require the applicant to submit a traffic study by 2010. The traffic study is currently in the process of being reviewed by staff so it would be unnecessary to further extend the submittal date. These changes are bolded and italicized in the below list of conditions. Staff recommends the Planning Commission recommend approval of the special use permit/master plan application for Freedom Park to the Board of Supervisors with the following amended conditions:

1. Development of the site shall be generally in accordance with the ***Freedom Park Master Plan dated 9/14/07*** with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Prior to issuance of a land disturbance permit for any portion of the site, the applicant shall provide written evidence to the County which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
3. A minimum 150-foot buffer shall be maintained along all property lines of the park site. That buffer shall remain undisturbed with the exception of breaks for roadways and pedestrian connections, utilities, and walking, hiking, and biking trails. Other uses not previously listed which are

specifically approved by the Development Review Committee may also be permitted within the buffer.

4. All road improvements recommended by a traffic study conducted by Buchart-Horn, Inc., in January 2000 shall be constructed in accordance with development plans approved by the Virginia Department of Transportation (VDOT).
5. The applicant shall submit a traffic impact study to the County within three years of the date of approval of *SUP-0011-2004 (approved July 27, 2004)*, unless a study is required by VDOT prior to that date. VDOT shall have the authority to delay requiring the traffic study to be submitted beyond the three-year time period if construction of the proposed facilities at Freedom Park occurs at a slower pace than expected.
6. The applicant shall conduct a perennial stream evaluation and receive approval from the Environmental Director prior to preliminary site plan approval being granted for any of the following uses proposed for the site: Historical areas 1, 2, and 3; Active recreation area; “Hotwater Lake” as shown; and the Environmental Education Center. If perennial streams are present on the site, a 100-foot buffer will be required around them and any wetlands contiguous and connected by surface flow to the stream.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

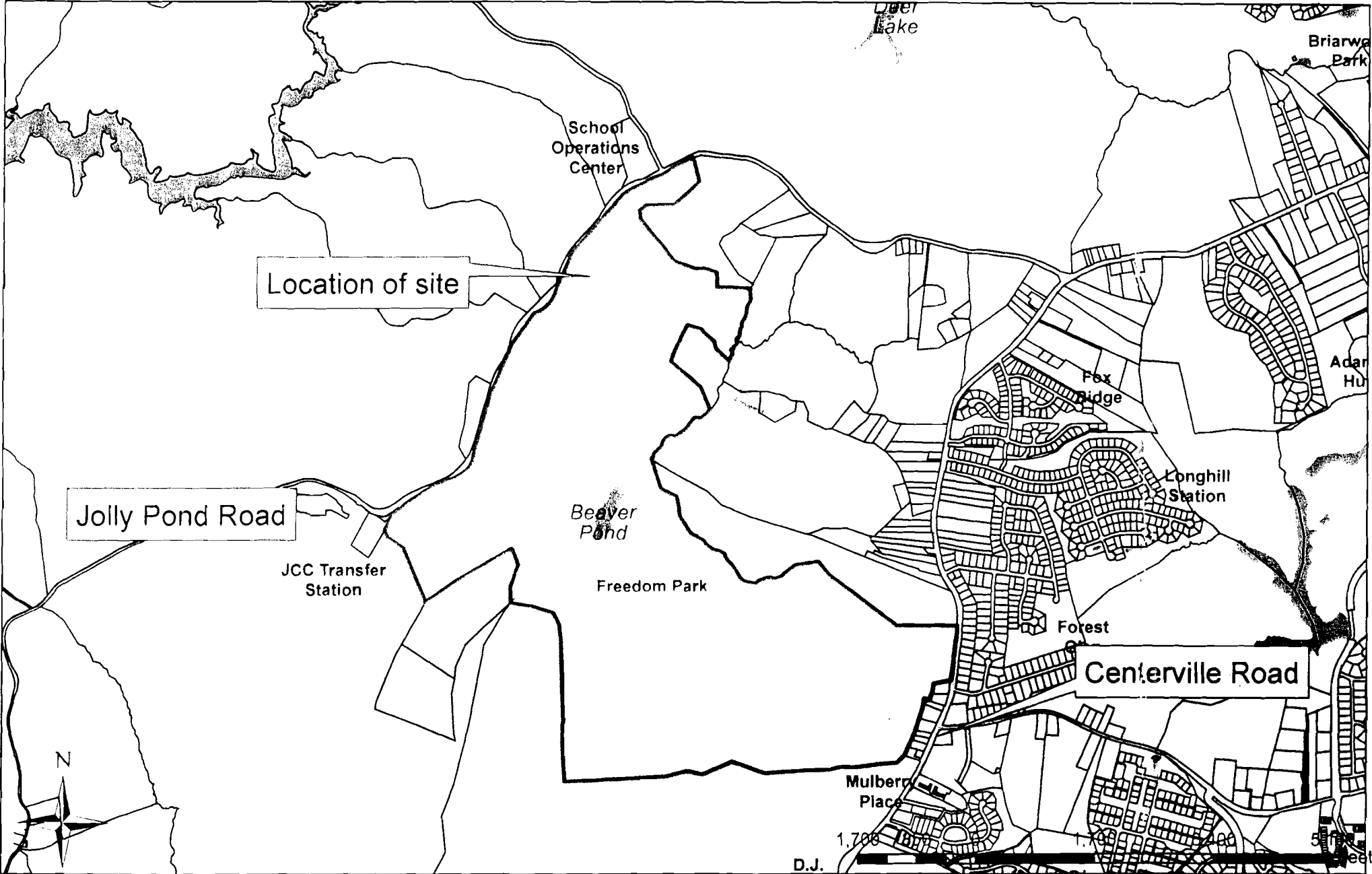
---

Leanne Reidenbach, Planner

ATTACHMENTS:

