

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
JANUARY 7, 2009 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
  - A. December 3, 2008 Regular Meeting 3
4. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee (DRC) Report
  - B. Policy Committee
  - C. Other Committee/Commission Reports
5. PUBLIC HEARINGS
  - A. SUP-0015-2008 Franciscan Brethren of St Philip Group Home and Day Care (deferral requested) 14
  - B. Z-0011-2007 / SUP-0022-2007 / MP-0007-2007 Monticello @ Powhatan North (Phase 3) (deferral requested) 16
  - C. SUP-0025-2008 Handicap Accessible Playground at JCWCC 18
  - D. Z-0003-2008 / MP-0003-2008 The Candle Factory 22
  - E. ZO-0004-2008 Zoning Ordinance Amendment- Retail Sale and Repair of Lawn Equipment 38
  - F. SUP-0019-2008 Former Stuckey's Site Amendment 42
  - G. SUP-0021-2008 Jamestown Road Mediterranean Restaurant 54
6. PLANNING DIRECTOR'S REPORT 68
7. COMMISSION DISCUSSION AND REQUESTS
8. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF DECEMBER, TWO-THOUSAND AND EIGHT, AT 6:30 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  
Reese Peck  
Jack Fraley  
Rich Krapf  
Joe Poole III  
Chris Henderson

Staff Present:

Allen Murphy, Acting Planning Director  
Adam Kinsman, Deputy County Attorney  
Kate Sipes, Senior Planner  
David German, Senior Planner  
Leanne Reidenbach, Senior Planner  
William Cain, Chief Civil Engineer  
Michael Woolson, Senior Watershed Planner  
Steven Hicks, Development Manager  
Terry Costello, Development Management Assistant

Absent

Tony Obadal

Mr. Fraley opened the meeting at 6:34 p.m. in the Information Center training room in Building F. Mr. Billups, Mr. Fraley, Mr. Krapf, Mr. Poole, and Mr. Henderson were in attendance for County e-mail training, with Mr. Peck and Mr. Obadal absent.

Ms. Cay Pittman gave an overview of the County email system. Ms. Leanne Reidenbach stated she would send a test email to Commissioners requesting a response to ensure it was working properly.

After the training was completed, Mr. Henderson made a motion to recess to the Board Room in Building F.

Mr. Poole seconded the motion.

Mr. Fraley reconvened the meeting at 7:12 p.m. in the Board Room with Mr. Peck arriving.

Mr. Fraley introduced Mr. Steven Hicks, the County's Development Manager.

Mr. Hicks commented that he looked forward to working with the Planning Commission, getting the update to the Comprehensive Plan completed, and addressing other issues pertinent to the Planning Commission.

Mr. Fraley mentioned the passing of Alvin Anderson, who was a resident and community activist in the County. Commissioners and colleagues gave their respects.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

There being no public comments, the public comment period was closed.

3. MINUTES

A. November 5, 2008 Regular Meeting

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Poole had a spelling correction.

Mr. Krapf made a motion to approve the minutes with the correction.

Mr. Henderson seconded the motion.

In a unanimous voice vote the minutes were approved. (6-0) (Obadal absent)

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated the Development Review Committee did not meet since there were no cases to discuss.

B. Policy Committee

Mr. Peck stated that the Policy Committee did not meet.

C. Other Committee/Commission Reports

Mr. Fraley gave an update on the Steering Committee. He stated the Committee has been reviewing the economic climate and environmental sections of the Comprehensive Plan. He stated the next meeting will be December 8, 2008 with public comment periods provided. Mr. Fraley stated that the environmental section will be reviewed at this meeting, with the economic climate section being finished at a later date.

5. PLANNING COMMISSION CONSIDERATIONS

A. Annual Report

Mr. Henderson commented that the document was very well prepared and he commended staff, as well as Mr. Fraley, on their work.

Mr. Fraley commended staff on the report and felt that it was well written. He made the point that the majority of the work is done by staff, with review by the Planning Commission.

Mr. Henderson made a motion to adopt the report.

Mr. Krapf seconded the motion.

In a unanimous voice vote the annual report was approved. (6-0) (Obadal absent)

Mr. Poole asked that the report be placed on the website.

Mr. Murphy stated staff will take care of it.

6. PUBLIC HEARING

A. SUP-0015-2008 Franciscan Brethren of St Philip Group Home and Day Care

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley continued the public hearing to January 7, 2009.

B. Z-0003-2008 / MP-0003-2008 The Candle Factory

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley continued the public hearing to January 7, 2009.

C. Z-0011-2007 / SUP-0022-2007 / MP-0007-2007 Monticello @ Powhatan North (Phase 3)

Mr. Murphy stated staff's request for a deferral to allow more time for agency comments. The applicant has agreed to the deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley opened the public hearing.

Mr. Andrew Poole, who stated he lived at 4019 E Providence, said he represented a group of individuals in the Berkeley section of Powhatan Secondary who oppose this application. He stated the Homeowner's Association in that area has sent a letter stating they are opposed to this rezoning application. Mr. Poole stated he believed the Comprehensive Plan requires that for any rezoning greater than one unit per acre, that the applicant demonstrates particular public benefits to the community. Those opposed to this believe that even though the application proposed some things such as trails and public road improvements, these just mitigate the development. He stated that the financial benefit suggested was based on certain scenarios, and if these scenarios changed, it could easily become a negative impact on the County. Mr. Poole felt that

the quality of life would not be enhanced and there would be traffic impacts as well as environmental issues. He stated the group he represents felt there were no public benefits and he asked the Planning Commission to not approve the application when it is heard in January. He stated that the group will be present at the January meeting.

Mr. Timothy Trant, of Kaufman and Canoles, stated that the applicant will respond to these issues at the January meeting when the case is heard.

Mr. Fraley continued the public hearing until January 7, 2009.

D. SUP-0019-2008 Former Stuckey's Site Amendment

Mr. Murphy stated staff's request for a deferral pending the resolution of certain issues. The applicant has agreed to the deferral to the January 7, 2009 Planning Commission meeting.

Mr. Fraley opened the public hearing.

Mr. Jeff Harris, who stated he is a wholesale area manager for the Wills Group, which is the organization that owns the Shell gas station across the road from the site on the application. He stated the Wills Group felt that this application and use would not be beneficial to the businesses along that corridor. He stated the Group does not feel the area can support an additional petroleum station. Mr. Harris also stated that the additional traffic in that area may cause a safety issue.

Mr. Steve Romeo of Landmark Design Group stated that his organization has worked on this application with County staff for the last two months, and stated that there are some minor issues left to resolve concerning the well and septic systems. He stated the applicant had met with some citizens' groups this past Monday, with Mr. Krapf in attendance. There were some concerns with some of the architectural designs. Mr. Romeo stated revisions were given to staff this afternoon.

Mr. Rick LaMere of North South Construction spoke on behalf of the owner, American Holdings. He stated they have worked with County staff over the past year with different applications. He stated the first plan involved keeping the building as is, but the current plan is to demolish the building and rebuild. Mr. LaMere believed that the only issues left to address concerned the well and septic systems.

Mr. Fraley stated that Mr. Krapf did send the meeting results to all of the Planning Commissioners.

Mr. Henderson asked about cases that have been deferred for several months. His thoughts were that it may be beneficial to defer them for sixty days as opposed to thirty.

Mr. Fraley stated that if an applicant requests a deferral to the next meeting, than that would be honored. He asked Mr. Kinsman if there was anything in the Code that refers to the time frame a case can be deferred.

Mr. Kinsman stated the Virginia Code states that the Planning Commission must make a determination within a hundred days of receiving the application. If an applicant requests a deferral the hundred days does not apply. One of the issues if case is deferred from meeting to meeting is to save costs on advertising.

E. SUP-0020-2008 Gilley Properties LLC Duplexes

Mr. David German stated that Mr. Greg Davis of Kaufman and Canoles has applied on behalf of Gilley Properties, LLC, for a special use permit to allow for the construction of three two-family dwellings on a property zoned R-2 inside the PSA. The property is located at 248 Neck-O-Land Road, and is approximately 4.74 acres in size. Mr. German stated the applicant proposes to subdivide the parcel into five lots, each of which would front on Neck-O-Land Road and utilize a shared driveway. Two of the lots created would be occupied by an existing two-story single-family residence and an existing duplex. The applicant proposes to construct the three duplex housing units being sought with this application on the remaining three lots. Mr. German stated that twelve structures currently stand on the site, including the two-story house and the existing duplex. The remaining structures are sheds, barns, and silos in various stages of disrepair. Under the applicant's plan, all of the structures except for the two-story house and the existing duplex would be removed from the site, in addition to a crisscrossing network of gravel driveways currently on the property. Mr. German stated that with the net removal of seven buildings and all of the extra gravel driveways, the project would bring about a net reduction in impervious area of approximately 15,899 square feet, which is roughly a 40% reduction in impervious area on the site.

After review of this application, Planning staff finds that the proposal is generally consistent with the Comprehensive Plan and provides a public benefit by improving the environmental and aesthetic conditions on the site. Staff recommended that the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions outlined in the staff report.

Mr. Henderson had some questions about stormwater calculations and asked whether if the site was evaluated as a Greenfield site it would be able to meet the ten point requirements.

Mr. Cain answered that there are certain criteria established in the ordinance that requires a project to have a stormwater management plan and address the ten-point bmp requirement. He stated because this project is five lots or less, there is no requirement to have a stormwater management plan or meet the ten-point system. The application proposes to remove much of the debris and other materials that are stored in the building. With the reduction of impervious surface proposed, it will further reduce the runoff at the site. Mr. Cain stated that the natural flow of water is from Neck-O-Land Road to the back of the property, so the proposed development would not create any issues from a stormwater management perspective.

Mr. Henderson wanted to clarify that the proposed structures would not cause any additional problems in an area where problems already exist.

Mr. Billups asked what structures were being removed.

Mr. German stated all of the buildings will be removed except for the duplex and the two story structure at the front of the property.

Mr. Billups asked whether if the buildings that are currently on site were built today, they would still conform to the ordinances concerning the Chesapeake Bay and wetlands. He expressed his concerns with potential flooding problems stemming from Peleg's Point and this proposal.

Mr. German stated that the barn and two silos that are closest to the RPA are being removed. The structure that is proposed that will be closest to the RPA will be further away than the current structures that are on site. Mr. German continued that in addition to the RPA buffer boundary itself, the applicant has agreed to an additional 25 foot construction setback at the edge of the RPA buffer to lessen the impact to the RPA and Shellbank Creek.

Mr. Billups asked if any residents in the area had expressed any concerns.

Mr. German stated he received one public comment from a citizen in a neighboring subdivision, whose opinion was that the plan improved the site and was favorable.

Mr. Fraley stated that when the Chesapeake Bay Ordinance is applied to a subdivision of five or more lots, it is referring to single family homes. He asked for comments concerning its application to proposed multi-family dwellings.

Mr. Cain stated that the ordinance does not address multi-family dwellings; therefore, this application was viewed as a single family subdivision with five lots or less.

Mr. Fraley expressed his concerns about the neighboring subdivision Peleg's Point and the flooding issues in the area. He expressed his concerns about the flow of water.

Mr. Cain stated that Environmental staff is working with developers in Peleg's Point to resolve some of the drainage concerns. He stated the Environmental Division is sensitive to the flooding issues in the Neck-O-Land Road area. He stated that as long as the impervious surfaces were reduced, this would improve the drainage. Mr. Cain also stated the removal of many of the structures and stored equipment will improve the water quality. He stated that the way the application is proposed, the majority of the runoff will be dissipated before it reaches the back of the property.

Mr. Fraley reminded the Commissioners that if they would like to request anything further from the applicant concerning this application, the time would be during this review since the site plan will be under administrative review at a later date.

Mr. Cain stated that under comment #4 of the special use permit conditions, drainage would be minimized to keep the existing pattern during the planning and development of the site.

Mr. Billups expressed his concerns with the water issues on that property. He stated that at times there is water that does not flow away and becomes standing water on Neck-O-Land Road. He stated the water comes from two directions, from Mill Creek and from Powhatan Shores. Mr. Billups said he was not against the project, but that he would like to see some of these concerns addressed.

Mr. Henderson stated that in the staff report it references the impact on the schools. He questioned that there was no proffer attached to this.

Mr. German stated that it would be a very minimal impact. The statistics are received from the County's Financial and Management Services Department. He stated there is no proffer associated with the application because it is not a rezoning case.

Mr. Henderson asked if, in VDOT's analysis of the impact on the roadway, the current width of the right-of-way included sufficient room to make improvements to Neck-O-Land Road to bring it to current standards for a two-lane road.

Mr. German stated that normally those kinds of issues are addressed when the site plan is reviewed. He stated that VDOT will be most concerned with the entrance road that is shared by the site.

Mr. Henderson asked if the applicant would, at that time, be required to dedicate the right-of-way as may be required by VDOT.

Mr. German answered yes.

Mr. Henderson asked if an asbestos survey is required to get a demolition permit.

Mr. German responded that he did not know specifically if an asbestos survey would be required, but that to demolish the buildings on site, a demolition permit from the Code Compliance Division would be required and that the Code Compliance Division would determine if the asbestos survey would be required as part of its management of that permit.

Mr. Kinsman stated in reference to Mr. Henderson's concern about proffers, that to require a cash proffer for a special use permit would be, at-best, a questionable enforcement situation.

Mr. Chris Johnson, of Kaufman and Canoles, spoke on behalf of the applicant, Mr. Edward Gilley. He stated that the property has been in the Gilley family for over 100 years, and has been owned by the applicant since 2004. He stated this proposal is an example of infill development that helps to meet the needs of the workforce community. Mr. Johnson stated the property could be divided by-right, with five single family dwellings, with none of the environmental protections and enhancements offered by the applicant. The applicant feels the application is compatible with the surrounding area with regard to land use and density. He stated the applicant has a history of providing affordable rental opportunities on the property as



well as on other nearby and adjacent properties. Mr. Johnson stated that the 40% reduction in impervious cover, the added 25 foot setback, the removal of the deteriorating structures, the installation of rain barrels, and having a shared driveway represent public benefits to the community. The applicant would request that the Planning Commission would concur with staff's analysis and recommend approval to the Board of Supervisors.

Mr. Gerald Mephram, of Neck-O-Land Road, spoke on behalf of the applicant. He stated that Mr. Gilley takes care of the property and provides affordable housing which is needed in the County.

Mr. Fraley closed the public hearing.

Mr. Poole made a motion to approve with a second from Mr. Henderson.

In a roll call vote the motion was approved. (6-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Fraley. (Obadal absent)

F. Z-0002-2008 / SUP-0018-2008 Williamsburg Landing Expansion

Ms. Kate Sipes stated that Kaufman and Canoles has applied on behalf of Williamsburg Landing, Inc. for an amended special use permit and proffers to allow an increase in assisted living units and nursing units and a decrease in independent living units. The parcel is approximately 50 acres and is zoned R-5, Multi-Family Residential, with proffers. A special use permit is required because nursing homes and facilities for the residence and/or care of the aged is a specially permitted use in the R-5, Multi-Family Residential District. She stated the applicant is proposing two 3-story buildings at a maximum height of 50 feet each.

Ms. Sipes stated that proffers had been added to require the applicant to provide water conservation standards and to apply special stormwater criteria within the limits of the subject parcel on all subsequent site plans submitted. This is intended to encourage low impact design features on future expansions. Staff finds the proposal to have minimum impacts and be generally compatible with the 2003 Comprehensive Plan. Staff recommended the Planning Commission recommend approval of the special use permit application, with conditions and proffers, to the Board of Supervisors.

Mr. Poole asked if the proposed improvements would rise above the tree line.

Ms. Sipes preferred to defer that question to the applicant. She did state that information on elevations have been submitted, but was not sure how the elevations were in comparison to the tree line.

Mr. Fraley asked for clarification on the number of independent units currently built in that area of the property and what is being proposed.

Ms. Sipes answered that currently there are 63 independent living units. The two buildings proposed would be another 24 units total for a total of 87.

Mr. Greg Davis of Kaufman and Canoles spoke on behalf of the applicant, Williamsburg Landing Inc. He stated that this application is not for an expansion, but for a change in unit types within the complex. He displayed a conceptual plan that showed what the applicant proposes for future development. Mr. Davis stated the changes in unit types were necessary because Williamsburg Landing is a continuing care retirement community. This application was based on the needs of the facility and its residents. As the residents age, the needs do change. The rezoning that was done in 2001 had certain projections as to what may be needed in the future. It has been determined that these needs have changed. He stated the total number of units has not been defined. He said that flexibility is needed so as to accommodate the residents at Williamsburg Landing. Mr. Davis stated the proposed proffers offer Special Stormwater Criteria, an increase in money paid for public utilities, and more conservation standards. He respectfully requested that the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Poole asked about the height elevations in relation to the tree line, and whether anything would be done to mitigate the aesthetic effects of the sound wall along Route 199.

Mr. Davis stated that the two independent living buildings would be similar in height and design to building #11, as shown on the conceptual plan, which is along Route 199 and furthest away from the proposed buildings. He stated that no new sound wall or improvements to the current structure is anticipated.

Mr. Fraley asked if there would be any additional parking.

Mr. Davis stated approved site plans will be adding additional parking.

Mr. Fraley encouraged the use of pervious concrete when adding additional parking spaces.

