

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
APRIL 1, 2009 - 7:00 p.m.

1. ROLL CALL
2. PRESENTATION – RECOGNITION OF MR. ANTHONY OBADAL
3. PUBLIC COMMENT
4. MINUTES
 - A. March 4, 2009
5. COMMITTEE AND COMMISSION REPORTS
 - A. Development Review Committee (DRC)
 - B. Policy Committee
 - C. Other Committee/Commission Reports
6. PLANNING COMMISSION CONSIDERATIONS
 - A. Initiating Resolution – To amend the M-1 Zoning District, to allow for front setback modifications
 - B. Initiating Resolution - To amend sections 24-2, 24-213, 24-349, and 24-521 of the Zoning Ordinance to replace the term “mentally retarded” with the term “intellectually disabled.”
 - C. Initiating Resolution – To amend section 24-7, Administrative Fees, of the Zoning Ordinance to establish fees for application for home occupations.
7. PUBLIC HEARINGS
 - A. ZO-0005-2008 Zoning Ordinance Amendment - Prohibition of Vehicle Sales in Certain Circumstances
 - B. ZO-0006-2008 Zoning Ordinance Amendment – Review of Signage Illumination
 - C. ZO-0002-2009 Zoning Ordinance Amendment – Fee Addition Home Occupation
 - D. ZO-0003-2006 Outlet Mall Parking
 - E. SUP-0024-2008 Windsor Meade Tower
 - F. SUP-0006-2009 Sale and Repair of Lawn Equipment
 - G. Z-0003-2008 / MP-0003-2008 The Candle Factory
 - H. SUP-0007-2008 Relocation of Tewning Road Convenience Center
9. PLANNING DIRECTOR’S REPORT
10. COMMISSION DISCUSSIONS AND REQUESTS
11. ADJOURNMENT

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

1. ROLL CALL

Planning Commissioners

Present:

Deborah Kratter
Chris Henderson
Reese Peck
Jack Fraley
Rich Krapf
Joe Poole III

Staff Present:

Allen Murphy, Director of Planning/Assistant
Development Manager
Angela King, Assistant County Attorney
Dave German, Senior Planner
Leanne Reidenbach, Senior Planner
Brian Elmore, Development Management Assistant

Absent:

George Billups

2. ORGANIZATIONAL BUSINESS

Mr. Krapf identified the committee members for the upcoming year.

The Development Review Committee (DRC) will consist of Mr. Poole (Chairman), Mr. Billups, Mr. Fraley, Mr. Henderson, and Mr. Krapf.

The Policy Committee will be comprised of Mr. Henderson (Chairman), Mr. Fraley, Ms. Kratter, Mr. Peck, and Mr. Krapf.

3. PUBLIC COMMENT

Mr. Krapf opened the public comment period.

Mr. Robert Richardson, 2786 Lake Powell Road, showed a video clip from a local television station. He spoke on comments that were broadcast that involved Mr. Henderson. He referred to his website for comments from the public.

Mr. Mickey Harden, 6284 St. John's Wood, spoke concerning the previous comments. He stated how he felt that Mr. Henderson has a right to speak concerning national and local politics.

Mr. Chuck Buell, 112 Killington, spoke on behalf of the James City County Citizens' Coalition (J4C). He spoke on the 2008 Comprehensive Plan update. He stated the Coalition consists of many citizens that live throughout the County, along with many homeowner's associations and other organizations. He stated the three overriding goals of the 2003 Comprehensive Plan were to preserve the quality of life, to control residential growth while

preserving the County's natural beauty, and to preserve rural lands. Mr. Buell gave J4C's assessment on attaining these goals. He stated the surveys taken at the beginning of the current Comprehensive Plan update showed that citizens felt that land development was growing too quickly, restrictions on land sold for commercial and residential development, and more needed to be done to preserve farmland. He stated the County grew 29.4% from 2002 – 2009, which was the highest in the Hampton Roads area. Mr. Buell stated that 5,168 residential units were built between 2003 – 2008, this is a 19.8% increase. The Coalition felt that government's decisions were responsible for this growth. He stated that the Coalition felt that this growth was responsible for the increase in impervious surfaces, increase in empty storefronts and offices, flooding and watershed degradation, and the deterioration of infrastructure. He spoke on the units currently approved for development but that have not yet been built. Mr. Buell showed pictures of many residential developments throughout the County to support the Coalition's concerns. He showed examples of the empty storefronts that were mentioned earlier. He stated the Coalition's concern about the stress placed on infrastructure. Mr. Buell stated that citizens have called for action on population growth and safeguarding open space and the environment. He stated these demands were made in 2003 and have not been addressed. He stated that the Coalition felt the Steering Committee has yet to address issues that are important to the residents.

4. MINUTES

A. January 7, 2009 Continued Meeting

Mr. Poole moved that the minutes be approved.

Mr. Henderson seconded the motion.

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

B. February 4, 2009 Meeting

Ms. Kratter requested that motions be described in minutes differently.

Mr. Peck had one correction to his statements regarding the Shaping our Shores and the Regional Water Plan.

Ms. Kratter moved that the minutes be approved as corrected.

Mr. Henderson seconded the motion.

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

5. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated the DRC met on February 25, 2009 to discuss case number C-0094-

2008, Summerplace. This application is a proposed by-right 165 single-family lot subdivision situated on 924 acres. Items discussed concerning the plan were interconnectivity, the number of cul-de-sacs, and the possibility of a waiver for cul-de-sacs that extend beyond 1,000 feet. There were also discussions concerning topography and the potential of clustering further away from the environmentally sensitive areas. Mr. Poole stated this was a conceptual plan and that the applicant appreciated comments from the DRC. The final plan will come back to the DRC since the development has more than 50 lots.

Mr. Fraley moved that the DRC report be approved.

Mr. Henderson seconded it.