1. Location Map
2. Master Plan (dated 9/14/07)

# JCC-SUP-0027-2007/MP-0008-2007 Freedom Park Master Plan Amendment



**SPECIAL USE PERMIT CASE NO. SUP-0024-2007 9<sup>th</sup> Elementary School and 4<sup>th</sup> Middle School Staff Report for the October 3, 2007 Planning Commission Public Hearing**

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

**PUBLIC HEARINGS**

**7:00 p.m.; Building F Board Room; County Government Complex**

Planning Commission:

October 3, 2007

7:00 PM

Board of Supervisors:

November 13, 2007

7:00 PM (tentative)

**SUMMARY FACTS**

**Applicant:**

Mr. James Peters, AES Consulting Engineers

**Land Owner:**

James City County

**Proposal:**

To construct a joint elementary school, middle school, and associated facilities.

**Location:**

A portion of 5537 Centerville Road on the southeast side of Jolly Pond Road.

**Tax Map/Parcel**

3010100009

**Parcel Size**

90+/- acres

**Existing Zoning:**

PL, Public Land

**Comprehensive Plan:**

Park, Public, or Semi-Public Open Space

**Primary Service Area:**

Outside

**STAFF RECOMMENDATION**

Staff finds the proposal, with the attached conditions, to be generally consistent with surrounding land uses, and because it is a public use site, generally consistent with the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of the special use permit application to the Board of Supervisors with the attached conditions.

Staff Contact:

Leanne Reidenbach, Planner

Phone: 253-6685



## **Project Description**

Mr. James Peters of AES Consulting Engineers has applied on behalf of James City County, for a Special Use Permit to allow for joint elementary and middle school, parking, and athletic fields, on approximately 89 acres of land, on a parcel zoned PL, Public Land. The parcel is located on a portion of 5537 Centerville Road, which is located on the southeast side of Jolly Pond Road, and is approximately 1,000 feet west of Jolly Pond Road's intersection with Cranston's Mill Pond Road. It can further be identified as JCC RE Tax Map No. 3010100009. The site is shown in the Comprehensive Plan as Park, Public, or Semi-Public Open Space.

## **Surrounding Zoning and Development**

The parcel is zoned PL and designated as Park, Public, or Semi-Public Open Space on the 2003 Comprehensive Plan Land Use Map. The project site is surrounded to the north, north-east, and west by parcels zoned A-1, General Agriculture, which include a variety of uses including residential and the School Operations building. Freedom Park, zoned PL, Public Land, is adjacent to the project site to the south and south-west and a small portion of the Park is immediately adjacent to the site to the north. All of the surrounding parcels are designated Rural Lands, with the exception of Freedom Park which is designated Park, Public, or Semi-Public Open Space on the Comprehensive Plan.

## **PUBLIC IMPACTS**

### **1. Environmental Impacts**

**Watershed:** Gordon Creek

**Conditions:**

- **Special Stormwater Criteria:** the Structural Component of Special Stormwater Criteria (SSC) as adopted by the County in the Powhatan and Yarmouth Creek watersheds shall apply to this project. This will require the installation of a minimum of seven (7) measures to include, but not be limited to, infiltration trenches, bio-retention cells, dry swales, manufactured BMP's, and similar items related primarily to recharge and water quality. The owner shall demonstrate the application of SSC on development plans to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval.
- **Stormwater Attenuation:** Attenuation in all proposed stormwater management BMPs shall be provided in a way to ensure that post-development stormwater flows do not exceed pre-development flows and have not been exceeded for storms of intensities up to and including the 100-year event. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final plan of development approval. This requirement does not eliminate the need to satisfy the James City County Stream Channel Protection Criteria of 24-hour attenuation of the runoff volume for the 1-year storm event.
- **Nutrient Management Plan:** The owner 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, a nutrient management plan (the "Plan") for all common areas and athletic fields within the Property. The Plan shall be reviewed and approved by the County's Environmental Division Director prior to the issuance of any Certificate of Occupancy. Upon approval, the owner shall be responsible for ensuring that any nutrients applied to the Property be applied in strict accordance with the Plan.

**Environmental Staff Conclusions:** The Environmental Division has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

## 2. Public Utilities

The site is located outside the Primary Service Area, but will be served by public water and sewer extensions. The routes are still under consideration but will be brought forward as a separate SUP at an upcoming public hearing.

### Conditions:

- **Water Conservation:** The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the “JCSA”) prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
- **Irrigation:** If the Williamsburg-James City County School Board desires to have outdoor watering of fields, it shall provide water for irrigation utilizing surface water collection from surface water ponds and shall not use JCSA water or well water for irrigation purposes, except as provided below. Upon written application and finding that there is insufficient surface water for irrigation, the JCSA General Manager may approve the installation of irrigation wells to a depth no greater than 100 feet.

**JCSA Staff Conclusions:** The James City County Service Authority has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

## 3. Traffic

The applicant submitted a traffic impact analysis prepared by DRW Consultants and titled “Traffic Analysis for Jolly Pond Schools.” The consultant looked at traffic generation using the ITE manual for Elementary Schools and Middle/Junior High Schools. The schools are planned to begin and end at offset hours, resulting in different peak hours for each as follows: middle school AM peak hours are between 7 and 8 and PM peak hours between 2:15 and 3:15, elementary school AM peak hours are between 8 and 9 and PM peak hours between 3:15 and 4:15. Since the trip generation for both AM and PM total peak trips was higher for the middle school than for the elementary school and since both schools are planned to begin and end at offset times, the middle school traffic generation numbers were used for the analysis as the “worst case scenario.” The consultant then compared the ITE generation numbers to 2005 actual traffic generation numbers for Berkeley Middle School. These actual counts showed higher trip generation than the ITE manual so those were then adjusted based on projected capacity of the Jolly Pond schools and used to determine traffic generation. Through this analysis, it was determined that there would be 530 total AM peak hour trips and 272 total PM peak hour trips generated.