Mr. Davis stated he understood that pervious pavement and materials were strongly encouraged to be used.

Mr. Murphy stated that there is no requirement for this and that it was in good faith on the applicant's part.

Mr. Fraley asked about the skilled labor force that will be needed for the future. He stated this has been an issue in the past with another project. The conceptual plan for the future shows a large increase and he would like to know how this might affect their employment situation.

Mr. Ben Puckett of Williamsburg Landing addressed these concerns. He stated the facility has been in existence since 1985 and has been fortunate to have a high quality workforce. He stated the numbers discussed tonight are much lower than the numbers associated with the CCRC at Ford's Colony that came before the Planning Commission earlier in the year. Mr. Puckett stated they have been fortunate to train and retain skilled workers. He stated there are

challenges for staffing in the nursing field. He said there is a long term challenge in staffing these positions, but they feel confident in their recruitment process and training.

Mr. Fraley asked if they could estimate a number that would be needed as this complex develops.

Mr. Puckett stated an estimate would be 20 - 25 workers for each shift, for which there are three.

Mr. Henderson asked what the density is per acre currently, and what it would be proposed.

Ms. Sipes answered that if independent units are counted only based on what is on the three parcels combined, it is 2.53 independent units per acre. If calculating on the one parcel with the proffers and special use permit conditions, it is 2 units per acre. With the proposal the density would be 2.43 units per acre for the overall site. The density for just the one parcel would be 1.74 units per acre.

Mr. Fraley asked how the units were calculated when they are contained in one building.

Ms. Sipes answered that each apartment is considered a dwelling unit. For example, a building with twelve apartments would have twelve units in the calculation.

Mr. Fraley closed the public hearing.

Mr. Henderson made a motion to approve the application.

Mr. Krapf seconded the motion.

Mr. Krapf stated he supported this application and wanted to mention that this was a proffer amendment, not a rezoning or special use permit. While the amendment results in an increase of 7 units, he felt that the applicant's rationale was justifiable. Mr. Krapf felt that the retirement community will face a growing demand for facilities such as these.

Mr. Poole stated he supports the application and applauds the track record of the applicant. He did ask the applicant to possibly address the aesthetic view from Route 199.

Mr. Peck supported the applicant but questioned how the calculation of density was determined. He feels that the Commission needs to address density calculations in these types of projects.

Mr. Fraley wanted to point out that the applicant has voluntarily committed to applying Special Stormwater Criteria with this project.

In a roll call vote the motion was approved. (6-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Fraley. (Obadal absent)

7. PLANNING DIRECTOR'S REPORT

Mr. Murphy mentioned the 2009 meeting schedule.

Mr. Fraley asked the Commissioners to review and if they had any concerns contact Mr. Murphy.

8. COMMISSION DISCUSSIONS AND REQUESTS

There were no items for discussion.

9. ADJOURNMENT

Mr. Henderson made the motion to adjourn.

Mr. Krapf seconded the motion.

The meeting was adjourned at 8:45 p.m.

---

Jack Fraley, Chairman

---

Allen J. Murphy, Acting Secretary

**SPECIAL USE PERMIT-0015-2008. Franciscan Brethren of St. Philip Adult Day Care Staff Report for the January 7, 2009, 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 10, 2008 7:00 p.m. (Applicant Deferral)  
October 1, 2008 7:00 p.m. (Applicant Deferral)  
November 5, 2008 7:00 p.m. (Applicant Deferral)  
December 3, 2008 7:00 p.m. (Applicant Deferral)  
January 7, 2008 7:00 p.m.

Board of Supervisors: (T. B. D.)

**SUMMARY FACTS**

Applicant: Mr. Mickey Harden of Aurora Consulting, LLC, on behalf of Sister Agnes of Franciscan Brethren of St. Philip

Land Owner: Franciscan Brethren of St. Philip

Proposal: Applicant is seeking a Special Use Permit to allow for a 30-55 person adult day care center to be located in the existing single-family-detached home located on the subject property. Adult day care centers are specially permitted uses in the R-8, Rural Residential zoning district.

Location: 6422 Centerville Road (Route 614)

Tax Map Parcel Number: 2430200002

Parcel Size: 2.44 acres

Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

The applicant has requested deferral of this case until the February 4, 2009 Planning Commission meeting, to allow time for the applicant to work with the Virginia Department of Social Services (VDSS) and the Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) on the feasibility and limiting parameters of this project. Planning Staff is recommending that the Planning Commission defer consideration of this case, as requested by the applicant.

Staff Contact: David W. German

Phone: 253-6685

\_\_\_\_\_  
David W. German, Senior Planner

**ATTACHMENT**

1. Applicant's Deferral Request Letter



December 19, 2008

James City County Planning Division  
Development Management Department  
ATTN: David German  
101-A Mounts Bay Rd.  
Williamsburg, VA. 23187

Reference: 6422 Centerville Road

Dear Mr. German:

The purpose of this correspondence is to request that our application for a Special Usage Permit be deferred until the February Planning Commission meeting. Said delay will allow for us to complete changes to the Master Plan for submission. We are currently working with the Department of Mental Health, Mental Retardation and Substance Abuse to gain approval for the dual usage of referenced property. If approved, both licenses will come from them. There will be no Department of Social Services involved with the licensure. We have had initial communications with DMHMRSAS. However, to meet your intent we want to resolve that issue for you prior to submission.

We have had several meetings regarding modifications and additions to the property which have resulted in minor changes to the Master Plan. I anticipate having it completed some time next week prior to the holiday.

Your immediate attention to this request is appreciated.

Please do not hesitate to call, email, fax or mail any requests for additional information pertinent to this request. You may reach us at 757-291-8637, fax 866-291-0010 or email at [Mickey@AuroraConsultingllc.org](mailto:Mickey@AuroraConsultingllc.org). Our mailing address is 6284 St. Johns Wood, Williamsburg, Va. 23188.

Regards,

Mickey Harden, President



**REZONING-0011-2007 / SPECIAL USE PERMIT-0022-2007 / MASTER PLAN-0007-2007: Monticello at Powhatan North (Ph. 3)**

**Staff Report for the January 7, 2009 Planning Commission Public Hearing**

This staff report was 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.

<b>PUBLIC HEARINGS</b>	Building F Board Room; County Government Complex		
Planning Commission:	December 3, 2008	7:00 p.m.	(deferred)
	January 7, 2009	7:00 p.m.	
Board of Supervisors:	February 10, 2009	(tentative)	

**SUMMARY FACTS**

Applicant:	Mr. Timothy Trant, Kaufman and Canoles
Land Owner:	Powhatan Land Enterprises, LLC
Proposal:	Construct 70 single family attached condominium units.
Location:	4450 Powhatan Parkway
Tax Map/Parcel No.:	3830100001
Parcel Size:	36.5 Acres
Existing Zoning:	R-8, Rural Residential
Proposed Zoning:	R-2, General Residential, with Proffers and Cluster Overlay
Comprehensive Plan:	Low Density Residential; with Conservation Area along the parcel's northern boundary.
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

The applicant has requested deferral of this application to the February 4, 2009 Planning Commission meeting. Staff concurs with this request.

Staff Contact: Leanne Reidenbach

Phone: 253-6685



Leanne Reidenbach, Senior Planner

**Attachments:**

1. Deferral request letter



# KAUFMAN & CANOLES

— | A Professional Corporation | —

**Attorneys and Counselors at Law**

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

757 / 259-3800  
fax: 757 / 259-3838

*Mailing Address:*  
P.O. Box 6000  
Williamsburg, VA 23188

4801 Courthouse Street  
Suite 300  
Williamsburg, VA 23188

December 31, 2008

Via U.S. Mail & Email (ajmurphy@james-city.va.us)

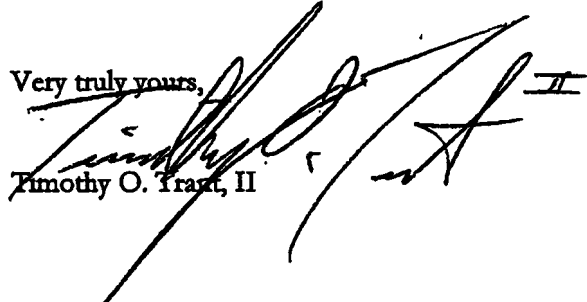
Allen J. Murphy, Jr.  
Planning Director  
James City County  
101-A Mounts Bay Road  
Williamsburg, VA 23185

**Re: *Platinum Homes, LLC***  
***4450 Powhatan Parkway, Williamsburg, Virginia 23188***  
***Monticello at Powhatan North***  
***James City County Case Nos. Z-11-07, MP-7-07, SUP-22-07***  
***Our Matter No. 79791***

Dear Allen:

I write in follow-up to my December 30, 2008 letter to you and our telephone conversation today to reiterate the Applicant's request that Planning Commission consideration of this Application be deferred and that all deferral fees be waived until we can meet, discuss, and resolve with Staff any outstanding issues there may be. I look forward to hearing from you as soon as possible as to when such meeting can occur.

Very truly yours,

  
Timothy O. Trant, II

::ODMA\PCDOCS\DOCSWMB\6222302\1

**SPECIAL USE PERMIT-0025-2008. ADA Accessible Playground at JCWCC.  
Staff Report for the January 7, 2009, Planning Commission Public Hearing.**

---

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

---

**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

January 7, 2009 7:00 p.m.  
February 10, 2009 7:00 p.m.

**SUMMARY FACTS**

Applicant: John Carnifax and Carolyn Murphy

Land Owner: James City County and City of Williamsburg

Proposal: The applicants, along with the 2009 Class of Leadership Historic Triangle, are proposing to construct a playground area that is entirely handicap accessible at the site of the existing James City-Williamsburg Community Center.

Location: 5301 Longhill Road

Tax Map/Parcel Nos.: 3910100153

Parcel Size: Approximately 22.6 acres

Zoning: PL, Public Lands

Comprehensive Plan: Federal, State and County Land

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff finds the proposal to have minimum additional impacts and to be compatible with the 2003 Comprehensive Plan. Staff recommends the James City County Planning Commission recommend approval of this application to the Board of Supervisors with the attached conditions.

Staff Contact: Kathryn Sipes, Senior Planner

Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. John Carnifax of James City County and Ms. Carolyn Murphy of the City of Williamsburg have applied for a special use permit to construct a playground area that is entirely accessible at the site of the existing James City-Williamsburg Community Center. This property is located at 5301 Longhill Road. A special use permit is required because community recreation facilities, including playgrounds, are specially permitted uses on land zoned PL, Public Lands.

There are currently no public playgrounds in the Historic Triangle that are compliant with the Americans with Disabilities Act. The closest ADA-accessible playground is Deer Park in Newport News. The proposal includes a playground occupying approximately 6000 square feet, to be designed so that every child in the Historic Triangle regardless of ability or disability is welcome. In addition to barrier-free play equipment, the proposed playground will include a fence along two sides of the playground that are adjacent to vehicular circulation, a soft-surfaced fall zone, and a sidewalk leading from the parking lot to the play area. The proposed location on the property is an area between the existing parking lot and ball fields; this area is currently a grassy field.

The applicants are members of the Leadership Historic Triangle Class of 2009, which has voted to fund and build this facility as their class project. *My Place*, as the class has named it, will be donated to James City County upon completion; the James City County Parks and Recreation Division will manage and maintain the facility in the future.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** The property is located in the Powhatan Creek Watershed.

**Staff Comments:** Environmental Staff has reviewed the application and identified no issues or concerns related to the project.

### **Transportation**

**Staff Comments:** The proposed playground would be an additional feature of an existing public park area and would likely be used by those already visiting the site. Trip generation calculations for ITE categories “Recreational Community Center” and “County Park” result in minimal additional traffic, as these calculations are based on square feet of gross floor area of indoor space and park acreage, respectively. There is no category for playground. VDOT staff confirms that the proposal results in little to no impact on the surrounding road network.

## **COMPREHENSIVE PLAN**

### **Land Use**

Designation	<i>Park, Public, or Semi-Public Open Space (page 129):</i> These areas serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment. Staff Comment: The proposed site is currently part of an area already used for public recreation.
-------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### **Parks and Recreation**

Goals, strategies and actions	<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.
	<i>Strategy #3-Page 39:</i> Consider the particular needs of teens, youth at risk, seniors, and persons with disabilities when planning for recreational facilities and programs and greenways.
	<b>Staff Comment:</b> This facility will serve those residents and visitors with disabilities.
	<i>Strategy #7-Page 39:</i> Pursue alternative methods for funding park development and recreation programs, including private sector partnerships, citizen volunteers, grants, and revenue producing facilities.
	<b>Staff Comment:</b> As a project for the LHT Class of 2009, this project is being funded and constructed by volunteers and private donations solicited by those volunteers.

**RECOMMENDATION**

Staff finds the proposal to have minimum additional impacts and to be compatible with the 2003 Comprehensive Plan. Staff recommends the James City County Planning Commission recommend approval of this application to the Board of Supervisors with the following conditions:

1. Development of the site shall be generally in accordance with the master plan entitled “Master Plan for *My Place*, an ADA Accessible Playground at James City/Williamsburg Community Center,” dated November 26, 2008, as determined by the Planning Director. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
2. 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.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

---

Kathryn Sipes, Senior Planner

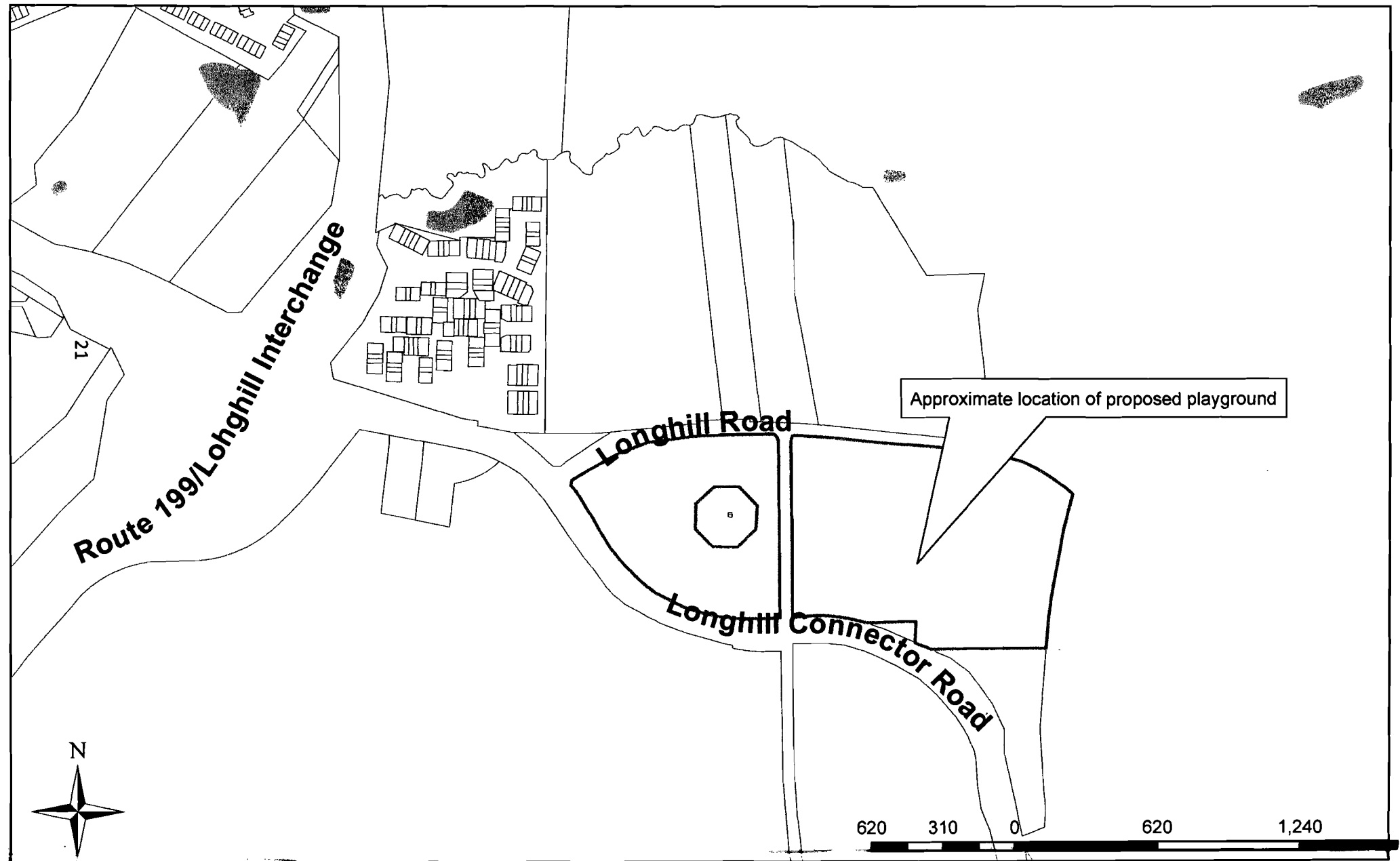
\_\_\_\_/\_\_\_\_  
SUPTemplate\_New.doc

**ATTACHMENTS:**

1. Location Map
2. Master Plan

# JCC-SUP-0025-2008

## Handicap Accessible Playground at JCWCC



**REZONING CASE NO. Z-0003-2008 / MASTER PLAN CASE NO. MP-0003-2008-The Candle Factory**

**Staff Report for the January 07, 2009, Planning Commission Public Hearing**

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

**PUBLIC HEARINGS**

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

Planning Commission:	November 05, 2008	7:00 p.m. (deferred by the applicant)
Planning Commission:	December 03, 2008	7:00 p.m. (deferred by the applicant)
Planning Commission:	January 07, 2009	7:00 p.m.
Board of Supervisors	February 10, 2009	7:00 p.m. (tentative)

**SUMMARY FACTS**

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

**Land Owner:** Candle Development, LLC

**Proposed Use:** To rezone approximately 64.45 acres of land from A-1, General Agricultural District, M-1, Limited Business/Industrial District, and MU, Mixed Use District to MU, Mixed Use District, with proffers. The development proposed with this rezoning application will allow the construction of a maximum of 175 residential units; approximately 30,000 square feet of commercial/office space, and 90,000 square-foot assisted living facility with capacity for 96 units.