In a unanimous voice vote the report were approved. (6-0, Billups absent)

B. Policy Committee

Mr. Henderson stated the Policy Committee met three times in February. At the February 11th meeting the Committee initiated their review of the Capital Improvement Program. At the February 18th meeting the Committee continued their review and prepared a series of recommendations that the Planning Commission will review this evening. Mr. Henderson stated the Committee will be developing a set of criteria on which to base future reviews of CIP projects. At the February 24th meeting the Committee prepared a summary of the changes to the CIP Process which was presented to the Board of Supervisors on February 24, 2009 during a joint worksession. The Committee will meet on March 11, 2009 at 6 p.m. in Building A to discuss amendments to the County Ordinances regarding signage illumination in Community Character Areas and along Community Character Corridors, restrictions on vehicle sales from certain parcels of land, and treatment of non-retail space in calculating parking requirements for outlet malls. Mr. Henderson stated the Committee will also be discussing criteria for CIP ranking.

C. Other Committee / Commission Reports

Mr. Fraley stated the Steering Committee is continuing its weekly meetings. The meeting scheduled for March 2, 2009 was cancelled due to weather. The next meeting will be March 9, 2009 at 4 p.m. covering public facilities and economic development. Mr. Fraley mentioned the website for an updated schedule and materials.

Mr. Fraley commented on Mr. Buell's presentation from the J4C's. He stated the Steering Committee is reviewing technical reports, goals, strategies, and actions for various sections of the Comprehensive Plan. He also stated the Committee has extended their schedule by three weeks. Mr. Fraley stated that with build out, under current zoning population estimates are around 118,000 while build out under the Comprehensive Plan designations around 180,000 people. The Committee has not finalized any land use designations. Mr. Fraley stated that it is necessary to have tools to control growth, and the Comprehensive Plan is not a tool to control growth. He stated tools used to control growth would include, but not be limited to, not accepting a level service of traffic for any development lower than a "C" and to have a true

cumulative impacts public facility test.

6. PUBLIC HEARINGS

A. Z-0011-2007 / SUP-0022-2007 / MP-0007-2007 Monticello at Powhatan North – (Phase 3)

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the September 9, 2009 Planning Commission meeting. He did mention that the deferral period is for six months.

Mr. Krapf continued the public hearing to September 9, 2009.

B. SUP-0024-2008 Windsor Meade Tower

Mr. Murphy stated staff's concurrence with the applicant's request for a deferral to the April 1, 2009 Planning Commission meeting.

Mr. Krapf continued the public hearing to April 1, 2009.

C. SUP-0015-2008 Franciscan Brethren of St. Philip

Mr. German introduced this application for a special use permit to allow the operation of an adult day care center on a property zoned R-8, inside the PSA. The property is located at 6422 Centerville Road, and is designated Low Density Residential on the Comprehensive Plan Land Use Map. Mr. German stated that the applicant proposes to renovate, refurbish, and upgrade the existing house, and operate the adult day care center within it. This renovation will include the removal of several interior walls to create large meeting and activity spaces, modification of existing bathrooms, conversion of the bedrooms into office and meeting spaces, alterations to the kitchen, and modifications throughout the house to meet ADA accessibility and safety requirements. The population being served in this facility would be comprised of persons who are "physically handicapped, mentally ill, mentally retarded, intellectually disabled, or developmentally disabled adults." The applicant plans to have one third of the care recipients engaged in activities at offsite venues at any given time, but the Special Use Permit is assuming the maximum capacity scenario of 36 care recipients with nine attending care givers, for a maximum total of 45 persons at the facility. Planning staff found this project to be generally in conformance with the Comprehensive Plan, and recommended that the Planning Commission recommend approval of this application to the Board of Supervisors, with the conditions outlined in the staff report.

Mr. Poole asked if the hours of operation recommended in the staff report were at the applicant's request or a stipulation made by staff.

Mr. German answered that the hours recommended were based on precedent set by similar types of facilities. He stated that the applicant suggested an even narrower scope of operating hours in the application.

Ms. Kratter asked if there were residences adjacent to this property and what was located across the street.

Mr. German answered that residences were located adjacent to the property and the parking lot for the Williamsburg Outlet Mall was across the road. He also stated the property is surrounded by dense vegetation along its side and rear boundaries, and that it is also somewhat shielded from Centerville Road. He stated that the applicant is not proposing any changes to the property that would make it stand out or look different from the adjacent properties.

Mr. Fraley asked if adjacent property owners had been properly notified. He asked if there were any comments from these residents.

Mr. German stated they were notified and that staff did not receive any communication from any of these residents.

Mr. Fraley asked why the project had gone through six separate deferrals.

Mr. German stated the applicant had several issues to address such as the size of the facility, and the State's involvement in the facility concerning licensing, and that there were several design changes that were submitted and required review. The applicant has worked with Code Compliance and the Fire Department to address their concerns. Mr. German stated that staff concerned itself with ensuring that the facility would be safe, comfortable, and feasible before it was presented to the Planning Commission.

Ms. Kratter asked if there was a time limit set with regards to financing and the beginning of construction.

Mr. German stated the applicant had already begun some renovation of the home, and is entitled to use the residence as a group home by-right. There is a two-year time limit from the date the Board of Supervisors approves the application for the site to be operational as an adult day care center. Mr. German stated that the applicant intended to bring in residents in small numbers and expand the operation gradually.

Mr. Krapf asked if there was any public comment on this application.

Being no comments, Mr. Krapf closed the public hearing.

Mr. Poole moved that the application be approved. He noted that this application is not merely a commercial enterprise, but specifically addresses the need of a special population.

Ms. Kratter seconded the motion.

Mr. Henderson suggested that the hours of operation expanded.

Sister Agnes spoke on behalf of the application, stated that there is a need to be flexible

in the hours of operation because of the logistics involved with transporting individuals to the facility. It would be her preference for the hours to be 6:30 a.m. to 5:30 or 6:00 p.m.

Mr. Henderson stated that he would like the hours to be extended from 6:30 a.m. to 7:00 p.m.

Mr. German stated that the only Planning concern might be an impact to traffic, but that he does not feel it would be a large impact. There may be more traffic on the road during the expanded hours added in the morning and evening.

Mr. Murphy stated that staff would find the adjustments acceptable.

Mr. Poole stated he would amend his motion to accommodate the new hours because he felt that this was more of a health and human services endeavor that is put forth by a faith-based organization, than a for-profit business.

Ms. Kratter agreed with the change.

Mr. Henderson asked the applicant if they anticipated the need to have the facility open on weekends.