Using 2002 traffic count data, the consultant determined that the Jolly Pond Road eastbound approach to Centerville Road is currently operating at a LOS “B” for 2002 and is projected to operate at a LOS “C” in 2012 with background traffic only. While the traffic generation specific to approved developments in the area was not included, the consultant used a growth factor of 1.6 to adjust background levels of traffic to incorporate current and future development that could also influence the LOS of this intersection. With the addition of projected traffic from the proposed schools and the addition of all recommended traffic improvements (northbound left turn lane and southbound right turn lane on Centerville Road and a right

turn lane on Jolly Pond Road) the LOS for that intersection drops to an “F” for the 2012 AM peak hour and a LOS “C” for the 2012 PM peak hour. The LOS F for the 2012 AM peak hour appears to be a result of the left turn movement from eastbound Jolly Pond Road, and would only be an issue during a limited time window related to parent and bus drop off. Given that this particular movement is a significant cause of the low level of service staff is still evaluating appropriate intersection improvements.

Kimley-Horn and Associates (KHA) was retained to conduct a third-party review of the submitted traffic study. KHA noted the following improvements as likely needing to be addressed: retention of existing shoulder bike lane to VDOT standards along Centerville Road (Route 614); full width right turn lane and taper on southbound Centerville Road (Route 614); full width left turn lane and taper on northbound Centerville Road (Route 614); full width right turn lane on eastbound Jolly Pond Road (Route 611) at its intersection with Centerville Road (Route 614); and full width left turn lane and taper on westbound Jolly Pond Road (Route 611) at its intersection with the shared parking lot driveway. KHA has also requested additional information about the need for a left turn lane into the bus loop and about the Cranston’s Pond/Jolly Pond Road intersection. It was their conclusion that the 2002 turn movement volumes indicated that both the exclusive left-turn and exclusive right-turn lanes on Centerville Road were warranted at that time. They also anticipate that existing 2007 traffic volumes would reflect similar findings and that the Centerville Road improvements are necessary to address existing operational deficiencies at the intersection unrelated to the additional proposed school traffic. The addition of the school and associated bus and vehicular traffic is anticipated to exacerbate these existing conditions by increasing the current delays and the queuing length.

Given that the Centerville Road/Jolly Pond Road intersection improvements are related to existing deficiencies, and that a significant cause of the need for some of the improvements is a result of a very specific circumstance (parent and bus drop off in the AM peak hour), staff from the County and from Williamsburg-James City County Schools are looking into the extent of the required improvements in greater detail. Staff has placed a condition on this SUP which specifies additional traffic analysis for the site to identify the most efficient way of accomplishing the needed improvements in terms of phasing and timing. Concurrent with these analyses will be an evaluation of funding options and an examination of what, if any, items would be best addressed through the County’s six year secondary roads plan, which is amended and adopted every year. Please note that this condition would not exempt the County and Schools from addressing needed improvements, and that the condition requires installation or bonding of the improvements prior to a final certificate of occupancy for the school.

**2005 Traffic Counts (Centerville Road):** From Route 60 to Ruth Lane there were 10,364 trips. From Jolly Pond Road to Forest Glen there were 8,935 trips.

**2026 Volume Projected:** From the Route 60 interchange to Longhill Road there is the projection of 15,000 trips. This portion of Centerville Road is listed in the “watch” category.

#### **Conditions:**

- Signal Warrant Analysis. The owner shall submit a signal warrant analysis (the “Analysis”) to the County within three years of the approval date of this application, unless an analysis is required by VDOT prior to that date. The Analysis shall be reviewed and approved by VDOT and the owner shall implement all improvements recommended by the Analysis.
- Traffic Analysis and Road Improvements: An additional traffic analysis to confirm necessary improvements and address appropriate phasing and timing of such improvements shall be completed and submitted to the County and to VDOT for review and approval prior to final site plan approval. Improvements confirmed by the traffic analysis shall be installed or guaranteed by James City County, and the appropriate right of way dedicated to VDOT, prior to issuance of a certificate of occupancy for any structure on the site.

**VDOT Conclusions:** The traffic study is currently under review by VDOT. Comments have not yet been received; however, staff anticipates receiving these comments prior to the date of the meeting. Additional traffic considerations are discussed in the Comprehensive Plan section of the report below.