**Location:** 7551 and 7567 Richmond Road

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

**Parcel Size:** Approximately 64.45 acres

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

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

**Primary Service Area:** Inside

**STAFF RECOMMENDATION:**

Staff finds this development, as currently proposed, to be generally inconsistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation for the following reasons:

- Inconsistency with the 2003 Comprehensive Plan Mixed-Use designation for Mixed-Use areas at or near major thoroughfares,
- Inconsistency with the 2003 Comprehensive Plan Limited Industrial land use recommendations,

- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road is insufficient,
- Completion of proffered traffic improvements not acceptable in its current form;
- School proffers not consistent with current policy.

Staff recommends that the Planning Commission recommend denial of this application to the Board of Supervisors.

**Project Description**

Mr. Vernon Geddy has submitted an application on behalf of Candle Development, LLC to rezone approximately 64.45 acres from A-1, General Agricultural District (60.82 acres), M-1, Limited Business/Industrial District (3.0 acres) and MU, Mixed Use District (0.63 acres) to MU, Mixed Use District with proffers.

Located on the south side of Richmond Road (Route 60), opposite the intersection of Richmond Road and Croaker Road (Route 607), the Candle Factory is a proposed development combining residential and non-residential components to include: 175 residential units (i.e. 142 single-family attached and 33 single-family detached unit.), up to 30,000 square-foot of commercial and office uses, and a 90,000 square-foot assisted living facility complex with capacity for 96 individual units.

The area subject to the rezoning application is bounded on the south, east and west by low-density residential developments zoned A-1, General Agricultural, (i.e. Toano Woods and Oakland Estates) and R-2, General Residential (i.e. Norvalia). Adjacent properties to the north of the site and along Route 60 are zoned MU, Mixed Use (i.e. Cross Walk Community Church, formerly known as the Williamsburg Music Theater) and M-1, Limited Industrial (i.e. The Candle Factory commercial complex and the Poplar Creek office park). The Candle Factory development is located within the Norge Community Character Area and therefore subject to the recommendations set forth by the 2003 Comprehensive Plan. A private driveway at the Route 60/Croaker Intersection will provide vehicular access from Route 60, a Community Character Corridor, to the proposed development.

At its July 11, 2007 Planning Commission meeting, the applicant indefinitely deferred the rezoning/master plan/SUP application for the Candle Factory in order to address outstanding issues and to further incorporate suggestions from the Planning Commission into the plan. In September, 2008, the applicant submitted a revised application for the Candle Factory project. Table No. 1.0 below highlights the major differences between both applications:

**Table No. 1.0-Comparison between the 2006 and 2008 Applications for the Candle Factory Property**

	<b>The Candle Factory 2006 Application</b>	<b>The Candle Factory 2008 Application</b>
<b>Scope of Project</b>	Two combined applications (Rezoning and SUP) under single master plan. <b>Rezoning application:</b> To rezone 64.45 acres from A-1 to MU, with proffers. <b>SUP application:</b> To allow the construction of two non-residential mixed-use buildings.	<b>Rezoning application:</b> To rezone 64.45 acres from A-1 to MU, with proffers. <b>SUP application:</b> N/A
<b>Number of Residential Units</b>	180 units (i.e. 77 single-family attached, 54 single-family detached, and 49 multi-family units).	175 units (i.e. 142 single-family attached and 33 single-family detached).
<b>Total Gross Residential Density</b>	2.79 dwelling units per acre	2.71 dwelling units per acre (excludes the 97 assisted living facility units)
<b>Number of Affordable Units</b>	18 dwelling units for sale at or below \$160,000.00; and 9 dwelling units for sale at or below \$250,000.00	19 dwelling units for sale at or below \$160,000.00; 19 dwelling units for sale at or below \$190,000.00; and

		20 dwelling units for sale at or below \$230,000.00
<b>Non-residential square footage</b>	<b>Rezoning application:</b> Maximum of 18,900 square-feet of commercial and/or office, and additional 80,000 square-feet of non-residential uses located in the Limited Industrial Area. <b>SUP application:</b> Two non-residential mixed-use buildings of approximately 45,000.00 square-feet.	<b>Rezoning application:</b> Maximum of 30,000 square-feet of commercial/office space and approximately 90,000 square-foot of assisted living facility with 96 units located in the Limited Industrial Area.

Source: Rezoning Application Materials Associated with-Z-0003-2008/MP-0003-2008

The assisted living facility is a new feature proposed as part of the latest rezoning application for the Candle Factory project. This facility with approximately 90,000 square-feet is planned with six smaller living clusters, a community room, and a central facility. Each of the living clusters is a stand-alone building that is connected to the central facility and to each other by means of an enclosed walk. Each cluster will consist of a residential kitchen, a nursing station, a common living area, dining area and lounge. Inside each cluster the nursing stations will have one to two nurses and will provide 24 hour nursing assistance. Each cluster will accommodate 16 sleeping rooms. These rooms are designed to accommodate one to two people and will have a small sitting area and private bathroom. The central facility will have the main commercial kitchen and the primary dining hall. According to information provided by the applicant, Cross Walk Community Church will manage and operate the proposed facility.

**Proffers:** Are signed and submitted in accordance with the James City County Proffer Policy. Table 2.0 below identifies all cash contribution (except for \$30,000 proffered for sidewalks later discussed in this report) offered by the applicant as a means to mitigate the physical impact of the proposed development.

**Table 2.0-Cash Contributions for Community Impacts**

Housing Category	Housing Type	Total Quantity	Pricing Type	Total Quantity	CIP: Schools	CIP: Others:	Water	Sewer	Stream Restoration	Totals:
SFD <sup>1</sup>	Single Family Detached	33 units	Market Price	33 units	\$ 4,011	\$1,000	\$1,217.00	\$631.00	\$ 500.00	\$242,847
SFA <sup>2</sup>	Townhouse	142 units	At or below \$160,000	19 units	N/A	N/A	N/A	N/A	\$ 500.00	\$9,500
			At or below \$ 190,000	19 units	N/A	\$1,000	\$913.00	\$631.00	\$ 500.00	\$57,836
			At or below \$225,000	20 units	N/A	\$1,000	\$913.00	\$631.00	\$500.00	\$60,880
			Market Price	84 units	N/A	\$1,000	\$ 913.00	\$631.00	\$ 500.00	\$255,696
N/A	Assisted Living Units	96 units	N/A	N/A	N/A	\$250.00	\$ 456.00	\$558.00	N/A	\$121,344
<b>Total Contributions</b>										<b>\$748,103.00</b>

Source: Rezoning Application Materials Associated with-Z-0003-2008/Master Plan-0003-2008

<sup>1</sup>SFD = Single Family Detached; <sup>2</sup>SFA = Single Family Attached.

**PUBLIC IMPACTS**

**Archaeology**



**Proffers:**

- The County archaeological policy is proffered (Proffer No. 10).

**Staff Comments:** A Phase IA Cultural Resources Assessment developed for the property by the James River Institute for Archaeology was submitted for County review (attached to this report). The assessment suggests that “one or more sites associated with an eighteenth-or early nineteenth-century occupation may be present on the site” and that “the situation of the property at the confluence of two tributary streams suggest that there is high potential for the presence of temporary Native American campsites dating from the Archaic and Woodland periods, as well.” Given the above recommendations, staff finds that a Phase I Archaeological Study for the entire property is warranted and that Proffer No. 10 is therefore appropriate and acceptable.

**Environmental**

**Watershed:** Subwatershed 103 of the Yarmouth Creek Watershed

**Proffers:**

- A contribution of \$500.00 for each residential unit shall be made to the County toward stream restoration or other environmental improvements in the Yarmouth Creek watershed [Proffer No.5 (e)];
- Sustainable building practices as recommended in the NAHB Model Green Building Guidelines are proffered (Proffer No. 11);
- Development of a Master Stormwater Management Plan is proffered with the use of Low Impact Development (LID) techniques to treat 30% of the impervious areas on the property [Proffer No.14 (a)]; and
- A Nutrient Management Plan program has been proffered to be implemented in the proposed development. (Proffer No. 15).

**Environmental Staff Comments:** This proposal will meet the County’s 10-point Stormwater Management requirements through a combination of structural BMP facilities and Natural Open Space credit. Further, in order to comply with the Special Stormwater Criteria (SSC) for the Yarmouth Creek watershed, two forebays will be provided at the major stormwater outfalls into the largest of the BMP’s (Marston’s Pond) in order to address water quality. Low Impact Development (LID) facilities, such as bioretention basins, dry swales, porous pavement systems, underground infiltration BMPs, rain barrels and downspouts are included in the Master Stormwater Conceptual Plan. The Environmental Division has recommended approval of the rezoning and associated proffers for this development.

According to information provided by the applicant, 12.33 acres of the entire site are non-developable areas (e.g. wetlands, streams, steep slopes and areas subject to flooding). The remaining 52.17 acres are developable land. The Candle Factory Master Plan shows approximately 24.45 acres or 47% of the net developable area of the site as natural open space. The proposed natural open space for Candle Factory is above the 10% requirement set forth by Section 24-524 of the ordinance and will include, in addition to required RPA buffers, 3.65 acres of parkland areas and over 12 acres of additional open space outside the 100 feet RPA buffer at the perimeter of the development.

**Fiscal Impact:****Proffers:**

- Cash contributions of \$1,000 per dwelling unit other than affordable units on the property (total of \$156,000.00) and \$ 250.00 for each assisted living unit on the property (total of \$ 24, 000.00) shall be made to the County in order to mitigate impacts on the County from the physical development and

operation of the property. The County may use these funds for any project in the County's capital improvements plan which may include emergency services, off-site road improvements, future water needs, library uses, and public use sites.

A Fiscal Impact Study prepared for this development by the Wessex Group (attachment to this report) was provided along with the rezoning application for County review. Below are the major assumptions and results of the net fiscal impact analysis for the Candle Factory Development identified by the study:

- At completion in 2014, the proposed development is expected to add proximately \$59 million in real property value to James City County;
- An average of 87 full-time employees per year is expected during the five-year construction phase of the Candle Factory Development. At build-out in 2014, 148 employees are expected to work in the office spaces and in the assisted living facility combined;
- At build-out, the Candle Factory Development is expected to generate annually \$770,000 in revenues for James City County and create annual expenditures in the amount of \$816,000. The net fiscal impact is estimated to be negative \$46,200 at build out in 2014; and
- In future years, the net fiscal impact is expected to improve such that in 2021, the net fiscal impact is at breakeven and increases in the years following.

**Staff Comments:** According to comments provided by the James City County Financial and Management Services (FMS), the Fiscal Impact Study for the Candle Factory is heavily weighted up front by construction spending. Permit fee revenue is the largest source of local revenue until the fourth year of a five year construction schedule. Permit fee revenue usually doesn't cover the costs of the on-going oversight by Code Compliance and the Environmental Division during construction, but Code Compliance and Environmental spending is not accurately reflected in the presentation of offsetting spending thus overstating the fiscal benefits. At build-out, the projections turn negative.

#### *Residential*

There is an expectation that houses and/or townhouses marketed with prices at the lower end of the residential sales market in James City County to be a positive feature with a fiscal impact that is skewed negative. However, property taxes will not pay for school spending with housing units in the proposed price range.

#### *Office*

The Class B office space generates none of the taxes that could be expected from retail, lodging property, manufacturing or an assembly plant. From a local fiscal perspective, Class B commercial does not provide many of the taxes benefits desired for the County. This may become more evident if the office vacancy rates begin to climb and rents and assessments start to fall.

#### *Assisted Living Facility:*

Fiscally, the assisted living facility provides the greatest economic potential, but it is projected to be built in the last year of the construction schedule. It is the most tentative of the proposed improvements and if it should be discarded or rejected, the development's fiscal profile becomes significantly worse than what has been currently presented in this report.

#### **Public Utilities**

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

#### **Proffers:**

- For cash contribution information please refer to Table No. 03 on this report and/or Proffer No. 5 attached to this report.

**Staff Comments:** The James City Service Authority has reviewed the rezoning application and finds that proffers being offered will mitigate impacts to the County’s public water and sewer system. The James City Service Authority has recommended approval of the rezoning and associated proffers for this project.

**Public Facilities:**

**Proffers:**

- A cash contribution of \$ 4,011.00 per each single-family detached dwelling unit, other than affordable units has been proffered to the County to mitigate the impacts from physical development and operation of the property [Proffer No. 4(a)]. The County may use these funds for any project in the County’s capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through 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.

This project is located within the Norge Elementary, Toano Middle, and Warhill High Schools districts. Under the proposed Master Plan, 175 residential units are proposed. With respect to the student generation and the current school capacities and enrollments for 2007-2008, the following information is provided:

*Student Projections:*

- Single-Family Detached: 0.41 (generator) x 33 (residential type) generates **14 new students**
- Town homes: 0.16 (generator) x 142 (residential type) generates **23 new students**

A total of thirty-seven new students are projected to be generated under the assumed residential unit mix. These numbers are generated by the Department of Financial and Management Services in consultation with WJCC Public Schools based on historical attendance data gathered from other households in James City County. Table 3.0 below illustrates the expected number of students being generated by Candle Factory and overall student capacity for Norge Elementary School, Toano Middle School and Warhill High School.

**Table 3.0-Student Enrollment and School Capacity for JCC-Williamsburg Schools 2008**

School	Design Capacity	Effective Capacity <sup>1</sup>	Current 2008 Enrollment	Projected Students Generated	Enrollment + Projected Students
Norge Elementary School	760	715	601	16	617
Toano Middle School	775	822	839	9	848
Warhill High School	N/A*	1,441	1,037	12	1049
<b>Total</b>	1535	2,978	2259	37	2514

Source: 2007-2008 5 Year Enrollment Projection Report

<sup>1</sup> Effective Capacity represents the “realistic and practical number of students that the school facility can accommodate.

Effective capacities were revised in November of 2008.

\* There is no Design Capacity developed for Warhill High School

Based on this analysis, the twenty-eight students projected to be produced from the new development would not cause the enrollment levels for Norge Elementary and Warhill High Schools to exceed their effective capacities. However, the proposed development does not meet the Adequate Public Facilities (APF) Policy at the Middle School Level, both on Design and Effective capacity. As it is noted that a new Middle School is funded and is scheduled to open in 2010, staff believes that this proposal would still meet the APF Policy Guidelines.

Staff notes that the \$ 4,011 proffered by the applicant to mitigate the impact of students on schools was based on the Cash Proffer Policy for Schools adopted by the Board of Supervisors on September 13, 2005. On July 24, 2007, the Board of Supervisors adopted a new Cash Proffer Policy for Schools with revised figures for contributions. Table 4.0 below shows the difference in the amount of cash proffers for schools per the different residential dwelling types in the 2005 and 2007 revised policy.

**Table 4.0-Cash Proffer Policy for Schools in 2005 and 2007**

Dwelling Unit Type	Cash Proffer Policy adopted in September 13, 2005	Cash Proffer Policy adopted in July 24, 2007*
Single-Family Detached	\$ 4,011 per unit	\$ 17,115 per unit
Single-Family Attached	\$ 0 per unit	\$ 4,870 per unit
Multi-Family	\$ 4,275 per unit	\$ 15,166 per unit

Source: James City County Planning Division

The applicant should adhere to the most recently approved Cash Proffer Policy for Schools based on the following: 1) the original rezoning application was indefinitely deferred by the applicant and therefore no legislative approval was granted to the project prior to adoption of the 2007 Cash Proffer Policy for Schools, and 2) the rezoning application submitted and reviewed by staff in 2008 is substantially different from the 2007 plans (i.e. exclusion of the SUP request for the project and inclusion of an assisted living facility complex). Based on the above information, staff has requested that the applicant revise the proffered contributions for schools to reflect the recently approved 2007 Cash Proffer Policy for Schools. However, staff notes that the proffer document submitted along with this rezoning application does not reflect the amounts specified by the 2007 policy.

## **Parks and Recreation**

### **Proffers:**

- Approximately 3.65 acres of parkland, including one centrally located, shared playground of at least 2,500 square feet with at least five activities;
- A minimum eight-foot wide concrete or asphalt path along one side of the entrance road approximately 0.36 miles in length;
- Approximately .094 miles of soft surface walking trail;
- One paved multi-purpose court approximately 50' x 90' in size; and
- Two multi-purpose fields, one which will be at least 200' x 200' in size.