Sister Agnes answered that it would be beneficial to have some weekend hours.

Mr. Henderson proposed the same hours of operation for the weekend.

Mr. Poole agreed. He did state that he would not want to create a precedent where commercial uses are encouraged in residential areas. He felt that this application, as long as it is run by a faith-based organization, did not fit into this category.

Mr. Peck had a concern with the start time of 6:30 a.m. on the weekends.

Mr. Fraley asked the applicant to comment.

Sister Agnes stated that 9:00 a.m. opening would be okay; however, sometimes there are situations where earlier hours would be more convenient. She would prefer for the hours to be earlier on the weekends also.

Mr. Peck stated he had reservations about the earlier time on the weekends in deference to the adjacent property owners. He asked if adjacent property owners had been made aware of the hours of operation.

Mr. German stated that the hours of operation were not determined at the time the notifications were mailed out to the adjacent property owners.

Ms. Kratter stated she felt there were not a large number of residences nearby; thus, so the occasional van coming early in the morning should not be a problem.

Mr. Fraley asked if staff foresees any issues with past or future applications of this type of use where the days and/or hours have been limited.

Mr. Murphy stated that staff reviews each case separately. He stated he believed this was the first special use permit application that has been received for an adult day care facility located in a residential structure. He stated that no precedent had been set by previous cases. He stated that staff was comfortable with the conditions listed with the special use permit, including the adjusted hours.

Mr. Fraley asked if specific information, such as the hours of operation in this case, were included when notifications are sent to adjacent property owners. This may cause some different responses from the adjacent residences.

Mr. Murphy thought that might be possible; however, the specific operating details of an application are not normally known when the advertisement is placed in the newspaper. If this information was available early in the application process, and it was pertinent, then staff would make every attempt to relay that information. He stated that the advertisements tend to be generic, making it incumbent on the recipient to take notice of it, and to participate in the public hearing process if he/she has an interest in commenting on the case.

Mr. Fraley stated there have been problems with notifications in the past. He thought it was important for the public to be aware that notifications are general in nature, and that it is incumbent upon interested people to follow up with staff to obtain more details.

Mr. Poole stated that the Planning Commission has been diligent in delaying cases when proper notification has not been given. He also mentioned that signs are placed at or near the property referenced for a pending case, and that he had noticed such signage on the subject parcel.

Mr. Henderson felt that size of the structure, compared to the total acreage of the property, should help to mitigate any effects on traffic.

Mr. Krapf restated the motion as to approve the application with the operating hours being Monday – Sunday from 6:30 a.m. to 7:00 p.m.

In a roll call vote the application was approved. (6-0) AYE: Poole, Fraley, Kratter, Henderson, Peck, Krapf. (Absent – Billups)

D. SUP-0026-2008 Williamsburg Place Expansion

Ms. Leanne Reidenbach stated that this application is for a special use permit to allow a 40 bed psychiatric care facility on the site of Williamsburg Place on a parcel zoned M-1, Limited Business/Industrial. The site is located at 5477 and 5485 Mooretown Road and is shown as Limited Industry on the Comprehensive Plan. Staff believes that is an appropriate area for an expansion and has suggested a few conditions to limit storm water runoff to the CSX right-of-

way, specify sizing criteria for the bioretention basin, require an amendment to the water conservation standards, and review building elevations to ensure that impacts of the expansion are minimized. The applicant has also requested a waiver to on-site parking requirements. Ms. Reidenbach stated the applicant proposes a parking formula for the expansion of one space per bed plus one space per employee on the largest shift. This is because Williamsburg Place requires fewer spaces than a traditional hospital because patients generally do not keep vehicles on site. Staff supports the reduction as it decreases impervious surface and helps maintain the campus-like atmosphere of the facility. Staff recommended that the Planning Commission recommend approval to the Board of Supervisors.

Ms. Kratter asked if there was any consideration of using a pervious ground cover for the parking as opposed to the impervious.

Ms. Reidenbach stated that item was not address specifically but staff did recommend some LID features, such as an underground cistern.

Mr. Poole asked if applications such as these are shared with adjacent localities, specifically given the proximity of this proposal to Waller Mill Reservoir.

Ms. Reidenbach stated that York County was sent an adjacent property owner letter, along with a copy of the plan for a courtesy review since the property across Mooretown Road is in York County. She stated that staff received no comments from York County on the proposal. The City of Williamsburg also received notification as an adjacent property owner, but had sent no comments.

Mr. Fraley verified that the site plan on this project will require DRC review because total building square footage exceeds 30,000 square feet.

Ms. Reidenbach stated that was correct.

Mr. Fraley asked about the final approval of the architectural drawing that was mentioned in condition #5 and whether the DRC should review final elevations.

Mr. Murphy stated that staff would prefer to review special use permits on a case by case basis. He stated if there are particular areas of concern such as community character corridor issues or if the Planning Commission has any concerns based on the type of commercial use, the Planning Commission usually suggests a condition. Mr. Murphy stated that in past the Planning Director has made a review, and if need be an appeal to the DRC. He stated staff felt comfortable having the Director of Planning review the architectural plan in this case. He stated staff was amenable to whatever the Planning Commission decided.

Mr. Fraley did not have a suggestion in this particular case. He felt that review by the Director of Planning was sufficient.

Mr. Henderson asked about the impacts of the CSX right-of-way and potential sound or dust implications on development.

Ms. Reidenbach stated the landscape requirement applies to the Mooretown Road frontage of the property rather than the CSX property. She stated that staff has left it up to the discretion of the applicant as to how to situate the building.

Mr. Fraley asked if there was agreement as to what 125% of code meant with respect to landscaping.

Ms. Reidenbach stated that condition #10, which addresses landscaping on Mooretown Road, was a condition on the prior special use permit. It has already been satisfied with the exception of the additional five parking spaces. This condition specifically states that 125% is based on the number of plants and trees.

Mr. Fraley asked if the ordinance was clear as to what this means.

Mr. Murphy stated that the language under condition #10 is clear. There have been discussions in the past and staff intends to be diligent in language in special use permit conditions.

Mr. Krapf opened the public hearing.