**Comprehensive Plan**

**Land Use Map**

Designation	<p>Park, Public, or Semi-public Open Space (Page 129): Land included in this designation generally consists of large, undeveloped areas owned by institutions or the public. Areas typically serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.</p> <p><b>Staff Comment:</b> While the proposal’s school component is not consistent with this designation, it also contains numerous associated athletic fields and play areas, which will be open to public use, which are consistent with the designation. Additionally, as a further educational resource, an outdoor environmental study area has been proposed as part of the development of the schools. As this is proposed as a joint facility, the Comprehensive Plan recommends a minimum combined site size of 50 acres, 20 for the elementary school and 30 for the middle school. In actuality, public elementary and middle schools require considerably more acreage in terms of developable land in order to fit all of the necessary elements onto the site. Many of the elementary schools in the County have sites of between 30 and 40 acres of land and Toano Middle School is situated on 35 acres.</p>
Development Standards	<p><i>General Standard #1-Page 134:</i> Permit the location of new uses only where public services, utilities, and facilities are adequate to support such uses. The need for public services and facilities generated by a development should be met or mitigated by that development.</p> <p><i>General Standard #4-Page 134:</i> Protect environmentally sensitive resources including... archaeological resources... by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers and screening to adequately protect the resource.</p> <p><i>General Standard #6-Page 135:</i> Provide for ultimate future road, bicycle and pedestrian improvement needs and new road locations through the reservation of adequate right-of-way, and by designing and constructing roads, drainage improvements, and utilities in a manner that accommodates future road, bicycle, and pedestrian improvements.</p> <p><b>Staff Comment:</b> The location of the schools site was chosen due to its abilities to serve a need within the community for a facility close to the population in this area. For the purpose of a public use, this large, County-owned site provides a better opportunity to meet community needs than any available parcel in the area within the Primary Service Area.</p> <p>A 50 foot right-of-way buffer, including enhanced landscaping with over 50% evergreen plantings (see condition #8), will be provided along Jolly Pond Road to mitigate the impacts of necessary grading. The building is also conditioned to be of a natural color to better blend in with its surroundings. The applicant will also be required through condition #2 to conduct an archaeological survey of the property to ensure that no resources are lost. Several pedestrian connections are proposed between uses on the site, and the potential exists for tie in to future Parks and Recreation trails through Freedom Park. Additionally, shoulder bike lanes will be retained along the intersection of Centerville and Jolly Pond post-improvement.</p>
Goals, strategies and actions	<p><i>Strategy #3-Page 138:</i> Ensure that all land uses are located at appropriate sites in the Primary Service Area (PSA)...</p> <p><i>Strategy #4-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities</p>

	through buffers, access control, and other methods.
	<b>Staff Comment:</b> While the site is outside of the Primary Service Area (PSA), utilities are planned to be extended to the schools. This extension will require a special use permit, which will be reviewed by the Planning Commission and Board of Supervisors at an upcoming meeting. A condition will be added to that special use permit to limit connection to the service which will reduce the impact that this project has on lands outside of the Primary Service Area. The school site is generally consistent with the School Operations Center across the street. While not immediately adjacent, the JCC Solid Waste Transfer Station is also located approximately ¾ of a mile farther down Jolly Pond Road. Most of This distance is entirely wooded and provides an adequate screen from the school site. Since the majority of the school site is bordered by Freedom Park, there will be significant County-owned wooded buffers. In an effort to reduce the potential for internal traffic congestion, access to the schools has been spread out to three entrances, one bus entrance per school and a joint visitor/staff/drop-off lot. Staff believes multiple entrances to the site are necessary due to its size and use.

### Public Facilities

Goals, strategies and actions	<p><i>Strategy #2-Page 31:</i> Locate new facilities to provide convenient service to the greatest number of County residents or service consumers.</p> <p><i>Strategy #4-Page 31:</i> Design facilities to accommodate future expansion.</p> <p><i>Strategy #5-Page 32:</i> Design facilities to allow for maximum site utilization while providing optimum service to, and compatibility with, the surrounding community.</p> <p><i>Strategy #7-Page 32:</i> Encourage development of facilities within the Primary Service Area (PSA) as defined on the Comprehensive Land Use Map.</p> <p><i>Action #3c-Page 32:</i> Construct new facilities consistent with projected anticipated needs and County capabilities continuing to encourage full utilization including joint use by different County and other public agencies.</p> <p><i>Action #5-Page 32:</i> Apply acceptable zoning, land use, and other adopted county criteria when evaluating public facility sites and uses.</p>
	<p><b>Staff Comment:</b> While the Comprehensive Plan does not suggest that such facilities be developed outside the Primary Service Area (PSA), Strategy #2 stresses that the location of new public facilities should be close to the greatest number of people served, and located so that accessibility is maximized with minimum neighborhood effects. The Comprehensive Plan also stresses the need for construction of public facilities in a timely manner to meet the needs of the County. A public elementary and middle school is needed in this area of the County in order to meet current demand. Additionally, the James City County Board of Supervisors reviewed a number of sites in and outside of the PSA and chose this site as best meeting all of the criteria for construction of the ninth elementary and fourth middle school. The site has also been designed in order to provide additional fields and play areas that can jointly be used by Parks and Recreation. Please see Parks and Recreation section below for additional discussion. Finally, both schools have been designed and oriented on the site in a way that allows wings of the school to be expanded should the need arise.</p>

### Parks and Recreation

Goals, strategies and actions	<p><i>Goal #1-Page 39:</i> Provide a range of recreational facilities and activities that are appropriate and adequate in number, size, type, and location to accommodate the needs of all County residents.</p> <p><i>Strategy #4-Page 39:</i> Continue to pursue more efficient utilization of athletic facilities between the Williamsburg-James City County Public Schools and the Parks and</p>
-------------------------------	--

	<p>Recreation Division.  <i>Action #14-Page 40:</i> Develop community parks in conjunction with new school development whenever possible.</p> <p><b>Staff Comment:</b> One of the main reasons this site was chosen was because of its large availability for playing fields and accessory play areas for the community. There are a total of 5 multi-use fields, 3 ball fields, 6 multi-use play areas, and gymnasium included with this proposal. Additionally, some fields are proposed to be lighted in order to serve County needs for evening games. Finally, shoulder bike lanes along Centerville will be maintained throughout required road improvements. This site, as a public use, meets not only the public school’s ability to meet a need, but also Parks and Recreation’s ability to meet the community’s need for additional recreation fields.</p>
--	---