**Staff Comments:** All of the above recreational features have been proffered (Proffer No.9). Staff finds the proffered recreational amenities to be in accordance with County Parks and Recreational Master Plan (CPRM) and to be acceptable.

## **Transportation**

A Traffic Impact Analysis (TIA) to address the requirements set forth by VDOT's Traffic Impact Analysis

regulations commonly known as Chapter 527 was prepared for the proposed Candle Factory development and submitted as part of this rezoning application. VDOT has evaluated this TIA and found that the report conforms to the requirements of Chapter 527 with regard to the accuracy of methodologies, assumptions, and conclusions presented in the analysis. The scope of this study encompassed (1) a corridor analysis inclusive of Route 60 traffic signals at Croaker Road, Norge Lane, and Norge Elementary School; and

(2) a traffic analysis which extends fifteen years in the future to the year 2021. The intersections for the traffic counts and traffic analysis used for this report are shown below:

- Richmond Road/Croaker Road-Signalized intersection;
- Richmond Road/Norge Lane-Signalized intersection;
- Richmond Road/Norge Elementary School-Signalized intersection; and
- Croaker Road/Rochambeau Drive.

**Proffers:**

- Reconstruction of the existing private driveway at the Route 60/Croaker Road intersection to a public road with three lane road section at the Rt. 60 intersection [Proffer No.6(a)];
- At the intersection of Route 60 and Croaker Road, a right turn lane with 200 feet of storage and a 200 foot taper and with shoulder bike lane from east bound Route 60 into the property shall be constructed [Proffer No. 6(b)];
- At the intersection of Route 60 and Croaker Road, the eastbound left turn lane shall be extended to have 200 feet of storage and a 200 foot taper [Proffer No. 6(c)];
- Related adjustments to the Route 60 traffic signal at Croaker Road were proffered [(Proffer No. 6(d)];
- Payment to VDOT, not to exceed \$ 10,000.00 of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of the signal at the Croaker Road/ Route 60 intersection [Proffer No. 6(e)];
- Provision of pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001C ); and
- Installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection of Route 60/Croaker Road as warranted (Proffer No. 20).

Staff notes that the traffic forecast for Stonehouse development and proffered road improvements were incorporated into the analysis of the TIA for Candle Factory. Following are the transportation improvements (currently non-existing) assumed in the submitted TIA based on proffered conditions for Stonehouse development:

- *Widen the segment of State Route 30 from two lanes to four lanes west of Croaker Road;*
- *Add dual left turn lanes and a channelized right turn lane to the eastbound approach of Rochambeau Drive at Croaker Road;*
- *Install left turn, shared left/through lane and right turn lane on southbound Croaker Road at Route 60;*
- *Install a second left turn and a separate right turn lane On northbound Croaker Road at Rochambeau Drive; and*
- *Add a left turn lane, a right turn lane and a second through lane on westbound Rochambeau Drive at Croaker Road.*

*Trip Generation:*

According to the TIA (attached to this report), the proposed development, with a single entrance onto Route 60 via proposed Croaker Road Extended, has the potential to generate 3580 daily trips: 210 a.m. peak hour (110 entering and 100 exiting the site) and 401 p.m. peak hour (183 entering and 218 exiting the site). The residential part of the development alone is expected to generate a total of 1,148 vehicular trips per day (vpd),

while commercial and office areas are expected to generate 1,906 vpd and the assisted living facility is expected to generate the lowest vehicular trips per day at 526 vpd.

Intersection Level of Services:

The overall Level of Service (LOS) for the Croaker Road intersection with Route 60 is currently at level C. At the same intersection, the level of service is projected to remain at Level C in 2015 with and/or without the Candle Factory Development. Assuming all traffic improvements proffered by Stonehouse and the Candle Factory development, overall LOS C is maintained for all conditions.

Traffic Counts:

- **2007 Traffic Counts:** From Croaker Road (Route 607) to Lightfoot Road (Route 646), 21,892 average daily trips.
- **2026 Volume Projected:** From Croaker Road (Route 607) to Centerville Road – 33,500 average daily trips is projected. This segment of Richmond Road is listed on the “watch” category in the Comprehensive Plan.

**VDOT Comments:** VDOT concurs with the trip generation as presented by the Traffic Analysis. A supplemental material to the TIA (attached to this report) was further provided by the applicant per the request of the Virginia Department of Transportation in order to forecast future traffic conditions and road improvements without the Stonehouse development. The supplemental analysis demonstrated that without improvements in place at the Route 60/Croaker Road intersections previously proffered by Stonehouse, several movements exhibit LOS “D” or lower in the background conditions without the Candle Factory, and these deficiencies are carried into the “with Candle Factory” scenario. While not directly attributable to the proposed Candle Factory development, there will be several operational deficiencies prior to Stonehouse improvements being implemented.

VDOT concurs with the proffer improvements proposed within the traffic impact study but offers the following recommendation as an additional proffer: *“The submitted traffic impact study proposes the northbound approach to the intersection (i.e. Route 60/Croaker Road) as an exclusive left-turn lane and a shared through/right lane. Due to the anticipated site traffic distribution northbound, we recommend the installation of a dedicated right-turn lane resulting in providing separate left, through, and right turning lanes. This configuration would reduce delays experienced by right turning vehicles, thereby improving intersection safety and capacity.”*

**Staff Comments:** Staff concurs with VDOT’s findings and notes that according to the supplemental material, Overall LOS at Route 60/Croaker Road and Route 60/Norge Lane will remain at Level C, although several turning movements exhibit LOS D. Level of Service at Croaker Road/Rochambeau Drive will decline over time. Staff further notes that primary access to the development will be from the existing shared and signalized

entrance at the Richmond/Croaker Road intersection. Access to the office/commercial component of the development will also be provided by extension of the existing drive from Poplar Creek Office Park.

Staff also concurs with VDOT’s recommendation that the northbound signalized intersection at Route 60 and Croaker Road should be reconstructed from 3-lane (proffered by the applicant) to 4-lane (recommended by VDOT) since this latter configuration has the potential to improve the intersection safety and capacity. Staff has informed the applicant of VDOT’s recommendation but no change has been made to the traffic improvement proffers at the time this report was written. Staff finds that the addition of a dedicated right-turn lane at the northbound approach to the intersection (i.e. Route 60/Croaker Road) would be a desired feature as part of the traffic improvements for the Candle Factory.

**COMPREHENSIVE PLAN**  
**Land Use Map**

The 2003 Comprehensive Plan Land Use Map designates the site for the proposed Candle Factory project as Low Density Residential, Mixed Use, and Limited Industry. Table 5.0 below shows all the three different land use designations on the site broken down by respective acreage, proposed use, and correspondent densities.

**Table No.5.0-2003 Comprehensive Plan Land Use Designation for the Candle Factory Property**

	<b>Candle Factory Site (Total Acreage)</b>	<b>Mixed Use Designated Area</b>	<b>Low Density Residential Designated Area</b>	<b>Limited Industry Designated Area</b>
<b>Area</b>	±64.45 Acres	±23 acres	±26 acres	±16 acres
<b>Uses Proposed</b>	<b>Residential, non-residential, and recreational uses</b>	<b>Residential:</b> Single-Family Attached Units <b>Recreational:</b> ±1.90 acre of park land <b>Non-residential:</b> Thirty-thousand square feet of commercial/office space	<b>Residential:</b> Single-Family Detached Units <b>Recreational:</b> ±0.75 acre of park land	<b>Non-Residential:</b> Ninety-thousand square-foot Assisted Living Facility with capacity for 96 units
<b>Density</b>	2.71 dwelling units per acre	4.2 dwelling units per acre	2.0 dwelling units per acre	N/A

Source: Rezoning Application Materials Associated with-Z-0003-2008/MP-0003-2008

According to the master plan for The Candle Factory, the majority of the 142 single-family attached units, park areas, and all commercial and office spaces are planned for the 23-acre Mixed-Use area. The 33 single-family detached units are planned for the 26-acre Low Density Residential designated area, and the proposed assisted living facility is located on the 15-acre Limited Industry Designated area.

The residential density proposed for the Candle Factory is well below the maximum of 18 dwelling units per acre allowed in Mixed Use Zoning Districts. Staff notes that the master plan shows two residential density numbers for this project; the lowest gross density number, 2.71 dwelling units per acre, is achieved by using the total acreage of the site (175 residential units/64.45 acres). The highest density number, 3.61 dwelling units per acre is achieved by not considering the 16-acre area designated Limited Industry on the site (175 residential units/48.47 acres). Staff finds that the use of the lowest density number for this project to be acceptable and consistent with other residential project as it considers the entire acreage of the parcel to calculate density.

Designation	<b>Low Density Residential (Page 120):</b> Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre.... In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. 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.
	<b>Staff Comment:</b> This development proposes approximately thirty-three single-family detached units in this area, creating a density of 2.0 units per acre. Residential developments with gross densities greater than one unit per acre and up to four units per acre may be considered if they offer particular public benefits to the community. Staff notes the provision of affordable and workforce housing, unusual environmental protection, and open space design as public benefits offered by this proposal.

	<p><b>Mixed Use (Page 124):</b> Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes...Moderate to high density residential uses with a maximum gross density of 18 dwelling units per acre could be encouraged in mixed-use areas where such development would complement and be harmonious with existing and potential development and offer particular public benefits to the community.</p>
	<p><b>Staff Comment:</b> The majority of the 142 single-family attached units are planned to be located within the existing Mixed-Use area, along with 30,000 square feet of non-residential uses. The Comprehensive Plan designation for Mixed Use areas located at or near interstate interchanges of major thoroughfares (Candle Factory is accessed by the signalized intersection of Route 60 and Croaker Road) recommends “more intensive commercial, office, and limited industrial purposes.” As the majority of the uses proposed for this existing Mixed-Use area are residential, staff finds it to be inconsistent with the Mixed-Use Land Use designation.</p>
	<p><b>Limited Industry (Page 123):</b> Limited Industry sites within the PSA are intended for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area...Secondary uses in Limited Industry areas may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p>
	<p><b>Staff Comment:</b> Approximately 16-acre of land is depicted Limited Industry by the Comprehensive Plan. Of these, approximately 13-acre of industrially designated land immediately behind the parcel occupied by the Cross Walk Community Church, formerly known as the Music Theater, is part of the rezoning application. This project proposes 90,000 square-foot assisted living facility with 96 units. Staff finds that the proposed use for the area designated Limited Industry to be inconsistent with the primary uses (i.e. warehousing, office, service industries, light manufacturing plants, etc) and secondary uses (i.e. limited amount of commercial development) set forth by the 2003 Comprehensive Plan.</p>

**Parks and Recreation**

<p>Goals, Strategies and actions</p>	<p>Strategy # 9-Page 39: Encourage new developments to proffer neighborhood and community park facilities and trails as outlined in the Parks and Recreation Master Plan.</p> <p>Action # 4-Page 39: Encourage new developments to dedicate right-of-way and construct sidewalks, bikeways, and greenway trails for transportation and recreation purposes, and construct such facilities concurrent with road improvements and other public projects in accordance with the Sidewalk Plan, the Regional Bicycle Facilities Plan, and the Greenway Master Plan</p>
	<p><b>Staff Comment:</b> All recreational facilities proposed for this development are in accordance with the Parks and Recreation Master Plan as described above. Sidewalks are proffered for one side of each of the public streets on the property (Proffer No. 12).</p>



**Environmental**

Goals, Strategies, and actions	<p>Strategy #2-Page 65: Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p>Action #5-Page 66: Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p> <p>Action#22-Page 67: Promote the use of LEED (Leadership in Energy and Environmental Design) “green building” techniques as a means of developing energy and water efficient buildings and landscapes.</p> <p>Action #23-Page 67: Encourage residential and commercial water conservation, including the use of grey water where appropriate.</p>
	<p><b>Staff Comment:</b> The required 100 foot RPA buffer and the additional twelve acres of open space located at the perimeter of the property will separate and protect environmentally sensitive areas such as the perennial streams feeding Yarmouth Creek. Low Impact Development (LID) features to treat stormwater from 30% of the impervious areas on the property have been proffered. Further, sustainable building practices as recommended in the NAHB Model Green Building Guidelines have been proffered as part of Design Guidelines and Review. Water conservation standards, which limit the installation and use of irrigation systems and irrigation wells on the property, have also been proffered.</p>

**Housing**

Goals, strategies, and actions	<p>Goal # 1-Page 106: Achieve a range of choice in housing types, density, and price range.</p> <p>Goal# 3- Page 106: Increase the availability of affordable housing.</p>
	<p><b>Staff Comment:</b> This development will offer a variety of housing types and housing prices. Up to 175 residential units are proposed. According to the master plan, the residential mix for this proposal will be 33 single-family detached units and 142 single-family attached units. The developer has proffered (Proffer No. 4) affordable and mixed cost housing as part of this proposal; a minimum of 19 of the dwelling units shall be offered for sale at or below \$ 160,000 (“affordable units”), a minimum of 19 of the dwelling units shall be offered for sale at a price at or below \$190,000 (“workforce” units), and a minimum of 20 units shall be offered for sale at or below \$225,000. According to the submitted proffers, none of the single-family detached units will be sold below the market price. According to the master plan all affordable and workforce residential units will not be constructed all in the same location. Staff finds that the provision of affordable housing is a significant public benefit offered by this development and find that the applicant’s effort to provide affordable housing is acceptable.</p>

## Transportation

<p>General</p>	<p>Richmond Road- Page 77: Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such development would have on the surrounding road network.</p> <p>Croaker Road-Page79: The section of Croaker Road extending from Route 60 West to Rose Lane has been placed in the “watch” category since traffic volumes are projected to increase from 8,356 vehicle trips per day to 13,000 vehicle trips per day. Development pressure in this area could push the need for future improvements. It is recommended therefore that road widening be avoided by careful land use and traffic coordination, and intersection and turn lane improvements be implemented if the traffic volumes warrant them.</p> <p><b>Staff Comment:</b> The proposed development is planned as a master planned community with internal roads and shared access for the residential and commercial uses. Staff finds that the applicant has proffered road and traffic improvements for the intersection of Richmond and Croaker Road. Staff notes that the addition of a dedicated right-turn at the northbound approach at the intersection between Route 60 and Croaker could improve the intersection safety and capacity. Further, staff notes that the current proffers states that road improvements are to either be <i>“completed or bonded prior to issuance of certificated of occupancies for buildings of the property.”</i> Staff has requested the applicant to modify this language and change the trigger from <i>“prior to issuance of any certificate of occupancies for building at the property”</i> to <i>“prior to approval of a site plan and/or subdivision plan for the property”</i>. Staff finds that the current language may put the burden on the County to take action the prospective owner instead of the developer. Staff notes that at the time of this report being written such change in the proffered language has not occurred.</p>
<p>Goals, Strategies, and actions</p>	<p>Strategy #5-Page 80: Support the provision of sidewalks and bikeways in appropriate areas, increased use of public transportation services, and investigation of other modes of transportation.</p> <p>Strategy #7(a)-Page 81: Encourage efficient use of existing and future roads, improve public safety, and minimize the impact of development proposals on the roadway system and encourage their preservation by limiting driveway access points and providing joint entrances, side street access, and frontage roads.</p> <p>Strategy #7(f)-Page 81: Develop and implement mixed-use land strategies that encourage shorter automobile trips and promote walking, bicycling, and transit use.</p>

	<p><b>Staff Comment:</b> As part of the pedestrian circulation plan proposed for this development, sidewalks will be installed on at least one side of each of the public streets on the property. Staff notes that Proffer No. 12 states that “<i>Sidewalks shall be installed prior to issuance of any certificated of occupancy for adjacent dwelling units.</i>” Staff has indicated to the applicant a preference for sidewalks to be installed concurrently with the construction of internal roads. At the time this report was written no change was made to this proffer to reflect staff’s suggestions. Also, the applicant has proffered a “<i>one time contribution of \$30,000 to be made to the County for off-site sidewalks.</i>” According to the County Engineer, the amount proffered after the design, installation, and traffic control costs are considered, may yield 400 to 500 linear feet of sidewalks (5-foot wide). Staff notes that 800 of linear feet were proffered to be installed by the applicant at the previous rezoning for Candle Factory. Staff finds that the above modifications to the said proffers would enhance the overall proffers for the Candle Factory development.</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Community Character Area**

<p>Goals, strategies, and actions</p>	<p>Action #24(b)-Page 97: Maintain the small town, rural, and natural character of the County by encouraging new developments to employ site and building design techniques that reduces their visual presence and scale. Design techniques include berms, buffers, landscaping, building designs that appear as collections of smaller buildings rather than a single large building, building colors and siting that cause large structures to blend in with the natural landscape, and low visibility parking locations.</p> <p><b>Staff Comment:</b> The applicant has proffered to install streetscape improvements in accordance with the County’s Streetscape Guidelines along Croaker Road extended (please refer to Proffer No. 8). Further, the applicant has proffered landscaping in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet (please refer to Proffer No.19). According to this proffer “<i>The landscaping shall consist of 20 street trees and least 125% of Ordinance caliper size requirements.</i>” Staff finds said proffers to be acceptable in its current form.</p>
---------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**COMPREHENSIVE PLAN**

**Staff Comments:**

Since the last Planning Commission meeting on July 11, 2007, this rezoning application has been revised to address suggestions made by the Planning Commission and by Planning Staff. These revisions are reflected in changes to the Master Plan and proffers (e.g. reduction of residential units, provision of additional open space areas and affordable housing, etc). While staff recognizes and commends all the positive changes made to this project since its last reiteration; good design lay-out of the site, architectural treatment of structures, etc, staff finds the project to be inconsistent with the 2003 Comprehensive Plan Land Use Designation. Below are the two major areas of inconsistency in accordance with the Comprehensive Plan Policies:

*Mixed-Use Area*

The majority of the 142 single-family attached units and a maximum of 30,000 square-feet of commercial/office space is planned to be located within the 23-acre area designated Mixed Use by the Comprehensive Plan. Staff finds that the majority of the land uses for this Mixed Use area of the Candle Factory development to be skewed toward residential uses and therefore inconsistent with the primary and secondary land uses recommendations for Mixed Use areas near major thoroughfares:

*“Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for*

*more intensive commercial, office, and limited industrial purposes.”*

#### *Limited Industry Area*

A 90,000 square foot assisted living facility is proposed for the 16-acre area designated Limited Industry by the 2003 Comprehensive Plan. From a land use perspective, this proposal appears to have minimum impacts on the environment, local traffic and has the potential to be a positive fiscal impact to the County. However, an assisted living facility is a use which is neither a primary or secondary use suggested by the 2003 Comprehensive Plan for an industrial area. Staff acknowledges that an application to change the Limited Industrial land use designation for this area has been submitted for consideration as part of the 2008 Comprehensive Plan Updated. However, staff’s analysis and land use recommendations are based on current use and designation.