Mr. Greg Davis, of Kaufman and Canoles, spoke on behalf of Diamond Healthcare. He stated that Williamsburg Place has a long history in James City County. He displayed a map of the land and where the existing buildings are located and where the expansion will take place. Mr. Davis stated the expansions will add 40 additional beds to the facility, 25 will be for acute psychiatric services for impaired professionals, and 15 of the beds will be reserved for psychiatric inpatient care for those in the local community. Mr. Davis mentioned the environmental considerations that the application has addressed. He stated that the money involved in installing and maintaining pervious pavement would be best directed toward the expensive cistern system and the bioretention facility. He stated this expansion will have 55 new full time staff positions and a budget of \$3.5 million in salary, wages, and benefits. The estimated purchase of services and supplies would be \$500,000 and the estimated capital expenditure for the project would be \$9.5 million. He displayed the conceptual architectural drawing. Mr. Davis asked the Commission to take notice of the letters of support issued to the State in the Certificate of Public Needs process by Eastern State Hospital, Sentara Williamsburg Regional Medical Facility, and by the County Administrator.

Mr. Krapf closed the public hearing.

Mr. Fraley complimented the applicant and the environmental protections that the application provided. He felt that this was an industry that the County should be targeting for growth.

Mr. Henderson thanked the applicant for presenting a strong application and for being a strong corporate citizen in the County. It is important that the County recognizes the applicant's efforts and their need to expand. Mr. Henderson thought it was important to recognize the

applicant's contribution to the community.

Mr. Poole noted that he also supported the application. The applicant has proven their sensitivity to a number of items, such as the preservation of mature trees. He also stated this business serves a constituency that needs care. Mr. Poole moved to approve the application with the new and existing conditions.

Mr. Henderson seconded the motion.

In a roll call the application was approved. (6-0) AYE: Poole, Fraley, Kratter, Henderson, Peck, Krapf. (Absent – Billups)

E. FY 2010 – 2016 Capital Improvements Program

Ms. Reidenbach stated that after a series of meetings to discuss and rank the Capital Improvement Program requests, the Policy Committee, in conjunction with planning staff, is forwarding its recommendation. She stated that the Committee separated out maintenance items so that they were not given priority rankings. This was done due to the fact the maintenance items do not seek to create new County assets but rather to maintain existing assets. Each project receives a numerical score from Planning staff based on an objective ranking system which places emphasis on comparison to the Comprehensive Plan and/or support of other County adopted plans. Ms. Reidenbach stated the Committee gave each project a numerical priority. Three new applications were received by the Committee and ten other applications had been previously approved for FY10 funding in the FY09 budget process. Ms. Reidenbach asked that the Planning Commission recommend approval of the Capital Improvement Program rankings to the Board of Supervisors.

Mr. Krapf opened the public hearing.

Mr. Aaron Small, of AES Consulting Engineers and Chairman of the Stormwater Advisory Committee for the County, thanked the Planning Commission for ranking the water quality request high. He stated there are numerous stormwater projects within the County that need funding.

Mr. Krapf closed the public hearing.

Ms. Kratter asked about the numerical ranking as opposed to the low, medium, high ranking that has been done in the past. This was mentioned due to the joint worksession that the Planning Commission had with the Board of Supervisors.

Mr. Krapf felt that the worksession did not end with any definitive guidelines from the Board of Supervisors. Since the Policy Committee already ranked the items 1-13, they thought they would try this format for this year.

Mr. Murphy stated there would be more discussions with the Policy Committee concerning these rankings since the CIP process changes are a work in progress. Hopefully there

will be feedback from the Board of Supervisors before next year's rankings are done.

Mr. Henderson asked about the Warhill Community Gymnasium and the funding for FY09 and FY10. He thought it was important to mention that this was a budgeted item and then was deleted from FY09 budget. He felt this project was important to consider for funding in FY10 and an estimated amount should be included in the packet forwarded to the Board.

Mr. Krapf stated that in the staff report there are some specific recommendations, this project being one of them, and maybe this should be included in the recommendation to the Board of Supervisors.

Ms. Reidenbach noted that she would include the dollar amount for the gymnasium with the information forwarded to the Board of Supervisors.

Mr. Fraley noted that this project was footnoted in the information that staff provided. He stated the Committee recommended that financing for the gymnasium be included in any bond offering for the new law enforcement building.

Mr. Poole thanked those who were on the Policy Committee for their hard work. He appreciated the qualifications in the report.

Mr. Fraley wanted to thank Ms. Reidenbach, Ms. Kate Sipes, and Mr. John McDonald for their work on this project.

Ms. Kratter moved to adopt the recommendation for the FY 2010 – FY2016 Capital Improvements Program.

Mr. Poole seconded the motion.

In a roll call the recommendation was approved. (6-0) AYE: Poole, Fraley, Kratter, Henderson, Peck, Krapf. (Absent – Billups)

7. PLANNING DIRECTOR'S REPORT

Mr. Murphy stated the agenda for the March 9, 2009 Steering Committee meeting will include discussion on public facilities and economic development.

Mr. Krapf asked about the Shaping our Shores presentation.

Mr. Murphy answered this project will be presented to the Board of Supervisors in a worksession. A report will be distributed to the Board of Supervisors. He anticipated a presentation to the Planning Commission by staff following the worksession, possibly in May.

Mr. Henderson asked what the current status was of Settler's Market given the recent financial issues concerning AIG and their affiliated developers.

Mr. Murphy stated staff has not received any notification.

Ms. Kratter asked if that is something that is normally in conditions, for either money set aside in escrow or some kind of notification.

Mr. Murphy stated there is no requirement or procedure to provide a regular report.

Ms. Kratter asked if this is something that might be considered in the future.

Mr. Murphy stated that discussions can be done with the developer during the special use permit process. This could be stated in a condition. This would have to be approached cautiously. Mr. Murphy felt that staging with construction could be discussed more.

Ms. Kratter felt that it was important to be aware of it under the law. It was important not to slow a project down, but that staging during the development might be more closely monitored and prove beneficial.

Mr. Henderson stated that it was reported to him that AIG was in the process of selling certain components of the project. He thought it was unusual that they were completing infrastructure absent the plans of any real development. He also asked if there was any progress on the parcel that Wal-Mart was to be built on.