**Environment**

<p>Goals, strategies and actions</p>	<p><i>Goal #5-Page 65:</i> Protect the availability, quantity, and quality of all surface and groundwater resources.  <i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.  <i>Action #2-Page 65:</i> Continue to develop and enforce zoning regulations and other County ordinances that ensure the preservation to the maximum extent possible of rare, and threatened and endangered species, wetlands, flood plains, shorelines, wildlife habitats, natural areas, perennial streams, groundwater resources, and other environmentally sensitive areas.  <i>Action #3-Page 65:</i> Ensure that development projects, including those initiated by the County, are consistent with the protection of environmentally sensitive areas and the maintenance of the County’s overall environmental quality.  <i>Action #5-Page 66:</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMP’s) to mitigate adverse environmental impacts.  <i>Action #12-Page 66:</i> Encourage the development of educational and passive recreational facilities which provide access to special environmental and historical areas.  <i>Action #22-Page 67:</i> Promote the use of LEED “green-building” techniques as a means of developing energy and water efficient buildings and landscapes.  <i>Action #23-Page 67:</i> Encourage residential and commercial water conservation, including the reuse of grey water where appropriate.</p> <p><b>Staff Comment:</b> An environmental inventory has been conducted for the site to identify important areas that merit protection. The Department of Conservation and Recreation was also consulted regarding potential impacts of the project and their recommendation of a habitat study for Virginia least trillium, a ‘species of concern’ is currently being implemented. In terms of site protection, the middle and elementary schools have been jointly located on the same site, thus minimizing impacts if they were on two different sites, and have been condensed into a single area within this site to further minimize impacts. The buildings are also proposed to be multiple stories (2 story elementary school and 3 story middle school), thus using vertical construction to minimize the building’s footprint.</p> <p>Furthermore, the applicant has provided special stormwater criteria measures to mitigate the impacts of the school building itself and runoff from athletic fields, including bioretention facilities, dry swales, infiltration trenches, and the like (see condition #10). The locations of these facilities will be arranged between the applicant and the Environmental Division during the site plan review process. Additionally, pervious pavement are proposed for use in low impact areas as depicted on the Master Plan, thus reducing the impervious footprint of the development and promoting infiltration. The Master Plan also provides for a total of 3 BMP’s, which will also be utilized for surface irrigation, thus protecting groundwater resources (see condition #6). Per condition #11, the BMP’s will also be designed to ensure that post-development stormwater flows will not be exceeded for storms of intensities up to and including the 100-year event. This supports the need to preserve the system below this</p>
--------------------------------------	---

	<p>site by reducing post-development peak runoff rates up through the 100-year storm. This will also provide a much higher level of protection against "stacking" stormwater events.</p> <p>The development and enforcement of water conservation guidelines, including the use of water conserving fixtures and native plants, has been provided in condition #5. An outdoor environmental study area has also been provided as an educational facility to allow access to special environmental areas surrounding one of the BMP areas.</p>
--	---

**Transportation**

<p>Goals, strategies and actions</p>	<p><i>Goal #2-Page 80:</i> Ensure that the transportation system supports a land use pattern that is consistent with the Comprehensive Plan.</p> <p><i>Strategy #2-Page 80:</i> Continue to encourage landscaped roadways and roadway designs that enhance the County’s image and reduce the visual impact of auto-related infrastructure.</p> <p><i>Strategy #7-Page 80:</i> Direct most transportation capacity investments to areas within the PSA while ensuring the maintenance and safety of transportation facilities outside the PSA</p> <p><i>Action #10-Page 82:</i> Implement the adopted James City County Sidewalk and Trail Plan and Regional Bicycle Facilities Plan, by including bikeways and pedestrian facilities in Primary and Secondary Road Plans and projects.</p> <hr/> <p><b>Staff Comment:</b> Significant improvements to this section of Jolly Pond Road were installed in preparation for the JCC Landfill. Included in these improvements were the straightening and reinforcing of the roadway to enable it to support large trucks and other vehicles. The addition of the joint school facility at this site will require minor intersection improvements at the school site and some road improvements offsite at the Jolly Pond-Centerville Road intersection, which is located inside the PSA (see condition #9). These improvements are needed to ensure the safety of those going to and from the school, as well as for through traffic along Centerville Road. As discussed earlier, staff is aware that a LOS F, which results in a greater than 50 second/vehicle wait, is projected for the 2012 AM peak hour only with the addition of school trip generation. It appears that this delay is a result of the left-turn movement from eastbound Jolly Pond Road and would only be an issue during a limited time window related to parent and bus drop-off. To ensure that the intersection continues to be functional, condition #13 would require a signal warrant analysis to determine whether there is significant enough traffic to merit a traffic signal at this intersection. The analysis would be required to be conducted within three (3) years of the approval of this application to allow the schools to operate and observe traffic conditions.</p> <p>Visitor and staff parking facilities for the schools are proposed to be shared, thus resulting in their placement in between the buildings for accessibility. In addition to required parking lot landscaping, condition #7 and 8 propose a 50 foot right-of-way buffer with enhanced and evergreen plantings in an effort to screen the parking lot from Jolly Pond Road. Finally, as mentioned earlier, shoulder bike lanes will be provided/retained along Centerville Road.</p>
--------------------------------------	---

**Comprehensive Plan Staff Comments**

There are also plans to light the playing fields, but those plans, and the specific fields have not been finalized.

It would be staff’s recommendation that the fields located near the rear of the parcel be lighted and that the lighted fields are a mix of ball fields and multi-purpose fields to better serve the recreation needs of the community and because they are the furthest ones away from the street where the light would be most readily seen. Additionally, staff has proposed condition #4 specifying that light glare be restricted to within the boundaries of the school site and that light be directed away from Jolly Pond Road. For any field lighting over 60 feet in height to be approved there must be a height waiver, which would need to be approved by the Board.

With the approval of a special use permit to allow for two public schools, the site would be in

conformance and consistent with zoning for the Public Land District, and consistent with surrounding uses as indicated in the above discussion.