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

The applicant is proposing a request for modifications to the setback requirements in sections 24-527 (b) subject to the criteria outlined in Section 24-527 (c) (1). According to the applicant (attached to this report), the setback modification, from a required 50-foot landscape buffer to 0-feet, is being requested for the portion of the site abutting the Cross Walk Community Church Parcel to provide future connectivity between both parcels.

Further, the applicant requests to reduce the vegetative buffer to a minimum of 20 feet-wide between the commercial/office area as shown on the master plan, and the Candle Factory Commercial Complex. This is also requested for the purpose of providing connectivity between both parcels.

Section 24-527 (c) of the ordinance states that “a reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive plan upon finding that the proposed setback meets both criteria (1) and (2) listed below and at least one additional criteria (i.e. criterion No. 3, 4, or 5)

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;
- (2) The proposed setback reduction has been evaluated by appropriate county, state, or federal agencies and has been found to not adversely impact the public health, safety or welfare;
- (3) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (4) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (5) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

Staff supports this request for a buffer modification based on the following criteria (with staff responses in italics):

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible

*The Cross Walk Community Church Parcel is zoned Mixed Use, the same zoning designation sought for the rezoning for Candle Factory. Further, Cross Walk Community Church will run and operate the proposed Assisted Living Facility at the Candle Factory site.*

- (2) The proposed setback reduction has been evaluated by appropriate county, state, or federal agencies and has been found to not adversely impact the public health, safety or welfare.

*The proposed setback reduction has been evaluated as part of this rezoning application and found not to adversely impact the public health, safety or welfare of citizens.*

- (3) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;

*The reduction of the vegetative buffer along the areas mentioned above has the potential to allow for pedestrian/vehicular connectivity between the Candle Factory development and Cross Walk Community Church and Candle factory Commercial Complex Parcels.*

Should the Planning Commission recommend approval of this rezoning application, staff recommends that the setback modification as described above be approved as part of this application.

**PRIVATE STREETS:**

Section 24-258 (b) of the Zoning Ordinance states that: *‘Private streets may be permitted upon approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development shall meet the requirements of the Virginia Department of Transportation.’* The applicant has indicated the possibility of private streets in the some areas of the development and has proffered (Proffer No. 16) maintenance of the private streets through the Home Owners Association. Staff notes that the exact location of the proposed private streets has not been determined as part of this rezoning application and therefore the applicant must bring this request at a later time for consideration.

**RECOMMENDATION:**

Staff finds this development, as currently proposed, to be generally inconsistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation for the following reasons:

- Inconsistency with the 2003 Comprehensive Plan Mixed-Use designation for Mixed-Use areas at or near major thoroughfares,
- Inconsistency with the 2003 Comprehensive Plan Limited Industrial land use recommendations,
- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road is insufficient,
- Completion of proffered traffic improvements not acceptable in its current form; and
- School proffers not consistent with current policy.

Staff recommends that the Planning Commission recommend denial of this application to the Board of Supervisors.

---

Jose-Ricardo Linhares Ribeiro  
Senior Planner

**Attachments:**

1. Binder A contains the following documents:

- a. Community Impact Statement
  - b. Architectural Elevations
  - c. Traffic Impact Study
  - d. Master Plan
2. Binder B contains the following documents:
- a. Location Maps
  - b. Illustrative Plan
  - c. Fiscal Impact Study
  - d. Letter Requesting Modifications for Setback
  - e. Phase IA Cultural Resources Assessment
  - f. Proffers

## MEMORANDUM

DATE: January 07, 2008

TO: The Planning Commission

FROM: Jose Ribeiro, Senior Planner

SUBJECT: Case No. ZO-0004-08-Retail Sale and Repair of Lawn Equipment

---

Upon citizen request, staff is proposing to amend the Zoning Ordinance to allow the retail sale and repair of lawn equipment in A-1, General Agricultural District. Retail sale and repair of lawn equipment are by-right uses in B-1, General Business; M-1, Limited Business/Industrial; and MU, Mixed Use Districts, under the general title of "Retail and service stores...including yard goods." The proposed change would be as follows:

1. Amend Section 24-213, Specially Permitted Uses, within the A-1, General Agriculture District to allow the retail sale and repair of lawn equipment with outdoor display area up to 2,500 square feet and repair limited to a fully enclosed building.

There are a limited number of uses allowable either by-right or as a special use permit in the A-1 District that deal with retail sale as well as mechanical equipments. By-right uses include farmers' markets up to 2,500 square feet; wayside stands for agricultural products limited in area to 500 square feet, and wineries including retail shops for the sale of wine. Specially permitted uses include convenience stores, farmers' markets over 2,500 square feet, feed/seed and farm supplies, gift and antique shops, lumber and building supply stores, manufacture and sales of wood products, retail shop associated with community recreational facilities, wayside stands for agricultural products over 500 square feet, and retail sales of plant and garden supplies (Mechanical law equipment is excluded from this use by definition.)

Current by-right uses within the A-1 district that involve mechanical equipment include storage and repair of heavy equipment as an accessory to a farm. Specially permitted uses include "repair of commercial equipment accessory to a dwelling with no outdoor storage or operations, farm equipment sales and service, and storage and repair of heavy equipment."

Staff supports that "lawn equipment" should be generally understood to be mechanical lawn and garden equipment including: riding lawn machinery, tillers, chippers, blowers, and chainsaws. Staff researched other localities in Virginia to determine if the retail and repair of lawn equipment is a permitted use in their respective agricultural areas. Of the 9 jurisdictions researched, Goochland, Loudon, and Shenandoah Counties generally allowed the sale and repair of lawn equipment as a specially permitted use in agricultural district areas.

In James City County, the agricultural district covers the Rural Lands designation in the 2003 Comprehensive Plan. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the Primary Service Area (PSA). However, a few of the smaller direct agricultural or forestal-support uses, home-based occupations, and certain uses which require very low-intensity settings relative to the site in which it will be located can be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area.

Staff supports that limited retail and repair of 'lawn equipment' is appropriate for inclusion in the A-1, General Agriculture, District. These establishments provide a necessary service to residents on a limited scale in agricultural areas of the County. To ensure compatibility with the natural and rural character of the area, staff notes that the proposed amendment to the ordinance limits outdoor storage to 2,500 square feet and that repair of equipment is limited to a fully enclosed structure. Further, should this amendment be approved as a

specially permitted use, as proposed by staff, a case-by-case review during the special use permit and site plan process would allow specific conditions to be applied in order to maintain, improve, and/or mitigate any impacts to the natural and rural character of James City County's agricultural areas. In staff's opinion this type of land use can, with the right conditions, complements existing uses in A-1 such as farmers' markets, feed/seed and farm supplies, retail sales of plant and garden supplies, and farm equipment sales and services.

Staff recommends that the Planning Commission recommend approval of the attached ordinance amendment.

---

Jose Ribeiro

Attachments:

1. Revised Ordinance
2. Letter from the Applicant



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-213, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-213, Uses permitted by special use permit only.

Chapter 24-Zoning  
Article V. Districts  
Division 2. General Agricultural District, A-1

**Section 24-213. Uses permitted by special use permit only.**

In the General Agricultural District, A-1, buildings to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter.

*Retail sale and repair of lawn equipment with outdoor display area up to 2,500 square feet and repair limited to a fully enclosed building.*

---

Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10<sup>th</sup> day of February, 2009.

Nick Cianelli  
15402 Rolfe Court  
Lanexa, VA 23089  
Phone: 757-897-9027  
acianelli@cox.net

September 4, 2008

Mr. Allen Murphy  
Acting Planning Director  
James City County  
101 E Mounts Bay Road  
Williamsburg, VA 23188


Dear Mr. Murphy:

I am writing to request your consideration for an amendment to the A-1 section of the Zoning Ordinance.

I currently own a piece of property located at 8231 Richmond Road that is zoned A-1, and would like to open a new James City County business similar to the one that I owned and operated for 18 years in York County. I would like to sell and repair equipment that is used for residential, commercial, and small farm lawn maintenance. This would include chainsaws, blowers, chippers, tillers, and riding lawn equipment. I would anticipate carrying several new product lines to include Toro, Echo, and Scag, and would also repair and resale other lines. I would also carry a small selection of plants, fertilizers, and seed for retail sales.

In reviewing the allowable activities for A-1, it appears that a small portion of what I am proposing is allowed, but the other is not specifically identified. The retail sales of plant and garden supplies and feed, seed, and farm supplies is listed as allowable, but the sales of equipment needed to maintain smaller properties is not listed. Farm equipment sales and services, and storage and repair of heavy equipment are allowed, and I would like to request that you consider my request as an allowable use. I believe that the two uses combined (sales of garden supplies and sales of garden equipment) would allow for a business that fits with the character and intention of the A-1 zoning, and will provide a needed service to those located in that section of the County.

I am available at your convenience to answer any questions, and I thank you in advance for your thoughtful consideration.

Sincerely,  
  
Nick Cianelli

**SPECIAL USE PERMIT-0019-2008. Former Stuckey's Site SUP  
Staff Report for the January 7, 2009 Planning Commission Public Hearing**

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

**PUBLIC HEARINGS**

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

Planning Commission: November 5, 2008 7:00 p.m. (deferred)  
December 3, 2008 7:00p.m. (deferred)  
January 7, 2009 7:00p.m.

Board of Supervisors: (T. B. D.)

**SUMMARY FACTS**

Applicant: Mr. Rick LaMere of North South Construction

Land Owner: American Dync Holdings of Toano LLC

Proposal: Applicant is seeking a Special Use Permit to construct four fast food restaurants and a convenience store in a single building along with 8 fueling islands. The applicant would demolish the existing structures. Convenience stores with fuel distribution and proposals that project 100+ peak hour trips require a Special Use Permit in the B-1, General Business district.

Location: 9220 Old Stage Road

Tax Map Parcel Number: 0440100016

Parcel Size: 6.27 acres

Zoning: B-1, General Business

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff recommends the Planning Commission recommend approval of the application with attached conditions and approve the landscape modification request.

Staff Contact: Luke Vinciguerra

Phone: 253-6685

\_\_\_\_\_  
Luke Vinciguerra, Planner

## PROJECT DESCRIPTION

Mr. Rick LaMere, of North South Construction, has applied for a Special Use Permit to allow for the operation of a gas station, convenience store and four fast food restaurants at the location formerly known as “Stuckey’s.” Located at the southeast quadrant of the Route 30 interchange (Exit 227) on interstate 64, Stuckey’s initiated its commercial activities in 1984 as a business selling fuel, food and snacks to the motoring public until closing in 2004. The proposal is to demolish the existing structures on site and build a one-story structure to accommodate four fast food restaurants seating up to 48 people, a convenience store, and a 16 pump gas station. Convenience stores that dispense fuel and proposals that generate 100+ peak hour trips in the B-1 General Business district require a Special Use Permit (SUP).

The subject property is located on approximately 6.27 acres of land, on a parcel zoned B-1, General Business. Neighboring parcels north of the site and directly across Interstate I-64 are zoned Planned Unit Development Commercial (PUD-C). The adjoining parcels located east, west and south of the site are zoned B-1. The 2003 Comprehensive Plan designates this parcel as Mixed-Use and it is located within the Stonehouse Mixed-Use area. This parcel fronts Route 30. Route 30 is designated as a Community Character Corridor by the 2003 Comprehensive Plan and therefore the parcel is subject to special considerations.

In November of 2006, the Board approved an SUP for a redevelopment proposal to renovate the existing structure to house a 40 seat sit-down restaurant, office/information center and eight fueling islands. The differences between the approved SUP and the current proposal is the applicant now proposes 4 fast food restaurants instead of a sit down restaurant and a new structure to be built in place of the existing structure. The office/information booth proposal is removed while the convenience store and the gas station remain.

## LANDSCAPING

Sec 24-96 of the Landscape Ordinance requires a buffer with an average depth of 50’ on all Community Character Corridors. As Old Stage road is a Community Character Corridor, the 50’ average depth requirement applies. As the site lost its legally non conforming status in 2006, no grandfathering provisions are applicable; any development on the site must comply with all current Zoning Ordinance regulations. However, per Sec 24-88 of the Zoning Ordinance, the Commission can modify the requirements of the Landscape ordinance should certain criteria be met. Staff recommends the Commission modify the Landscape Ordinance requirements for this case to allow the minimum buffer widths shown on the master plan. The criteria for modifications are as follows (with staff comments in *italics*):

- (1) Such requirement would not promote the intent of this section.

*The intent of this section as stated in Sec 24-86 is to promote public health, safety and welfare by providing for the preservation, installation and maintenance of trees and plant materials. The proposal would preserve and expand the existing front buffer. Additionally, staff proposes an SUP condition requiring 125% of Ordinance size requirements for installed landscaping, further enhancing the buffer.*

- (2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section.

*As the front property line is approximately 40 feet away from the edge of pavement of Old Stage Road, there is already a significant buffer within VDOT right of way. The combined internal and VDOT buffer appears to approach 50 feet at the most narrow widths. The cumulative size of the buffer satisfies the minimum buffer width requirements.*

(3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section.

*Including the VDOT buffer, it does not appear that the proposed modification would reduce the minimum amount of landscape area. Additionally, staff has recommended the inclusion of an SUP condition (condition 2) which would further enhance the landscaping by requiring the installation of more mature vegetation at 125% of the Ordinance size requirement which would further screen the structure from view.*

(4) Such modification, substitution or transfer shall have no additional adverse impact on properties or public areas.

*Staff cannot identify any adverse impacts from the proposed modification.*

(5) The proposed site and landscape plan as compared to a plan that strictly complies with the minimum requirements of this section shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan or on achievement of the purpose of this section.

*Staff cannot identify any detrimental impacts of the proposed landscape modification. In fact, the proposal would remove existing pavement from the site and enlarge the existing landscape area along the perimeter.*

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Ware Creek

### **Staff Comments:**

As the building and parking area footprints appear to be substantially the same as shown in the approved Former Stuckey's Site Plan SP-027-07, any minor changes resulting in the current plan should be readily resolved in the subsequent plan of development review. Overall, the Environmental Division supports this Special Use Permit application with the inclusion of proposed SUP conditions 6, 7, 9, 11, 12 & 24. Staff believes these conditions are appropriate for the management of the site, specifically the fueling activities.

### **Public Utilities**

Public utilities will not be utilized for this project as this property is not currently served by public water and sewer.

### **Virginia Department of Health:**

**Staff Comments:** VDH has confirmed the adequacy of the septic system for the proposed use and recommends approval of the application.

### **Transportation**

This site fronts Route 30, an arterial road with four lanes and has existing right and left turn lanes at the site entrance. The site has access to Route 30 through a VDOT frontage road (F-287). The ITE Trip Generation Manual projects a total of 10,603 trips per day generated by this development with roughly 450 peak hour trips. The approved 2004 proposal had a projected trip generation of 4,947 daily trips and roughly 450 peak hour trips.

**2007 Traffic Counts (Barhamsville Road):** From I-64 to Richmond Road (Route 60) there are approximately 6,800 average daily trips.

**2026 Volume Projected (Barhamsville Road):** From Interstate I-64 to Richmond Road 18,000 trips are projected. This route is listed in the OK category on the 2003 Comprehensive Plan watch list.

**VDOT:** VDOT has suggested a condition requiring a traffic study six months after build out to determine if a traffic signal is warranted. Should the study determine the need for a traffic control device, VDOT recommends a condition requiring its installation. The existing left and right turn lanes are substandard and VDOT recommends they be upgraded to a standard 200 foot storage with 200 foot tapers. Though not required for capacity, they are deemed to be a safety improvement.

**Staff Comments:** The traffic generation does not warrant a signal at this time but concurs with the recommendation of turn lane improvements and has proposed an SUP condition requiring the upgrade.