Ms. Reidenbach stated that there was a site plan submitted to phase construction of the Wal-Mart parcel. The plans are to build the anchor Wal-Mart store first, and then phase in the other store fronts and the other anchor building.

Mr. Poole shared his concerns regarding the J4C's presented earlier in the meeting. He would encourage the Committee and staff to consider how conditions might appropriately address the staging of construction.

Mr. Peck raised the issue that this is important during the implementation of the Comprehensive Plan.

8. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Peck asked about an update in regards to the Regional Water Plan.

Mr. Fraley asked how such an important land use issue, such as the Shaping our Shores project, did not involve the Planning Commission.

Mr. Peck expressed his concerns regarding lack of Policy Committee and Planning Commission involvement.

Mr. Krapf stated that in regards to the Shaping our Shores project, the County Administrator and the Board of Supervisors initiated that process. That project proceeded according to the guidelines that were set at that time. He felt that the request for a presentation

assists the Planning Commission's involvement.

Mr. Henderson asked if the Planning Commission was consulted during the master plan process concerning other Parks and Recreation projects. This may have set the precedent for the Shaping our Shores project.

Mr. Peck wanted to stress that he was not questioning who was heading the projects, but that at some point in the planning process the Commission needs to be making some recommendations and observations on how it fits in with the overall development of the County.

Mr. Murphy stated that the project has been under the general guidance of the County Administrator in consultation with the Board of Supervisors. The process has been public with public hearings, displays, a project website, and video segments on TV48. The Planning Commission will consider this project when land use designations are considered through the Comprehensive Plan process. The Planning Commission will also see the project as zoning changes are likely necessary in order for development to occur on these parcels.

Mr. Henderson complimented staff on the Capital Improvements Program. He commented on the James City Concerned Citizen's Coalition's presentation. He stated the Steering Committee has had discussions about green space and the presentation of rural lands.

Mr. Peck shared his concerns about growth. He did not want to give the impression that the County has not been doing anything with regards to growth. There are a lot of things to take into consideration. Some financing decisions have been based on growth. It was important to have managed growth.

Mr. Krapf mentioned that the County website will reflect the Planning Commissioner's County email, and not their personal email, beginning March 5th.

9. ADJOURNMENT

Mr. Henderson moved that the meeting be adjourned.

Mr. Poole seconded the motion.

The meeting was adjourned at 9:05 p.m.

Rich Krapf, Chairman

Allen J. Murphy, Secretary

MEMORANDUM

DATE: April 1, 2009

TO: The Planning Commission

FROM: Jason Purse, Senior Planner

SUBJECT: Initiation of a Zoning Ordinance Amendment to amend Section 24-393 and 24-415, Setback reductions, with DRC approval

Staff has received a request to amend the Zoning Ordinance to allow for front setback reductions to 20 feet in the M-1, Limited Business/Industrial District, with approval of the Development Review Committee. Similar language currently exists in the B-1, General Business District, but currently only allows for a reduction to 25 feet. Staff would also amend that section to have similar reduction standards.

This request is coming forward at this time because certain M-1 parcels are located in Community Character Areas, where approved design guidelines suggest lessened front setbacks for business developments. Under the current ordinance language no reduction of front setbacks are permitted.

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

Jason Purse, Senior Planner

Attachments:

1. Initiating Resolution

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending Code Sections 24-393 and 24-415, Setback requirements, to consider the possibility of adding a provision for reducing front setbacks in the M-1 zoning district and changing the minimum requirement for the B-1 district. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Rich Krapf
Chair, Planning Commission

ATTEST:

Allen J. Murphy
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 1th Day of April, 2009.

MEMORANDUM

DATE: April 1, 2009

TO: The Planning Commission

FROM: Brandon K. Moon, Law Extern

SUBJECT: Initiation of a Zoning Ordinance Amendment to Replace the Term
“Mentally Retarded” References with the Term “Intellectual Disability”

At its 2008 session, the Virginia General Assembly approved HB760, which removed the terms “mentally retarded” and “mental retardation” from the Virginia Code in favor of the more sensitive term “intellectual disability.” The term “mentally retarded” appears in the Zoning Ordinance of the County Code in Sections 24-2 (“home care facility”), 24-213 (“family care homes”), 24-349 (“family care homes”) and 24-521 (“family care homes”).

The attached ordinance amendment will replace all references of “mentally retarded” in the Zoning Ordinance with “intellectually disabled.”

Staff recommends the Planning Commission adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance.

Brandon K. Moon
Law Extern

CONCUR:

Adam R. Kinsman
Deputy County Attorney

Attachment:
1. Initiating Resolution

RESOLUTION

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby initiate review of Sections 24-2, 24-213, 24-349, and 24-521 of the Zoning Ordinance for the consideration of removing the terms “mentally retarded” and “mental retardation” in favor of the term “intellectually disabled.” The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Rich Krapf
Chair, Planning Commission

ATTEST:

Allen J. Murphy
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 1st day of April, 2009.

M E M O R A N D U M

DATE: April 1, 2009
TO: The Planning Commission
FROM: Melissa C. Brown, Deputy Zoning Administrator
SUBJECT: Amendment to Section 24-7, Administrative Fees – Home Occupation Application

In May of this year, the County Administrator will present the FY 10 Proposed Budget for the Board of Supervisor's consideration. During the budget process, it has been recommended that staff review and compare fees within the Zoning and Subdivision Ordinances for conformity to similar jurisdictions and make appropriate adjustments.

RECOMMENDATION

Staff recommends the Planning Commission adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance

Melissa C. Brown
Deputy Zoning Administrator

Attachment:
Initiating Resolution

RESOLUTION

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TO THE ZONING ORDINANCE**

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 24-7 of the Zoning Ordinance to establish fees for applications for home occupations. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Richard Krapf
Chair, Planning Commission

ATTEST:

Allen J. Murphy, Jr
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 1st day of April 2009.