## **RECOMMENDATION:**

Staff finds the proposal, with the attached conditions, to be generally consistent with surrounding land uses, and because it is a public use, generally consistent with the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the special use permit application with the following conditions:

1. Master Plan: This Special Use Permit shall be valid for the construction of a middle school, elementary school, and associated fields, trails, and parking areas located on a portion of 5537 Centerville Road (the "Property"). The Property shall be developed generally as shown on the master plan drawn by AES Consulting Engineers entitled "9<sup>th</sup> Elementary School and 4<sup>th</sup> Middle School" and dated September 26, 2007 (the "Master Plan"), with only changes thereto that the Director of Planning determines do not change the basic concept or character of the development.
2. Archaeology: A Phase I Archaeological Study for the entire site 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 site and the clearing, grading or construction activities thereon.
3. Architecture: Building facades visible from Jolly Pond Road shall be of a dark natural color to minimize visual impact from Jolly Pond Road and so that the schools are compatible with the natural and rural surroundings. Prior to final site plan approval, the Director of Planning shall review and approve the final building materials and colors for consistency with photo page entitled "Prototype Schools."
4. Lighting: Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 30 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines. The height limitation provided in this paragraph shall not apply to athletic field lighting provided that proper permits are issued under the James City County Zoning Ordinance. Athletic field lighting shall not be aimed toward Jolly Pond Road.



5. Water Conservation: The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. Irrigation: If the Williamsburg-James City County School Board desires to have outdoor watering of athletic fields, it shall provide water for irrigation utilizing surface water collection from surface water ponds and shall not use JCSA water or well water for irrigation purposes, except as provided below. Upon written application and finding that there is insufficient surface water for irrigation, the JCSA General Manager may approve the installation of irrigation wells to a depth no greater than 100 feet.
7. Right-of-Way Buffer: There shall be a fifty-foot (50') right-of-way buffer along Jolly Pond Road generally as shown on the Master Plan (the "buffer"). The buffer shall be exclusive of any structures or paving, except for the entrances and sidewalks shown generally on the Master Plan, and with the approval of the Director of Planning, for lighting, entrance features, fencing and signs. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants may be removed from the buffer area with the approval of the Director of Planning. With the prior approval of the Director of Planning, utilities may intrude into or cross the buffer, provided however, that such crossings or intrusions are generally perpendicular to the buffer and are given prior approval from the Director of Planning.
8. Enhanced Landscaping: An enhanced landscaping plan providing a minimum of 50 percent evergreen plantings within the buffer shall be approved by the Director of Planning or his designee prior to final site plan approval. Enhanced landscaping shall be defined as 125 percent of the size of the Zoning Ordinance landscape requirements.
9. Traffic Analysis and Road Improvements: An additional traffic analysis to confirm necessary improvements and address appropriate phasing and timing of such improvements shall be completed and submitted to the County and to VDOT for review and approval prior to final site plan approval. Improvements confirmed by the traffic analysis shall be installed or guaranteed by James City County, and the appropriate right of way dedicated to VDOT, prior to issuance of a certificate of occupancy for any structure on the site.
10. Special Stormwater Criteria: the Structural Component of Special Stormwater Criteria (SSC) as adopted by the County in the Powhatan and Yarmouth Creek watersheds shall apply to this project. This will require the installation of a minimum of seven (7) measures to include, but not be limited to, infiltration trenches, bio-retention cells, dry swales, manufactured BMP's, and similar items related primarily to recharge and water quality. The owner shall demonstrate the application of SSC on development plans to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval.
11. Stormwater Attenuation: Attenuation in all proposed stormwater management BMPs shall be provided in a way to ensure that post-development stormwater flows do not exceed pre-development flows and have not been exceeded for storms of intensities up to and including the 100-year event. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final plan of development approval. This requirement does not eliminate the need to satisfy the James City County Stream Channel Protection Criteria of 24-

hour attenuation of the runoff volume for the 1-year storm event.

9. Nutrient Management Plan: The owner 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, a nutrient management plan (the "Plan") for all common areas and athletic fields within the Property. The Plan shall be reviewed and approved by the County's Environmental Division Director prior to the issuance of any Certificate of Occupancy. Upon approval, the owner shall be responsible for ensuring that any nutrients applied to the Property be applied in strict accordance with the Plan.
10. Signal Warrant Analysis. The owner shall submit a signal warrant analysis (the "Analysis") to the County within three years of the approval date of this application, unless an analysis is required by VDOT prior to that date. The Analysis shall be reviewed and approved by VDOT and the owner shall implement all improvements recommended by the Analysis.
11. Commencement of Construction: If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
12. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