## COMPREHENSIVE PLAN

### Land Use Map

Designation	<p><b>Mixed Use ( Page 124):</b> Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily from more intensive commercial, office, and limited industrial purposes.</p> <p><b>Stonehouse Mixed Use Area (Page 124):</b> This property is located within the Stonehouse Mixed Use Area. Future development for all of the Mixed Use Interchange quadrants should be developed in accordance with a binding master plan, where possible, which maintains the appropriate mixture of principal and secondary uses. Further, for lands within the vicinity of the Barhamsville Interchange, the principal suggested uses are light industrial and office/business park. Commercial development should be limited in scale, comprise a small percentage of the land area of the overall development, and be oriented towards support services that employees and residents in the Stonehouse Area can utilize.</p>
	<p><b>Staff Comment:</b> This proposed commercial redevelopment has the potential to bring benefits to the County and more specifically, to the residents of the Stonehouse Mixed Use Area by providing commercial services and employment. The Comprehensive Plan considers other primary land uses for this area, this commercial development is in compliance with the secondary commercial uses suggested by the Comprehensive Plan as it is limited in scale and it has the potential to provide services.</p>
Development Standards	<p><i>Commercial &amp; Industrial Standard #4-Page 13:</i> Provide landscaped areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County.</p> <p><b>Staff Comment:</b> This proposal will not increase its existing impervious coverage area, therefore minimizing any impacts to the natural environment that surrounds the property.</p>
Goals, strategies and actions	<p><i>Action #16-Page 140:</i> Identify target areas for infill, redevelopment, and rehabilitation within the PSA</p> <p><b>Staff Comment:</b> The proposed development will positively impact the Stonehouse Mixed Use Area by rehabilitating a site that is currently sitting idle and increasing its economic potential.</p>

## Environment

Goals, strategies and actions	<i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment. <i>Action #8-Page 66:</i> Identify existing or potential sources of surface and groundwater pollution and take action to prevent or control the effect of the sources.
	<b>Staff Comment:</b> Further, this development proposes a reduction of its impervious coverage of 16 percent as part of the special use permit conditions for this application, condition number # 10, Spill prevention and Control Plan, and condition number #12, Stormwater Pollution Prevention Plan, shall be prepared and submitted to the Environmental Division Director in order to address potential water pollution caused by fuel handling and/or containment.

## Economic Development

General	<i>Actions#7(a)-Page 21:</i> Promote water conservation among new and existing business.
	<b>Staff Comment:</b> As part of the special use permit conditions for this application, condition number # 5, Water Conservation, encourages strategies for water conservation for this proposed redevelopment.

## Community Character Corridor

General	<i>Barhamsville Road-Community Character Corridor-Page 83-84:</i> <i>The Comprehensive Plan suggests a 50 foot buffer requirement for commercial uses along this road. Further, the Comprehensive Plan suggest the provision of 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.</i>
	<b>Staff Comment:</b> As part of the special use permit conditions for this application, condition number #2, Landscaping, will ensure enhanced landscaping treatment on the property, particularly in areas fronting Route 30 and areas designed for vehicular parking.

## Staff Comments

Overall, this application, as proposed, is generally in compliance with the Comprehensive Plan. Staff believes that the proposed commercial development, although not a primary use as designated by the Comprehensive Plan for the Stonehouse Mixed Use Area, conforms to the requirements for secondary commercial developments for this particular area. Further, given the nature of this proposal, staff supports the development of the existing site and and believes it will improve the Stonehouse Mixed Use Area.

## RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be 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 application with the conditions listed below and approve the landscape modification request. Below are the SUP conditions approved in the 2004 SUP, with changes shown in legal format (overstrike and italics and gray shading) that staff finds necessary for the new proposed use.

1. Master Plan and Use: This Special Use Permit shall be valid for the “~~6430 Assoc. LLC Former Stuckey’s Site~~” Master Plan, prepared by LandMark Design Group, and dated ~~June 1, 2006~~ *November 5, 2008* (the “Master Plan”) and accessory uses thereto. The site shall only be used for ~~a forty seat restaurant~~ *maximum of four fast food restaurants* and a convenience store ~~within a single building, an~~ *office/information center, and* ~~along with~~ *along with* eight fueling islands as shown on Master Plan. The site shall not contain any shower or laundry facility, vehicle wash facilities or scales.

2. Landscaping: Prior to final site plan approval, a landscaping plan shall be approved by the Planning Director or his designee. The owner shall provide enhanced landscaping for the area along the property frontage on Old Stage and Barhamsville Road, and along areas designated on the Master Plan for parking. Enhanced landscaping shall be defined as 125 percent of the Zoning Ordinance landscape size requirements.
3. Should the applicant wish to pursue any removal or trimming of trees within VDOT right-of-way, the Planning Director shall be notified thirty days in advance of the applicant's contacting VDOT and at that time provide a plan for the tree removal or trimming.
4. ~~Health Department Review: The applicant shall receive full approval from the Health Department for septic tank, well and drain field capacity prior to final site plan approval. A capacity analysis of existing water lines and septic facilities to the site shall be performed and the results of that analysis shall be submitted with the site plan application. The Planning Director shall approve the study, and its recommendations shall be incorporated into the site plan prior to site plan approval.~~
5. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority 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 material including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. Erosion and Sediment Control: An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval.
7. Stormwater: The area beneath the fuel area canopy shall not drain directly into the infiltration BMPs for the facility. A spill containment structure such as an alternate BMP or separation system to accept spills from any fueling area shall be shown on the site plan and shall be approved by the Environmental Director prior to final site plan approval.
8. ~~Boundary Line Adjustment and Right Of Way Vacation: Prior to final site plan approval, the variable width right of way for use by Parcels A, B, and C, located at the southern boundary of the parcel, shall be vacated, and adjustments made to the lot line such that the canopy and all fuel islands are located within the Building Setback Line. This condition excludes any structures granted a setback reduction by the Development Review Committee of the Planning Commission.~~
9. Existing Fueling Islands: Prior to the issuance of Certificate of Occupancy, the owner shall receive *approval from the DEQ, obtain a County demolition permit and* remove the existing gasoline and diesel pumps, canopy, and underground fuel tanks from the property.
10. Proposed Fueling Islands: There shall be no more than fourteen gasoline pumps and two low-pressure diesel pumps located on eight fueling islands on the property. The fueling islands shall be arranged in a configuration generally consistent with the "6430 Assoc. LLC Former Stuckey's Site" Master Plan, prepared by LandMark Design Group and dated ~~June 1, 2006~~ *November 5, 2008*. None of the fueling pumps shall be of a design previously intended to refuel tractor trailers as determined by the Planning Director.
11. Spill Prevention and Control Plan: Prior to issuance of any Certificate of Occupancy, a spill containment plan which addresses the chemical handling and storage areas shall be submitted to the Environmental Director and Fire Department for the review and approval.



12. Stormwater Pollution Prevention Plan: Prior to issuance of any Certificate of Occupancy, a stormwater pollution prevention plan shall be submitted to the Environmental Director for the review and approval.
13. Architectural Review: All buildings on the site including outdoor covered areas such as the pump island canopies shall be architecturally integrated by the use of similar materials, color and architectural detailing and shall be generally consistent with the rendering dated June 2, 2006 made by W.E. Bowman Construction, Inc. titled "James City County Convenience Store Schematic Elevations" dated December 11, 2008 prepared by Balzer and Associates on file with the Planning Division ("the Rendering") as determined by the Planning Director. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design, colors and materials of all structures on the site for consistency with the Rendering. *Decisions of the Planning Director may be appealed to the Development Review Committee, whose decision shall be final.*
14. Fueling Island Canopies: The maximum height of the pump island canopy shall not exceed 20 feet from existing grade as shown on the Master Plan. The clearance height of the canopy shall be clearly indicated on the structures.
15. Lighting: Any new exterior site or building lighting, including canopy lighting, shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
16. Signage: No more than one sign shall be allowed on the fueling island canopy provided, however, one non-illuminated gas-pricing sign may be allowed on a monument type sign in the parking area or the columns of the canopy.
17. Overnight Vehicular Parking: No overnight vehicular parking shall be allowed on the property or on its premises.
18. Off-site Vehicular Parking: Fencing or other features shall be provided along both sides of the road designated as the access road as indicated on the Master Plan to prevent parking of motor vehicles. The location and design of the fence or other features shall be approved by the Planning Director.
19. Dumpsters: The dumpster pad(s) and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
20. Trash Removal: Trash cans shall be available for use by customers during all operating hours and the trash cans shall be emptied and cleaned on a daily basis.
21. Hours of Operation: Both the convenience store and gas station shall be allowed to operate 24 hours a day. The daily hours of operation for the restaurant shall be limited to the hours of 5:30 a.m. to 9:00 p.m.
22. 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.
23. Turn Lanes upgrades: *Prior to issuance of Certificate of Occupancy, all turn lanes providing access to the establishment shall be upgraded to current VDOT standards as determined by the VDOT Residency Administrator.*

24. Junk Removal: The owner/developer shall remove all junk from the Property prior to Certificate of Occupancy. For purposes of this SUP condition, “junk” shall mean trash, unusable fuel pumps, wood, lumber, concrete, construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, inoperable equipment, machinery, or appliances, construction vehicles or tractors, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material. This junk shall be properly disposed of in a state-approved facility, or moved into an appropriate offsite enclosed storage building or facility. The James City County Zoning Administrator (“Zoning Administrator”) shall verify, in writing, that all junk has been properly removed from the Property. No new junk, (as defined by this condition), may be brought to or stored on the Property.

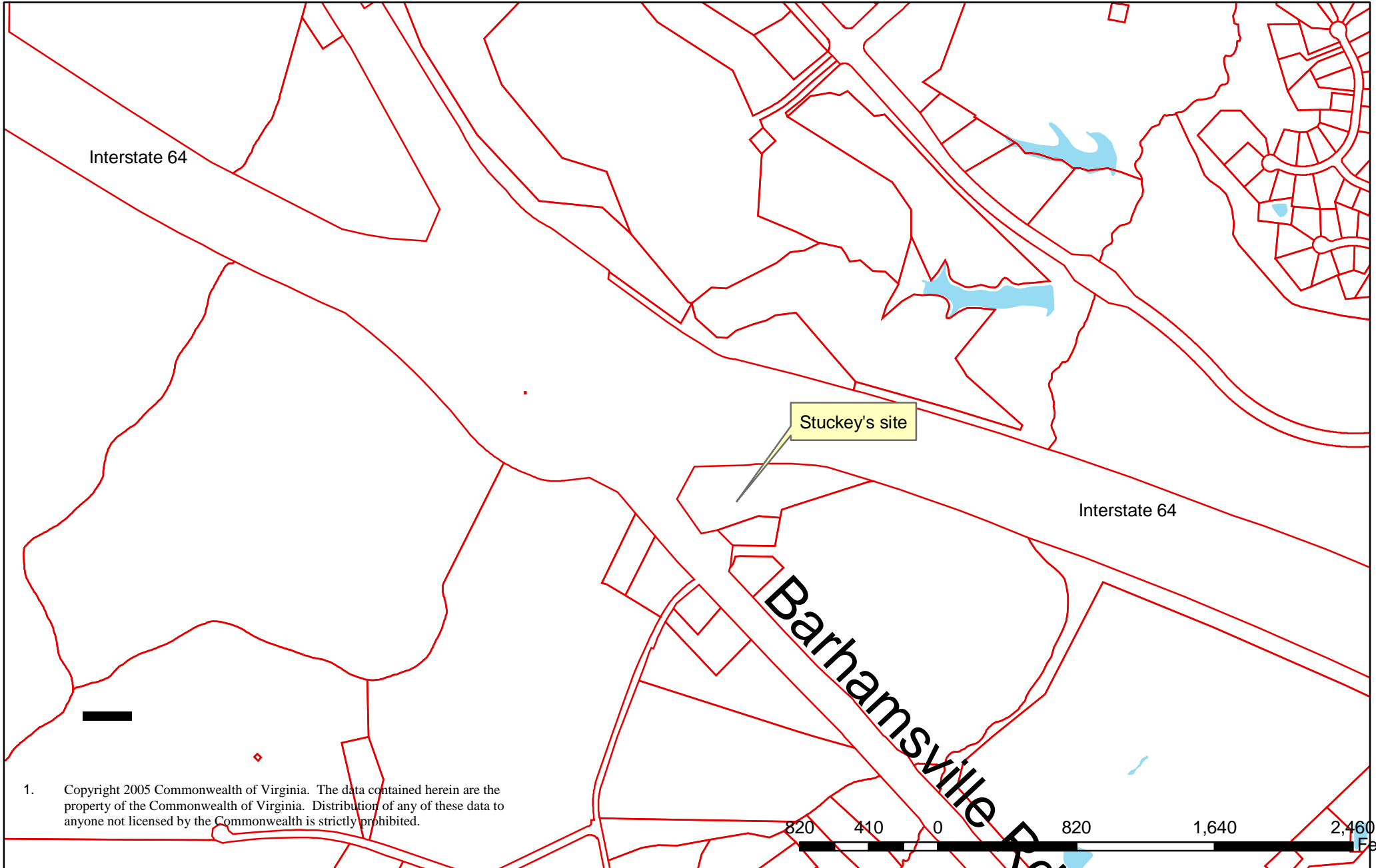
24. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTACHMENTS:

1. Location Map
2. Master Plan
3. Elevations
4. Letter Requesting Landscape modifications
5. Traffic study

# JCC--SUP-0019-2008

## Stuckeys



1. Copyright 2005 Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.

820 410 0 820 1,640 2,460 Feet



# Request for Landscape Modification

Please complete all sections of the application. Call (757) 253-6685 if you have any questions, or go online to [www.jccgov.com/resources/devmgmt/dept\\_devmgmt\\_planning.html](http://www.jccgov.com/resources/devmgmt/dept_devmgmt_planning.html)

## 1. Project Information

Project Name: Formerly Stuckey's Site

Address: 9220 Old stage Road Zoning: B1 General Business  
James City, VA

Tax Map & Parcel ID: 0440100016

## 2. Applicant/Contact Information

Name: Tom Derrickson

Company: LandMark Design Group Phone: 757-253-2975

Address: 4029 Ironbound Rd Fax: 757-229-0049  
Williamsburg, VA. 23188 E-mail: tderrickson@landmarkdg.com

## 3. Modification Information

Section of the Landscape Ordinance: 24-96 (a) & (d)

Justification (use additional paper as necessary): SEE ATTACHED

4. Signature of Applicant: *Tom Derrickson* Date: 11-24-08

### For Planning Office Use Only

Approved:  YES Signature of Planning Director: \_\_\_\_\_  
 NO Date: \_\_\_\_\_ JCC Case No. \_\_\_\_\_

Notes:

### Modification Request

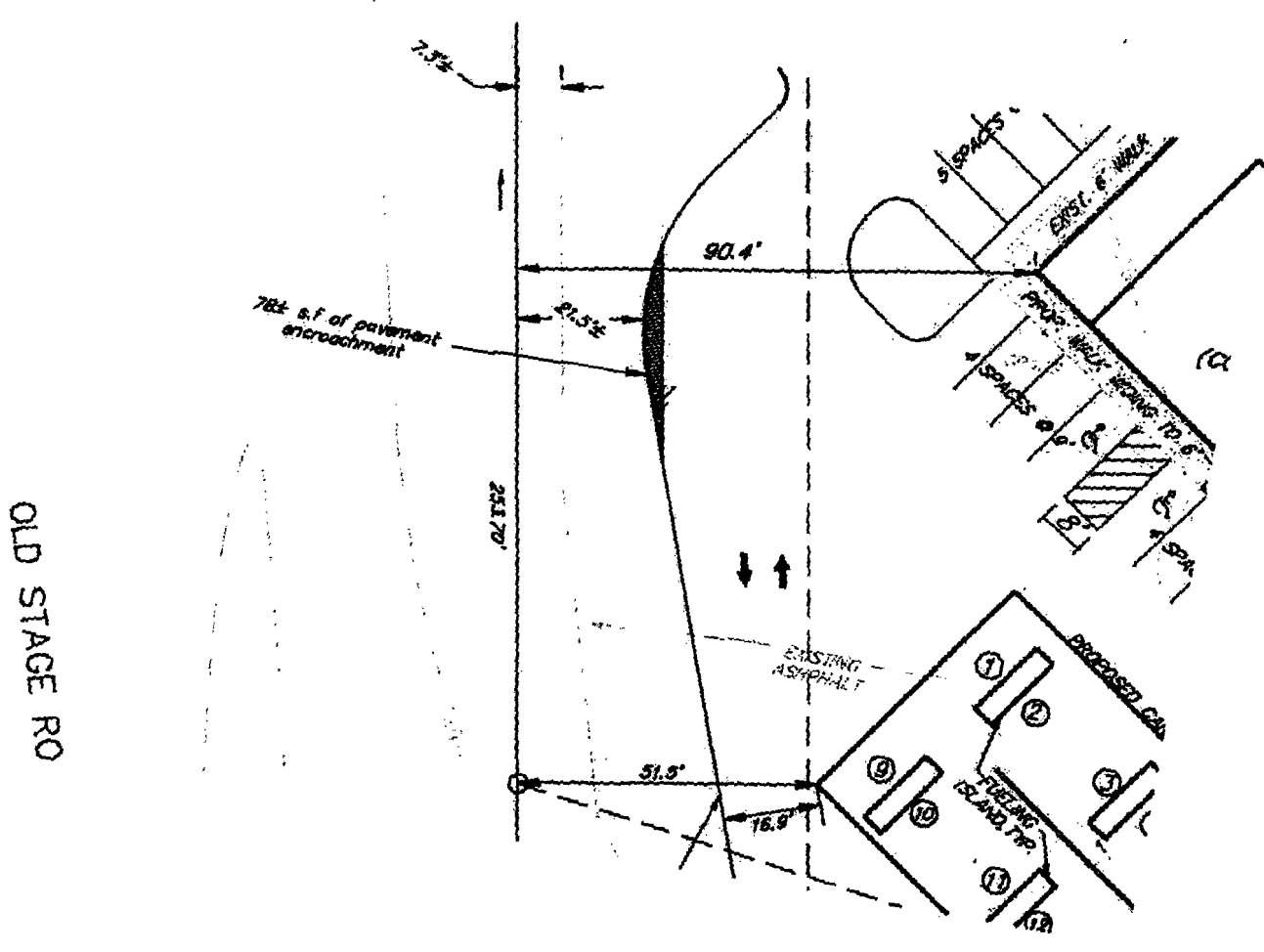
This Modification request is for the approval of a slight encroachment into the Landscape Area along Right of Way. The site fronts on Old Stage Road which has a Community Character Overlay designation. The Community Character Corridor landscape area along Old Stage Road, Route 30 is required to be a minimum of 25-feet. The applicant is requesting a slight modification to reduce this requirement to approximately 21-feet in a small area as allowed per section 24-96 (a) and (d). The encroachment shown in the exhibit below will be approximately 78 square feet.