M E M O R A N D U M

DATE: March 11, 2009

TO: Members of the Policy Committee

FROM: Melissa C. Brown, Zoning Administrator

SUBJECT: ZO-0005-2008, Amendment to Chapter 24, Article II. Special Regulations, Division 2. Highways, Streets, Parking and Loading-- Limitations on Parking of Vehicles for Sale

Background and Analysis:

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to themselves or an immediate family member. Currently, there is no prohibition on parking vehicles for sale on lots, vacant or otherwise, in the County as long as the vehicle owner is compliant with state code regulations and the location of the vehicles is not in conjunction with other unpermitted vehicle services. If approved, provisions would be added to Article 2, Division 2 of the James City County Zoning Ordinance. The following includes relevant background information and proposed language to be included in the zoning ordinance.

The sale of more than five motor vehicles in Virginia within any twelve consecutive months qualifies an individual as a motor vehicle dealer per the Virginia Code and requires licensure by the state Motor Vehicle Dealer Board. An individual who sells more than five motor vehicles within any twelve consecutive months without first obtaining a dealer license is known as a "curbstoner." "Curbstoners" typically sell vehicles on vacant lots with high visibility from a well traveled right-of way. This has increasingly become an enforcement issue in James City County detracting from the appearance of the community and, in some cases, creating a safety issue when acceptable site distances are reduced or obstructed by vehicles parked for sale. As a result, the Board of Supervisors has requested that staff develop an approach to resolve outstanding issues quickly to address safety concerns and preserve the character of the community.

In an effort to address this issue staff has been asked to review the ordinances and practices of similar localities and to pursue amending the ordinance to increase staff's ability to resolve outstanding issues in a timely manner. In order to provide material for comparison, staff contacted several localities of similar size and departmental arrangement to James City County to determine how they addressed "curbstoning." These included Albemarle County, Hanover County, Chesterfield County, Gloucester County, York County and the cities of Newport News and Hampton. Like James City, the majority of localities depend on the state Motor Vehicle Dealer Board agents to prosecute "curbstoners." Each of these localities utilize the same procedural steps as currently employed by James City. Notice is given to the property owner

that they are in violation of state code and that further action may be taken by the state agent should they fail to abate the violation. Then, the information is turned over to the state for action. The surveyed localities reported mixed success with this system since this type of violation is more prolific in some regions than others. The response time is directly related to the number of complaints that are received by the agent. For example, Albemarle County has relatively few complaints that are resolved quickly while localities in our region such as Gloucester, Newport News, and Hampton have more extended response times.

Currently, any individual can sell up to five vehicles in a 12 month period before they are in violation of the State Code for vehicle sales. There is no limit imposed by the locality beyond that of the state when the vehicle sales are not in conjunction with a licensed motor vehicle dealer or other licensed establishment. In order to improve response time and facilitate resolution when issues arise, staff has been asked to pursue amending the zoning ordinance to increase their ability to enforce requirements related to parking vehicles for sale at a local level without involving the state. This would significantly decrease the response time necessary to abate violations.

The Policy Committee extensively discussed the proposed amendment and identified several components that they believed warranted further review. First, questions were raised regarding the sale of vehicles from rural and agricultural areas. There was concern expressed over the potential locations of the vehicles for sale and whether exemptions were warranted. Because many of our most visible roadways have a rural character, such as Route 60, Route 30 and Forge Road, staff does not support an exemption from the ordinance. It is staff's suggestion that provision be made to allow vehicles be located on grassed areas to preserve existing landscape and that the same limits imposed on the remainder of the County be imposed on such properties. Also, the committee suggested allowing two vehicles to be displayed at a time with a maximum of five vehicles displayed for sale in a year instead of the one and five proposed in the original document. This is in line with what is permitted in York County and sets the maximum at the state level. Finally, there was discussion of the possibility of allowing the owner of vacant parcels to park vehicles legally titled to them or their immediate family for sale on the property.

Proposal:

The following proposal is aimed to codify new enforcement practices that address the issue of curbstoning. Proposed language changes and additions are in **bolded, underlined, italics** for easy identification.

CHANGE #1- Add language outlining instances where parking vehicles for sale is permitted/prohibited.

Chapter 24, Article II. Special Regulations, Division 2. Highways Streets, Parking and Loading

Section 24-55. General Provisions.

(d) Parking of vehicles for sale/lease permitted and prohibited.

(1) The following provisions shall apply to the parking or placement of automobiles, trucks, trailers, recreational vehicles, motorcycles, boats, tractors, heavy construction equipment or other types of motorized vehicle or equipment with the intent to offer such vehicles or equipment for sale or rent. For the purposes of this section, the presence of signs, lettering, papers, flyers or other visible advertisement or information on or within the vehicle or use of internet or print media indicating it to be for sale or rent shall be deemed evidence of such intent.

(1) The owner or occupant of a parcel on which an occupied residential, commercial or industrial structure is located may park a legally inspected and tagged automobile, light-duty truck, recreational vehicle or trailer, boat or cargo trailer on the property for the purpose of selling or offering the vehicle for sale, provided that:

(a) The vehicle is owned by the owner or occupant of the property, or a member of the owner/occupant's immediate family living on the property. For the purposes of this section, the term "immediate family" shall be deemed to include spouse, natural or legally defined offspring or parents or grandparents of the owner or occupant of the premises. The owner must produce proof of ownership in the form of title or current registration if requested by inspection staff.

(b) The vehicle is parked on a cleared area on the property, and shall not be parked on forested or landscaped portions of the property.

(c) Any signs or lettering advertising the vehicle to be "for sale" shall be attached to or applied to the vehicle and shall not exceed six (6) square feet in area.

(d) Not more than two (2) vehicles shall be parked or displayed "for sale" at any time and not more than five (5) vehicles may be parked or displayed "for sale" on any property within the same calendar year.

(e) In the event the commercial or industrial use occupying the property is authorized to include the on-premises parking or storage of heavy construction equipment, large trucks, and similar vehicles/equipment, the above-noted limitation to "light-duty trucks" shall be waived.

(f) Parking of vehicles or equipment for sale or rent on undeveloped or vacant

property, or on property on which the principal structure(s) are unoccupied, shall be prohibited.

(2) Violations of the terms of this section shall be enforceable against the owner of the property and/or the owner of the vehicle.

(3) The provisions of this section shall not be deemed to prohibit the sale or rental of vehicles or equipment when conducted from a site which has been authorized, pursuant to the terms of this chapter, for the conduct of vehicle or equipment sales/rental as a principal use of the property.