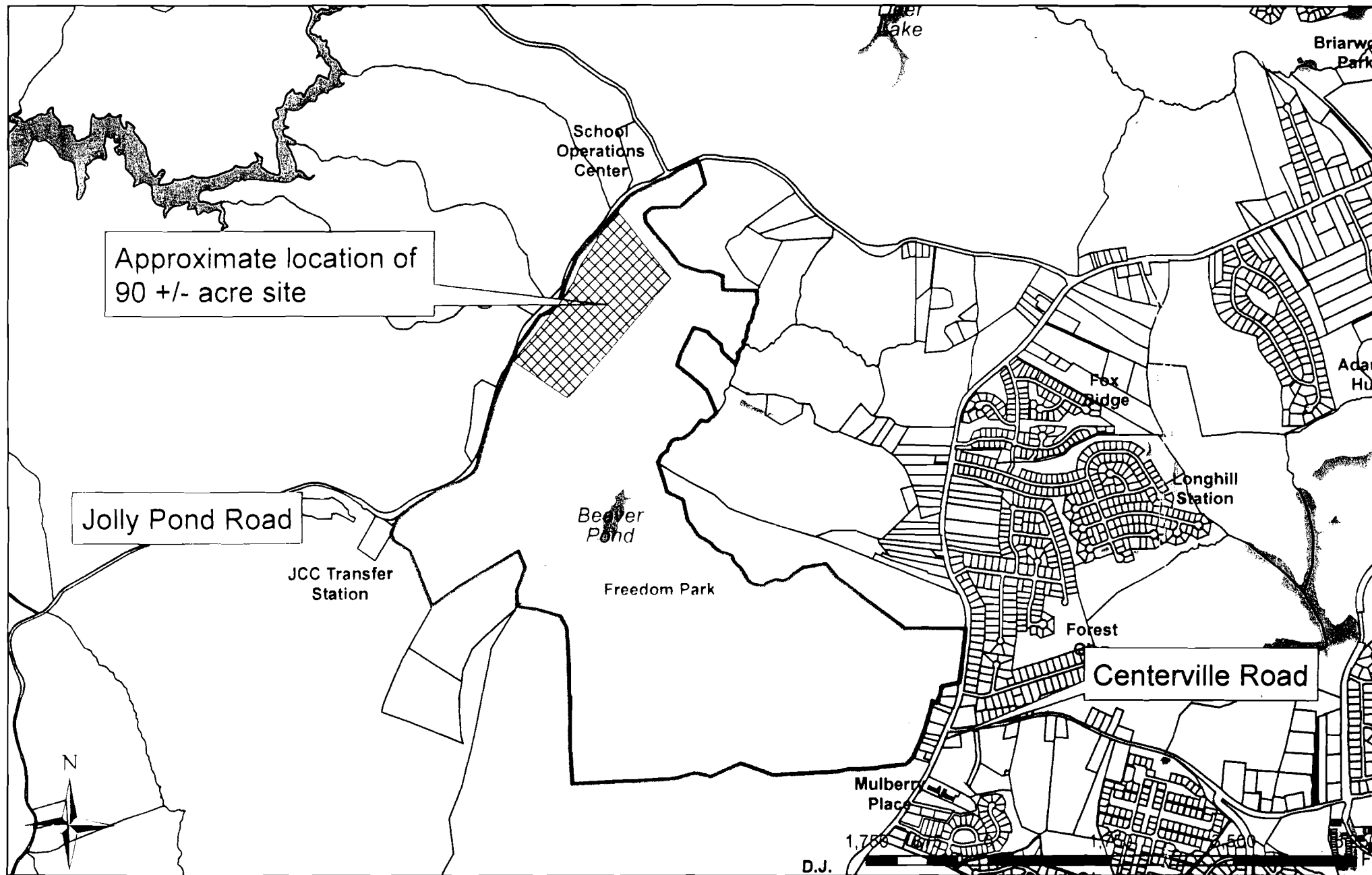
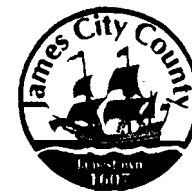
---

Leanne Reidenbach, Planner

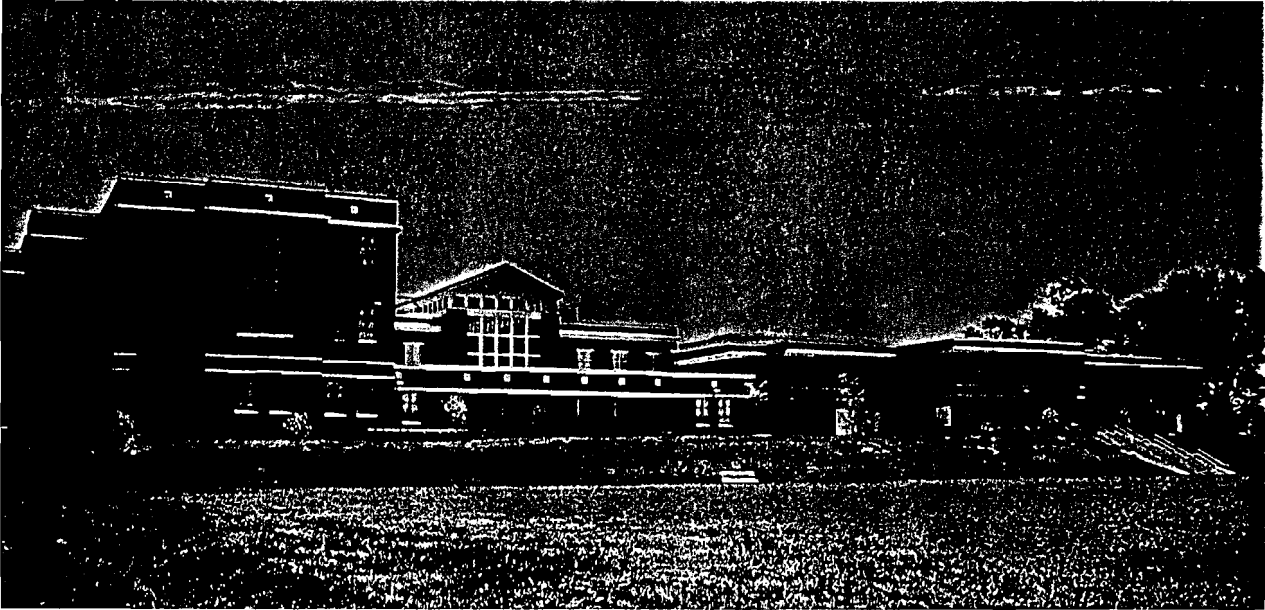
Attachments:

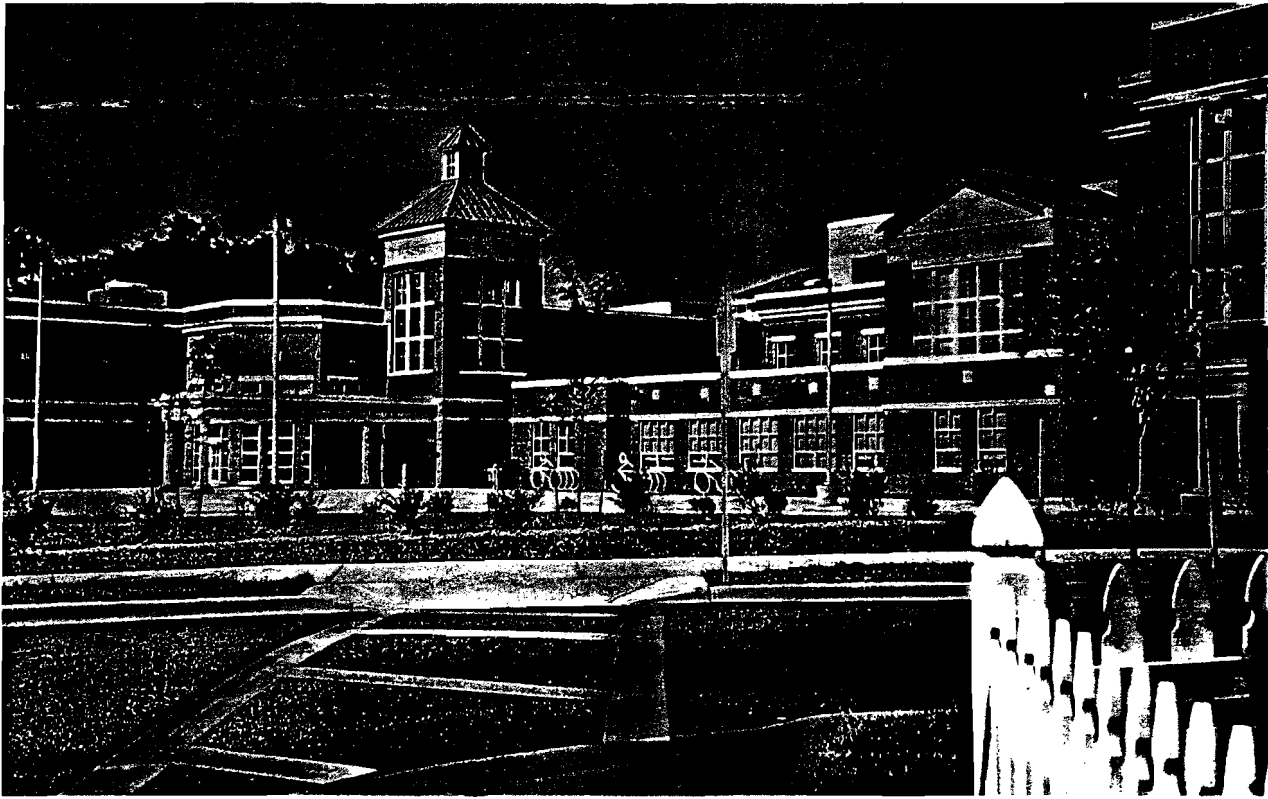
1. Location map
2. Master Plan dated September 26, 2007 (Under Separate Cover)
3. Community Impact Statement Binder
4. "Prototype Schools" exhibit

## 9th Elementary and 4th Middle School



Prototype Schools Exhibit (attachment 3)



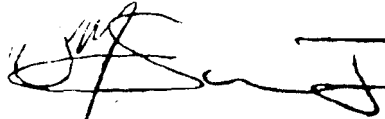


PLANNING DIRECTOR'S REPORT  
October 2007

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 New Town Design Review Board did not meet during the month of September.
- Better Site Design. The Better Site Design Committee Report was forwarded as a reading file item and was discussed at the Board of Supervisors September 25<sup>th</sup> Work Session.
- Direct Discharge Septic Systems. At their meeting on September 6, the Policy Committee recommended that staff not pursue an amendment to permit direct-discharge systems in the ordinance. A summary of staff's research has been included on the agenda for the October 3 Planning Commission meeting as a consideration item. Staff anticipates going forward to the Board of Supervisors on October 23 with this summary and a full PC recommendation.
- Public Land District. At their September 11, 2007 meeting the Board of Supervisors unanimously approved the comprehensive rezoning of 122 parcels to Public Land, PL, to the Board of Supervisors.
- Adequate Public Facilities: Cumulative Development Impact to Schools Project. This project got underway in mid-July. Staff has been working to develop and refine the database that will be employed in the project. Once the database is fully developed, Staff will be able to accurately estimate what the cumulative impact of new development approved in the County will be for each individual school in the Williamsburg-James City County School District. The database work was completed on 25 September. Staff estimates that initial reports should be available by the end of September or in early October.
- Environmental Inventory. Planning and Environmental staff are continuing to review and draft possible changes to the type and amount of environmental information that is received with various types of applications.
- Master Plan Process. Background materials were provided to Commissioners at a Policy Committee meeting in September and at a subsequent meeting Policy Committee members made recommendations to staff on additional language changes to the Ordinance. Staff is working on updating those changes and will present new language to the Policy Committee in October, with hopes of bringing an Ordinance Amendment to the full Planning Commission in November.
- Board Action Results for September 11 & 25, 2007.  
Case No. Z-0006-2007. Public Land District Rezoning Adopted 5-0 as amended  
Case No. SUP-0019-2007. King of Glory Lutheran Church. Adopted 5-0 as amended  
Case No. SUP-0017-2007. Wireless Tower, Longhill Rd Adopted 3-2 as amended  
Case No. SUP-0023-2007. Temporary Classroom Trailers at Eastern State Hospital  
Adopted 5-0

Case No. Z-0007-2007, Floodplain Regulations Adopted 5-0 as amended  
Case No. Z-0005-2007, Heavy Equipment Sales and Service in the M-2 General I  
Industrial District Adopted 5-0



---

O. Marvin Sowers, Jr.