### Justification

This is the redevelopment of a site that was existing on July 23, 1990, and this reduction would be allowed if the site were less than 1.5 acres. The existing pavement originally came within approximately 7.5 feet of the property and roadway right of way line. The proposed development is removing approximately 2,100 square feet of existing pavement in the Community Character Corridor planting yard. The site needs to accommodate fueling trucks as part of its operation. The existing building and the geometry requirements of the fueling trucks force this small encroachment requiring the need for approximately 78 square feet of pavement to be placed in the Community Character Corridor buffer yard.

Apparently this was not clear during the previous SUP approval process that included approval of the SUP exhibit by the Planning Commission and County Board of Supervisors. Except for this small deviation, all performance standards will be met; such as planting, average width and total green space.

Below is an Exhibit (not to scale) showing original pavement and requested encroachment:



**SPECIAL USE PERMIT-0021-2008. Jamestown Road Mediterranean Restaurant  
Staff Report for the January 7, 2009, Planning Commission Public Hearing**

---

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

---

**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

January 7, 2009                      7:00 p.m.  
February 10, 2009                      7:00p.m. (tentative)

**SUMMARY FACTS**

Applicant:                              Mr. Vernon Geddy, III

Land Owner:                              Janice and Metin Ortalan

Proposal:                              Permit the operation of a 2,752 square foot sit down restaurant in an existing building located on the property.

Location:                              1784 Jamestown Road

Tax Map Parcel Number:              4730100021

Parcel Size:                              1.24 acres

Zoning:                                  LB, Limited Business

Comprehensive Plan:                  Neighborhood Commercial

Primary Service Area:                  Inside

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of this application with the conditions listed at the end of this report, and, further recommends, the Planning Commission approve the landscape modification request connected to this application.

Staff Contact: Luke Vinciguerra

Phone: 253-6685

---

Luke Vinciguerra, Planner

**PROJECT DESCRIPTION**

---

Mr. Vernon Geddy, III on behalf of Janice and Metin Ortalan has applied for a Special Use Permit to allow for the operation of a sit down restaurant at 1784 Jamestown Road. Sit-down restaurants in LB districts require special use permits. Additionally, buildings over 2,750 square feet on properties designated Neighborhood Commercial on the Comprehensive Plan Land Use Map also require a Special Use Permit.

The approximately 1.24 acre parcel located at the intersection of Sandy Bay Road and Jamestown Road is currently occupied by two existing structures formerly owned by Duke Communications. The applicant proposes to demolish the existing smaller structure and use the remaining building to house a 96 seat Mediterranean-style restaurant. The structure is non-conforming as it does not meet current front and side setback requirements. Additionally, the plan proposes a 24 space parking lot, outdoor dining patio with fountain, and a stormwater management facility at the rear of the property. There are no plans for exterior building renovations at this time.

Adjacent properties to the east and west are zoned Limited Business and General Business and are designated Neighborhood Commercial on the Land Use Map. The rear lot lines abut property zoned Rural Residential and designated Low Density Residential on the Comprehensive Plan.

## LANDSCAPING

Development on this parcel is restricted by 100' Resource Protection Area (RPA) buffer and an additional 50' Resource Management Area (RMA) buffer per the Powhatan Creek Watershed Management Plan. With the reduced buildable area, the applicant, unable to otherwise produce enough space for parking, has requested that the Commission modify the Landscape Ordinance for this case, by reducing the size of the required 15' side yard landscape area to the variable landscape buffer widths proposed on the master plan titled "Exhibit for Special Use Permit For Mediterranean Restaurant site" prepared by LandTech Resources Inc. dated December 4, 2008. As shown on this exhibit, the minimum width of the landscape buffer would be 7.7' on the east side of the site and 5.4' on the west side. The Commission has the authority to modify the Landscape Ordinance upon finding that (with staff comments in *italics*):

(1) Such requirement would not promote the intent of this section.

*The intent of this section as stated in Sec 24-86 is to promote public health, safety and welfare by providing for the preservation, installation and maintenance of trees and plant materials. Staff proposes an SUP condition requiring 125% of Ordinance size requirements for installed landscaping, enhancing screening between adjacent properties. Furthermore, the applicant intends to save many specimen trees on the perimeter of the property as shown on the master plan.*

(2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section.

*There is significant undevelopable area because of the RMA buffer. Staff believes this area can include supplemental landscaping to offset the reductions of the side yard buffer. Landscaping the RMA buffer would further reduce the visual impact from the residential area to the rear rather than property similarly zoned for commercial use which are to either side. Tree and shrubbery density requirements will not be reduced along the sides of the property.*

(3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section.



*The proposed modification would not reduce the total amount of landscaped area, as the RMA buffer would also be landscaped. Additionally, staff has recommended the inclusion of an SUP condition which would further enhance the landscaping by requiring the installation of more mature vegetation at 125% of the Ordinance size requirement which would further screen the structure from view. This would enhance screening from both side and rear yard perspectives above the Ordinance requirements.*

(4) Such modification, substitution or transfer shall have no additional adverse impact on properties or public areas.

*Staff cannot identify any adverse impacts associated with the proposed modification.*

(5) The proposed site and landscape plan as compared to a plan that strictly complies with the minimum requirements of this section shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan or on achievement of the purpose of this section.

*The proposal is not believed to have any additional detrimental impacts to the area.*

As it appears that the proposal satisfies the criterion for landscape modifications, staff recommends the Commission approve of the modification requiring landscape areas as shown on the master plan.

As the structures are nonconforming, the proposal does not meet current Community Character Corridor setback and landscape requirements. However, the applicant has demonstrated intent to densely populate the road frontage with ornamental trees and shrubbery consistent with neighboring properties.

### **Special Provisions for Neighborhood Commercial Designated properties in the LB District**

Per Sec 24-370 of the Zoning Ordinance substantial conformance to the following provisions are required in this district for all uses permitted with a special use permit, which in this instance is the restaurant use. Staff comments are in italics.

1. Large work area doors or open bays shall be screened from external roadways by fencing or landscaping.

*There are no outside work areas proposed.*

2. Heating, ventilating and air conditioning equipment, duct work, air compressors and other fixed operating machinery shall be screened from adjoining property and the street right-of-way with fencing or landscaping. Large trash receptacles, dumpsters, utility meters, above ground tanks, satellite dishes, antennas, etc. shall be similarly screened.

*Staff proposes a 125% landscape size requirement per proposed SUP condition #2 to accomplish this objective.*

3. If used, fences in front of buildings on the site shall be landscaped.

*Fences are not proposed on the site.*

4. Signs shall generally have no more than three colors. Generally, pastel colors shall not be used. Free standing signs shall be of a ground-mounted monument type and shall not be larger than 32 square feet not erected to a height greater than eight feet.

*Proposed SUP condition # 8 would legislatively restrict the applicant to this condition.*

5. Site landscaping shall be reviewed and approved by the director of planning and shall be consistent with the natural landscape and character of the surroundings. A unified landscape design shall be provided including street trees.

*During site plan review, the Planning Director will review the landscape plan to ensure compliance with Community Character Corridor landscape requirements. Street trees are not necessary as no new roads are to be built.*

Overall, staff finds the proposal consistent special provisions of the Neighborhood Commercial designation in the LB district.

In addition to the Zoning Ordinance specifications discussed above, the Board of Supervisors adopted a policy (the "Neighborhood Commercial Development Standards Policy") in March of 1999 which applies to uses where the building exceeds a 2,750 square foot footprint, which also applies to this proposal. The policy, a copy of which is attached to this report, contains standards for building appearance. Since no exterior modifications are proposed for the existing building, staff proposes SUP condition # 6 which would obligate the owner to conform to the Neighborhood Commercial Development standards policy for any future exterior renovations.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Powhatan Creek

**Staff Comments:** The Environmental Division has reviewed the proposed master plan and believes that the proposal can meet applicable stormwater and other regulations. The applicant is providing a 50' RMA buffer from the adjacent intermittent stream as shown on the master plan per the Powhatan Creek Watershed Management Plan resolution dated October 10, 2006. In addition, special stormwater criteria will apply to the site, and the applicant has met with the Environmental Division to discuss several ways the applicant can meet these criteria on this site. Environmental Division staff feels comfortable that appropriate measures, as noted on the Master Plan, can be achieved. Overall, the Environmental division supports the application.

### **Public Utilities**

**Proposed SUP Condition #4:** This condition would require the applicant to develop and enforce their own water conservation standards.

**Proposed SUP Condition #5:** This condition would require the applicant to design a stormwater system that can be used to collect water for outdoor irrigation.

**Staff Comments:** Public water and sewer are available to this property. Overall, JCSA supports the application with the inclusion of proposed SUP conditions.

### **Transportation**

Per ITE Use 931- the use has the ability to generate approximately 286 weekday and 26 PM peak hour trips.

**2007 Traffic Counts (Jamestown Road):** From Sandy Bay Road to Williamsburg there are approximately 9,500 daily trips.

**2026 Volume Projected (Jamestown Road):** From James River to Neck O Land Road there is a projected 10,000 trips per day. The road segment is designated “OK” on the 2026 Watch list.

**VDOT:** VDOT has no objection to the proposed use, but requests the entrance be located as far away from Jamestown Road as possible on Sandy Bay Road.

**Staff Comments:** The applicant has moved the entrance to Sandy Bay Road per VDOT request. Based on VDOT comments, no other improvements are necessary.

**COMPREHENSIVE PLAN**

**Land Use Map**

Designation	<p><b>Neighborhood Commercial (Page 121):</b>            Limited business activity areas located within the PSA, serving residents of the surrounding neighborhoods in the immediate area and having a limited impact on nearby development. Total building area should generally be no more than 40,000 square feet in order to retain a small scale character.</p> <p><b>Jamestown/Sandy Bay Road Area (Page 122):</b>            The neighborhood commercial land use designation is sought to recognize existing uses, zoning, and the future development of adjacent parcels while limiting negative impacts on the traffic capacity of Jamestown Road. Additional commercial development beyond the boundaries of the proposed Neighborhood Commercial designation would further impede traffic flow along this road. Principle suggested uses for the Jamestown Road area are very limited commercial uses. Future development is to be a type and nature that is consistent with the neighborhood commercial designation. In addition, future development will consist of only low traffic generating uses due to the limited road capacity on Jamestown Road; the extent of parking will be minimal; uses will provide service to local nearby neighborhoods, as opposed to the larger community; the site will develop as a pedestrian oriented environment with designs compatible with nearby residential area; a master development plan for the full area is encouraged; and driveways will be limited. There is to be full adherence to the County’s Community Character Corridor policy and land use development standards along the entire frontage of all properties along Jamestown Road.</p> <p><b>Staff Comment:</b> As the restaurant is only 2,752 square feet with a peak hour traffic generation of 26 vehicles, staff finds the proposal consistent with the small scale commercial, pedestrian oriented recommendations of the designation.</p>
Development Standards	<p><i>Commercial &amp; Industrial Standard #4-Page 136:</i> Provide landscaped areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County.</p> <p><b>Staff Comment:</b> This proposal, through the RPA, RMA and SUP conditions would enhance the community by retaining existing specimen trees and extensively landscaping the entire perimeter of the site.</p>
Goals, strategies and actions	<p><i>Action #16-Page 140:</i> Identify target areas for infill, redevelopment, and rehabilitation within the PSA.</p> <p><b>Staff Comment:</b> Staff believes that the proposed development will positively impact the Jamestown/Sandy Bay area by revitalizing a vacant structure.</p>

**Environment**

Goals, strategies	<i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.
-------------------	-------------------------------------------------------------------------------------------------------------------------

and actions	<i>Action #2-Page 65: Enforce Zoning and other County Ordinances that ensure the preservation to the maximum extent possible of rare, threatened and endangered species, wetlands, flood plains, shorelines, wildlife habitats, natural areas, perennial streams, groundwater resources and other environmentally sensitive areas.</i>
	<b>Staff Comment:</b> The RPA and RMA buffers preserve the nearby perennial stream, and acts to minimize the impacts of the proposed development on the environment.

### Economic Development

General	<i>Actions#7(a)-Page 21: Promote water conservation among new and existing business.</i>
	<b>Staff Comment:</b> As part of the special use permit conditions for this application, condition # 4, Water Conservation, encourages strategies for water conservation for this proposed redevelopment.

### Community Character Corridor

General	<i>Jamestown Road-Community Character Corridor-Page 83-84: The Comprehensive Plan suggests a 50 foot buffer requirement for commercial uses along this road. Further, the Comprehensive Plan suggest the provision of enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the corridor.</i>
	<b>Staff Comment:</b> As part of the special use permit conditions for this application, condition #2, enhanced landscaping will help to preserve the visual quality of the corridor. Furthermore, staff will work with the applicant to preserve specimen trees on the property.

**Staff Comments:** Overall, staff feels that this application, as proposed, is generally in compliance with the Comprehensive Plan. Staff believes that the proposed development meets the small scale commercial recommendations for this particular area.

### RECOMMENDATION

Staff recommends that the Planning Commission recommend approval of this application with the conditions listed below, and, additionally, the Planning Commission approve the landscape modification request connected to this application.

1. Master Plan and Use: This Special Use Permit shall be valid for a sit down restaurant as shown on the plan titled “Exhibit for Special Use Permit For Mediterranean Restaurant site” prepared by LandTech Resources Inc. dated December 4, 2008 (the “Master Plan”) and accessory uses thereto. The site shall only be used for a maximum of a 96 seat restaurant as shown on Master Plan.
2. Landscaping: Prior to final site plan approval, a landscaping plan shall be approved by the Planning Director or his designee. The owner shall provide enhanced landscaping along the entire perimeter of the site and inside the Resource Management Area (RMA) buffer. Enhanced landscaping shall be defined as 125% of the Zoning Ordinance landscape size requirements. Landscaping in the RMA buffer shall be consistent with the Riparian Buffers Modification and Mitigation Guidance Manual published by the Virginia Department of Environmental Conservation as determined by the Director of the Environmental Division.
3. Health Department Review: The applicant shall receive full approval from the Health Department prior to final site plan approval.
4. Water Conservation: The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site

plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

5. Irrigation: In the design phase, the developer and designing engineer shall include the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the Impoundments) may be used for irrigating common areas on the Property (the Irrigation). In no circumstances shall James City Service Authority (the JCSA) public water supply be used for Irrigation, except as otherwise provided by this condition. If the Owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the Impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.

6. Architectural Review: Prior to the owner altering exterior materials, design or colors of any existing structure on site, the Planning Director shall review and approve the proposal for consistency with the Neighborhood Commercial Development Standards Policy, Community Character Area guidelines and Section 24-370(c) of the Zoning Ordinance. Any new structure(s) or additions shall be reviewed and approved by the Planning Director against the same criteria.

7. 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 15 feet in height unless otherwise approved by the Planning Director. No light spillage, for purposes of this condition defined as 0.1 foot-candle or higher, shall extend outside the property lines.

8. Signage: No more than one freestanding sign shall be allowed along Jamestown Road. The sign shall be a monument style sign no more than 8 feet tall with ground-mounted lighting and not larger than 32 square feet.

9. Screening: The dumpster pad(s) and all heating, cooling, and exterior electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director or his designee prior to final site plan approval.

10. Hours of operation: The daily hours of operation for the restaurant shall be limited to the hours of 5:30 a.m. to 11:00 p.m.

11. Commencement of Construction: If construction has not commenced on this project within thirty-six (36) months from the issuance of this SUP, this SUP shall become void. Construction shall be defined as obtaining an approved site plan, 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.