(4) Violation of any of these terms may result in court action in accordance with Section 24-22 in addition to having the vehicle towed from the property at the owner's expense.

(5) The provisions of this section are not intended to prevent temporary parking related to day-to-day use and operation of the vehicle (i.e. shopping, normal road use) and should not be construed as such.

Recommendation:

At a meeting on March 11, 2009, the Policy Committee of the James City County Planning Commission by a vote of (3-1) recommended approval of this amendment with changes that addressed location of vehicles for sale in rural areas, the number of vehicles for sale both at a given time and as an annual maximum, and the sale of vehicles from vacant or unoccupied parcels by the property owner or immediate family.

Staff has incorporated changes that address the location of the vehicles in cleared areas in consideration of rural areas and to preserve existing vegetation on wooded lots. The thresholds have been increased to permit two vehicles at a time and five vehicles within a twelve month period. Alterations have not been made to permit sale of vehicles from vacant or unoccupied parcels as it is staff's opinion that the change would be in conflict with the intent of the ordinance which was to provide for sale of personal vehicles of residents while curbing the increase in sale of vehicles on vacant, highly visible parcels in the County.

Staff recommends that the Planning Commission recommend approval of the proposed amendment with incorporated changes.



Melissa C. Brown
Zoning Administrator

Attachments:

Unapproved minutes of the March 11, 2009 Policy Committee Meeting

POLICY COMMITTEE MEETING

March 11, 2009

6:00pm

County Complex, Building A

A. Roll Call

Present

Mr. Rich Krapf

Ms. Deborah Kratter

Mr. Chris Henderson, Chair

Mr. Reese Peck

Others Present

Ms. Leanne Reidenbach, Senior Planner

Ms. Melissa Brown, Deputy Zoning Administrator

Mr. Jason Purse, Senior Planner

Mr. Brian Elmore, Development Mgmt Asst.

Absent

Mr. Jack Fraley

Mr. Henderson called the meeting to order at 6:05pm.

B. Minutes

a. February 11, 2009

Ms. Kratter stated all of the minutes should be amended to change "motioned" to either "moved" or "made a motion."

Mr. Krapf moved for approval of the minutes as amended, with a second from Ms. Kratter. In a unanimous voice vote, the minutes were approved as amended (4-0).

b. February 18, 2009

Ms. Kratter stated the minutes should be amended to include Mr. Henderson's instructions to the group to determine CIP weights and values. She said before the meeting's adjournment, include "Mr. Krapf and Ms. Kratter suggested that before the next meeting they assign weights and values to the CIP rankings. Mr. Henderson asked them to prepare a draft."

Ms. Kratter moved for approval of the minutes as amended, with a second from Mr. Krapf. In a unanimous voice vote, the minutes were approved as amended (4-0).

c. February 23, 2009

Mr. Krapf moved for approval of the minutes as amended, with a second from Ms. Kratter. In a unanimous voice vote, the minutes were approved (4-0).

C. New Business -

A. Setback reductions for parcels in locations within approved area studies

Mr. Purse stated Planning staff would be bringing an ordinance amendment to the Policy Committee next month regarding waivers for reduced setbacks. He stated that area studies in some Community Character Areas recommended reduced setbacks. Staff was bringing an initiating resolution before the Planning Commission to allow for reduced setbacks in M-1 zoning if the parcel is within one of these study areas. Applicant's currently cannot apply for setback reductions in M-1.

Mr. Krapf stated the Board determined that reduced setbacks would be more in keeping with the community character of the Toano area.

B. ZO-0005-2008 - Prohibition of Vehicle Sales in Certain Circumstances

Ms. Brown stated on January 13th the Board passed on initiating resolution directing staff to pursue prohibiting vehicle sales in certain circumstances. There was concern over the number of vehicles being parked on vacant lots around the County. The amendment is also intended to limit the number of vehicles sold by occupants of property in the County and to prohibit sales from vacant parcels. She noted that Zoning has no jurisdiction over the VDOT right-of-way. Vehicles can be parked in areas lacking "no parking" signs.

Mr. Peck stated there were a number of vehicles for sale beside the Rite-Aid on News Road.

Ms. Brown stated that after the ordinance is passed, vehicles could still be parked at that location, but could not have sales advertisements on them.

Ms. Kratter asked about prohibitions on storing R.V.s and dump trucks.

Ms. Brown stated the Committee would need an initiating resolution before expanding the scope of the proposed ordinance amendment.

Mr. Krapf stated a prohibition against R.V.s runs counter to the objective of narrow focus ordinance amendments leading up to the comprehensive re-write of the zoning ordinance. He said storage is a blight issue that requires definitions of aesthetics.

Ms. Brown stated there is considerable disagreement over what is considered 'blight.' She said language could be added to the amendment that stated that cars must be parked on improved surfaces or a cleared area to better define where the vehicles can be parked on the property.

Mr. Krapf stated under this ordinance, vehicles behind a thin tree buffer, but still highly visible to the road, would be exempt.

Ms. Brown stated she could find middle ground in the ordinance to ease restrictions on rural lands where there may only be 25 feet of road frontage.

Mr. Henderson stated he had no concerns with farm equipment being sold on lots in rural areas. He questioned restricting the number of cars able to be sold simultaneously due to rapidly changing family circumstances. Property owners should have beneficial use of the land.

Ms. Brown stated that the ordinance seeks to limit vehicle sales to one at a time and three in a year. She stated the issue with multiple cars stored for sale on a lot was that the majority of the vehicles did not belong to the property owner. Mr. Henderson stated the property owner and their immediate family should be allowed to place for sale vehicles on empty lots. Also, the total number of vehicles sold should mirror what is permitted by the state.

Ms. Kratter stated that allowing five cars to be sold in a year could allow for almost permanent vehicle sales along some corridors.

Mr. Krapf stated allowing sales of two vehicles simultaneously would partially defeat the purpose of a restrictive ordinance.

Ms. Brown stated any "for sale" vehicles being driven in normal day-to-day circumstances of work and play would be exempt from the ordinance. The intention is to prohibit the long term parking of vehicles away from the owner's home or business for sale purposes. She said the ordinance closely resembled that of York County.