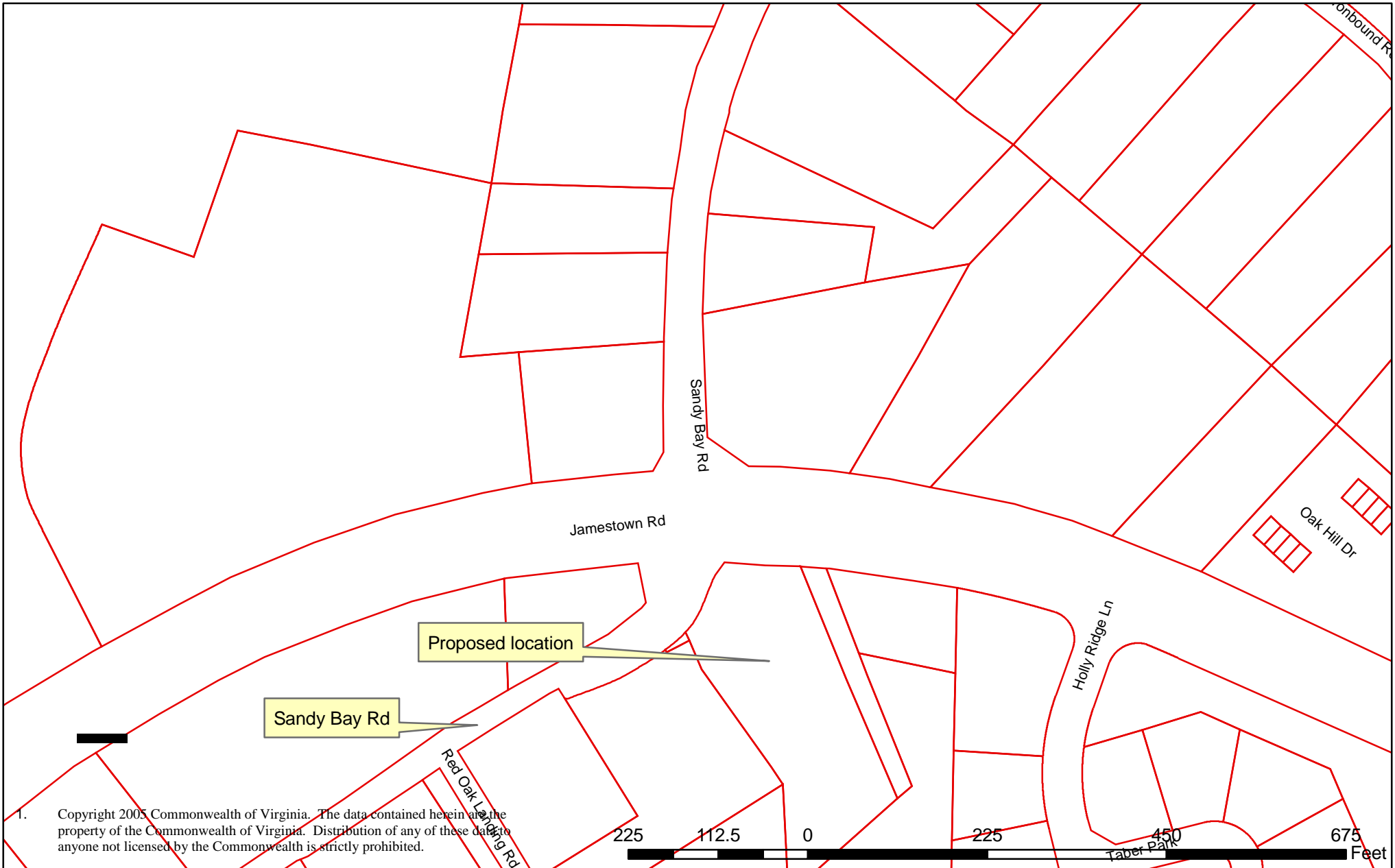
#### ATTACHMENTS:

1. Location Map
2. Master Plan

3. Letter Requesting Landscape modifications
4. Neighborhood Commercial Development Standards Policy

# SUP-0021-2008

# Jamestown Road Restaurant



1. Copyright 2005 Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-8500

FAX: (757) 229-5342

VERNON M. GEDDY, JR. (1926-2005)  
STEPHEN D. HARRIS  
SHELDON M. FRANCK  
VERNON M. GEDDY, III  
SUSANNA B. HICKMAN  
RICHARD H. RIZK  
ANDREW M. FRANCK

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

October 22, 2008

Mr. Allen Murphy  
Acting Director of Planning  
James City County  
101-A Mounts Bay Road  
Williamsburg, VA 23185

Re: Metin and Janice Ortalan/SUP Application

Dear Allen:

On behalf of our clients, Janice and Metin Ortalan, I enclose the following:

1. Special Use Permit Application signed by me as applicant and the Ortalan's as property owner.
2. Check for \$1,237.29 for the filing fee.
3. Twelve copies of the master plan for the project entitled "Exhibit for Special Use Permit for Restaurant Site" proposed by LandTech Resources, Inc..
4. Environmental Inventory prepared by Roth Environmental, LLC.

You will see the Ortalan's seek a special use permit to operate a small sit-down restaurant in the first floor of the existing building they own located at 1784 Jamestown Road. The Ortalans intend to operate the restaurant themselves and serve Mediterranean style food. The plan shows a small patio with fountain for outdoor dining that would be added in the future. The property was acquired by the Ortalans in July of this year. The property is now vacant and was most recently occupied by Duke Communications. The Ortalans plan to remove the existing shed and small house from the property. The Ortalans are in the process of making much needed repairs to the building.



The property is located at the corner of Jamestown Road and Sandy Bay Road at a signalized intersection. The plan calls for closing the existing entrance to the property from Jamestown Road with the only entrance being located off Sandy Bay Road as shown on the plan. The proposed restaurant does not generate sufficient peak hour traffic to trigger the requirement of a traffic study.

The building is located immediately adjacent to Jamestown Road. The plan calls for a 50 foot community character corridor buffer and plantings as called for by the Jamestown Road Community Character Corridor in the area adjacent to Jamestown Road not occupied by the building.

The plan shows a 10 point BMP and calls for 3 SSC credits in accordance with the Powhatan Creek Watershed Management Plan.

Both Kenny Jenkins with LandTech and I look forward to working with you and your staff in developing appropriate SUP conditions and on this project generally.

Sincerely,



Vernon M. Geddy, III

VMGIII/rlc

cc: Mr. and Mrs. Metin Ortalan  
Mr. Kenny Jenkins

## RESOLUTION

### NEIGHBORHOOD COMMERCIAL DEVELOPMENT STANDARDS POLICY

WHEREAS, the task of revising the business and industrial zoning districts was undertaken by one of the four citizen committees charged with updating the Zoning Ordinance; and

WHEREAS, the Committee used the 1997 Comprehensive Plan for guidance; and

WHEREAS, the Comprehensive Plan recommends standards for development in areas designated Neighborhood Commercial on the Comprehensive Plan; and

WHEREAS, after meeting for several months to discuss the topic of Neighborhood Commercial, the Zoning Ordinance Update Committee responsible for reviewing this item recommends the following policy; and

WHEREAS, on February 1, 1999, the Planning Commission endorsed the policy by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

For any property zoned LB, Limited Business District, and designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, any use requiring a special use permit shall demonstrate to the Director of Planning substantial conformance to the following provisions:

1. Long, monotonous facade designs shall be avoided, including, but not limited to, those characterized by unrelieved repetition of shape, form, architectural details, or by unbroken extension of line.
2. Brick, natural wood siding, or other materials with similar texture and appearance are considered most appropriate. Reflective surfaces are generally not considered acceptable exterior material.
3. Generally no more than three colors shall be used per building. Generally, bright hues shall not be used.
4. No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall not be interpreted to preclude the use of architectural block as a building material.
5. Building design that reflects local, historical or architectural themes and styles is encouraged. Replication of standard building design is discouraged.
6. The use of articulation shall be employed to reduce the overall size of large buildings. Articulation may be expressed through building massing and architectural elements,

developer will take risk in this matter. If at some point in the future the developer needs to go before the VDNH, and comments are made regarding previous studies, it will be the County's position that all VDNH issues need to be resolved. The County's biologist will not participate in this process other than to provide technical assistance to the County as requested by the County.


2. *If the inventory confirms that such a resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. The conservation management plan shall list conservation management measures for each of the areas meeting the criteria listed in the condition and shall include, at a minimum, the extent of impact to the area, a description of the probable boundaries, and recommendations for treatment of the area. These plans shall be reviewed by staff who may, if necessary, consult with VDNH. The developer may request review by an independent biologist subject to the provisions of Guideline No. 1. Once identified concerns have been addressed, staff (not VDNH) will approve the study.*
3. *All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site. The preferred option for implementation of the conservation management plan is to fully incorporate it into the plan of development. However, should the recommendations of the conservation management plan severely impact the plan of development, the expectation is that all reasonable measures shall be taken to implement the conservation management plan. As an alternative under severe conditions, the Director of Planning may consider and approve a mitigation plan which provides for the permanent conservation of an equally or more rare resource off-site. The preference is for the same resource to be conserved.*

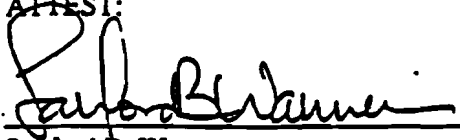
II. In Implementing and updating this condition, the following procedures and guidelines will be followed:

1. Maps indicating the general location of natural areas shall be included within the text of the Comprehensive Plan with appropriate cross-references to documents such as the Natural Areas Inventory and Natural Areas Conservation Planning Report.
2. A developer may advertise on-site preservation efforts in accordance with the regulations of the sign ordinance and after consultation with a professional biologist and the Director of Planning.

such as rooflines, windows, doors, etc. Buildings with large profiles shall be designed to appear smaller by articulating the overall massing as a collection of component masses. Architectural elements shall be incorporated to the extent practical, including, but not limited to, bays, balconies, porches, loggias, and/or arcades. Rooftop architectural elements shall be incorporated to the extent practical, including, but not limited to, features such as dormers, widow watches, and/or other rooftop elements.

- 7. Convenience stores shall have limited hours of operation. Twenty-four hour convenience stores shall not be permitted.

  
\_\_\_\_\_  
Jack D. Edwards  
Chairman, Board of Supervisors

ATTEST:  
  
\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of March, 1999.

zo-8-98.res

PLANNING DIRECTOR'S REPORT  
January 2009

This report summarizes the status of selected Planning Division activities during the past month.

- **New Town.** No applications were received last month so the New Town Design Review Board did not hold a December meeting.
- **Policy Committee Meetings.** The Policy Committee did not hold a meeting in December. The next meeting is scheduled for January 14 at 7:00 p.m. to consider potential changes to the Capital Improvements Plan.
- **Steering Committee.** The Steering Committee continues to hold weekly meetings in the Board Room-Building F. During the month of December, the Steering Committee completed its discussion on the Environment and continued discussions on Land Use and Transportation Modeling.

A complete schedule, blog, and all materials are available on [www.jccplans.org](http://www.jccplans.org). The January schedule is:

- Monday, January 5 – Land Use Applications, 4-6 p.m.
  - Monday, January 12 – Land Use Applications, 4-6 p.m.
  - Tuesday, January 20 – Land Use Applications, 3-5 p.m.
  - Monday, January 26 – Housing, 4-6 p.m.
- **Planning Commissioner E-mails.** A training session was held for all Commissioners last month for setting up County e-mail addresses on their home computers. Please contact staff when the programs have been set up and you are prepared to release your County e-mail addresses or if you have any questions with set up.
  - **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
  - **Board Action Results**  
No cases were heard in December.
  - **APA-Virginia/VAZO Conference.** Staff participated in host committee planning for the APA-Virginia/VAZO Conference to be held March 25-27 in Williamsburg. In addition to helping host the event, staff will be making presentations along the theme of “Green Communities Virginia.”

---

Allen J. Murphy, Jr.

Case Type	Case Number	Case Title	Address	Description
Conceptual Plans	C-0090-2008	Alice's Wonderland	2900 CHICKAHOMINY RD	Special Use Permit to open a child care center
	C-0091-2008	Harrison Vaughan Family Subdivision	240 PEACH STREET	This case proposes a family subdivision to create 2 new lots.
	C-0092-2008	Hattie's Haven Adult Daycare	5315 PALMER LANE	Operating an adult daycare for 3-8 clients
	C-0093-2008	Richmond Rd Used Car Sales & Drive - Thru	5443 RICHMOND ROAD	Seeking permission to put up drive-thru window to the existing building and sell used cars in the lot behind the building.
	C-0094-2008	Summerplace	1613 JOLLY POND ROAD	165 lot subdivision located on Jolly Pond Rd. Lots are 3+ acres in size
Site Plan	SP-0131-2008	Avid Medical SP Amend	3601 LA GRANGE PKWY	Modification to building entrance and pedestrian path for ingress/egress for modified entrance
	SP-0132-2008	Fleet Brothers SP Amend	7761 RICHMOND ROAD	Modify building footprint and remove water line and meter
	SP-0134-2008	Settler's Market Ph 1 SP Amend Mezzanines	4600 CASEY BLVD	Adjust anchors A and F to include square footage in second floor mezzanine levels
	SP-0136-2008	Sidewalk & Traffic Improvements-Warhill Sports Complex	5700 WARHILL TRAIL	This application is for sidewalk and traffic improvements along Warhill Trail in the Warhill District Park
	SP-0137-2008	Foundation Square SP Amend		This amendment modifies the number of standard and handicap parking spaces in the parking garage in the lower level of the Foundation Square building in New Town.
	SP-0138-2008	Riverview Stables	4908 RIVERVIEW ROAD	To establish a boarding stable housing 4 horses
	SP-0139-2008	ADA Accessible Playground at JCWCC	5301 LONGHILL ROAD	The Leadership Historic Triangle Class of 2009 is proposing to construct an ADA Accessible playground at the JCWCC on Longhill Road. SUP-0025-2008 must be approved before this plan could be approved.
	SP-0140-2008	Williamsburg Landing Parking Expansion and Landing Building	5700 WILLIAMSBURG LANDING DR	Plan proposes a parking area and a landing bulding accompanied with landscaping
	SP-0141-2008	Warhill High Baseball Dugouts	5700 WARHILL TRAIL	To construction two dugouts on the existing baseball field
	SP-0142-2008	Colony Road Handicap Ramp		Building a handicamp ramp and handicap space
	SP-0143-2008	Woodland Road / Stonehouse Rd Drainage Improvg	300 STONEHOUSE ROAD	This application is for drainage improvements and repairs at Woodland Rd and Stonehouse Rd
	SP-0144-2008	James River E.S. Bus Loop Improvements	8901 POCAHONTAS TR	Reconfigures and adds lighting fixtures in bus parking lot/loop
	SP-0145-2008	Lift Station 1-2 Flextran Rehab	4400 NEWS ROAD	This application is for the rehabilitation of a gravity sewer main
	SP-0146-2008	DLR2 Development	1701 ENDEAVOR DRIVE	Application proposes 53,400 square foot development on a 4.41 acre lot
SP-0147-2008	Jamestown Road Catering & Take Out	1208 JAMESTOWN ROAD	Site plan application proposes the addition of a ramp to an existing building	

Special Use Permit	SUP-0025-2008	ADA Accessible Playground at JCVCC on Longhill Road	5301 LONGHILL ROAD	Proposal to construct an American with Disabilities Act-accessible playground at the James City County Community Center on Longhill
	SUP-0026-2008	Diamond Healthcare, Williamsburg Place Expansion	5485 MOORETOWN ROAD	Requesting a Special Use Permit for a 40 bed psychiatric care facility to be located on the campus of Williamsburg Place (Mooretown Road).
Subdivision	S-0060-2008	Busch Properties BLA	7851 POCAHONTAS TR	Boundary line adjustment between Busch Gardens and the brewery
	S-0061-2008	Hill Family Subdivision	100 SKILLMAN DRIVE	This application proposes to subdivide the property into two parcels
	S-0062-2008	BLA - Anheuser Busch and Busch Entertainment Group Properties	7851 POCAHONTAS TR	Applicant is proposing a Boundary Line Adjustment between two properties owned by Anheuser Busch, Inc.
	S-0063-2008	Colonial Heritage Ph 3 Sec 3	6799 RICHMOND ROAD	Creating 46 new single-family lots
	S-0065-2008	Woodland Farms Sec.2, Lots 60 and 61	2 DEERE CIRCLE	Plan proposes an adjustment of an existing property line
	S-0066-2008	David A Nice Contractor's Office	4700 FENTON MILL RD	Creation of 1 lot near the David A Nice contractor's office
	S-0067-2008	Michelle Point	9001 BARHAMSVILLE RD	This is a plat for 15 townhomes.
	S-0068-2008	Settlement at Powhtan Creek Lot 102 & 103 BLE	4045 RIVER MOOR	This application is for a lot line extinguishment
Zoning Ordinance Amendment	ZO-0004-2008	Retail Sale and Repair of Lawn Equipment		Zoning Ordinance Amendment proposal to allow the sale and repair of yard goods within A-1
	ZO-0005-2008	Prohibition of Vehicle Sales in Certain Circumstances		This is an amendment to limit the circumstances under which vehicles may be displayed for sale on property not approved for vehicle sales.
	ZO-0006-2008	Review of Signage Illumination in CCC & CCA		This potential amendment will address forms of internal illumination for signage permitted in Community Character Areas and Community Character Corridors.
70				