Mr. Peck stated he supported York County's "two vehicles at once, five per year" policy to create regional consistency.

Ms. Brown stated the Committee could present two options to the Planning Commission.

Mr. Peck suggested holding the recommendation until a future meeting pending further direction from the Board.

Mr. Henderson stated two options would go to the Commission, "one vehicle at a time and three per year" and "2 vehicles at a time and five per year."

Ms. Brown stated she would research the merits of exemptions for some rural areas.

Mr. Krapf moved for recommendation to the Commission of approval of the proposed ordinance with the proposed change of one vehicle parked for sale at once, with up to five for sale in a year and some other minor changes. Ms. Kratter seconded the motion.

In a voice vote, the Committee approved the recommendation (3-1; No: Henderson; Absent: Fraley).

C. ZO-0006-2008 – Signage Illumination in Community Character Areas and along Community Character Corridors

Ms. Brown stated that on January 13th, the Board adopted an initiating resolution to pursue review of signage illumination in Community Character Areas; specifically digital or LED gas pricing signs and associated new technology. She stated that some citizen support has been shown regarding the new BP sign at Five Forks.

Ms. Kratter asked if the light could be restricted from shining past the property line.

Mr. Peck stated the light should be blended in with surrounding properties.

Ms. Brown stated the business could provide an iso-footcandle diagram for the sign at the permit stage.

Mr. Henderson stated bulbs should be limited to either red or white.

Ms. Brown stated the ordinance can restrict certain colors.

Ms. Kratter asked why the ordinance was being amended for one situation.

Ms. Brown stated that the BP station was the catalyst for the conversation but, upon review, there seemed to be circumstances that warranted review of the code section in a limited fashion.

Mr. Henderson stated it would be an expensive proposition to exchange the bulbs on an existing sign.

Mr. Henderson stated it would be easier to mandate two colors rather than try and restrict all possible offensive colors.

Ms. Brown stated that the BP station would be required to change any portion of the sign that did not meet the new ordinance requirements.

Ms. Kratter asked if the BP station could be given an exemption based on error at approval.

Ms. Brown stated that local code nullifies any permit that is issued in conflict with the provisions of the ordinance.

Ms. Kratter questioned how to preserve a Community Character Corridor if any new signage technology is allowed display.

Mr. Henderson stated LED signs could be required to be placed on a brick or stone monument.

Mr. Krapf stated it appeared the Board's direction was to only deal with signage illumination.

Ms. Kratter stated that required expensive natural material monuments could discourage use of the signs along Community Character Corridors. She said the monument should include brick, stone, or veneer of either.

Mr. Krapf moved to approve the ordinance with proposed changes to require that the bulbs be red or white and that the base be monument style, with a second from Ms. Kratter.

In a unanimous voice vote, the changes were approved (4-0; Absent: Fraley).

C. ZO-0003-2006 – Outlet Malls Parking Amendment

Ms. Reidenbach stated the Board initiated a resolution to modify the parking ordinances to reflect how non-retail space is included in outlet mall parking ratios. Currently, the ordinance requires five spaces per 1,000 square feet, but does not specify whether it includes gross or retail square footage. Staff currently interprets this ordinance to count only retail floor area. The ordinance amendment is intended to clarify procedure. The actual parking requirements will not be changed.

Mr. Henderson stated that outlet malls require more parking than traditional shopping centers. He questioned how a stand-alone outlet store would be calculated.

Mr. Krapf stated that there are several uses whose parking requirements would fall under the Planning Director's discretion, including an outlet store.

Ms. Kratter suggested that outlet mall be defined so that it clarified what fell under this parking requirement.

Ms. Reidenbach handed out a draft definition of outlet mall to be included in the parking section of the ordinance.

Mr. Krapf moved for approval of the revised language, with a second from Ms. Kratter.

In a unanimous voice vote, the language was approved (4-0; Absent: Fraley).

D. Old Business

A. CIP ranking criteria

Ms. Kratter suggested moving discussion of CIP ranking criteria to another day.

Ms. Reidenbach stated that staff would like the Committee to consider their ranking sheet in relation to staff's score sheet to determine how they would interact. Ms. Reidenbach suggested incorporating staff's criteria, which deal primarily with the proposed project's relation to the Comprehensive Plan, as a first half of the Committee's overall criteria sheet.

E. Adjournment

Mr. Krapf moved for adjournment, with a second from Ms. Kratter.

The meeting was adjourned at 8:05 pm.

Chris Henderson, Chairman of the Policy Committee

MEMORANDUM

DATE: April 1, 2009

TO: Members of the Planning Commission

FROM: Melissa C. Brown, Zoning Administrator

SUBJECT: ZO-0006-2008, Amendment to Chapter 24, Article II. Special Regulations, Division 3. Exterior Signs

Background and Analysis:

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue a review of the criteria for illumination of the gas pricing component of freestanding signage in Community Character Areas and along Community Character Corridors. Current relevant regulations can be found in Section 24-70 (d) (1) and (2). The language reads as follows:

(1) Internally illuminated signs shall be prohibited in the following cases:

- a. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or*
- b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.*

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. shall be signs:

- a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicants exception request based on the review criteria outlined in section 24-72; or*
- b. externally illuminated by ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground- 24-2-3-5 mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.*

The following proposed language attempts to address changes in technology relevant to electronic signs as utilized by the fuel sales industry in the County and as displayed at the BP in Five Forks. In reviewing the existing ordinance provisions, staff contacted several similar localities in order to develop material for comparison. Localities surveyed include the Counties of York, Gloucester, Hanover, and Albemarle and the Cities of Newport News, Hampton, Chesapeake, Virginia Beach, Suffolk and Poquoson. All localities surveyed permitted the signage in at least some districts.

At the Policy Committee meeting on March 11, 2009, concern was expressed over the intensity of illumination, the style and composition of construction of the sign and the amount of light that trespassed across the property line. Requirements have been included that limit the style of the sign structure to monument and the material to brick or stone. Also, staff added a requirement that light cannot trespass across the property line. In instances where there is a question of light trespass, the Zoning Administrator or designee may request an iso-footcandle diagram to verify that no light crosses the property line. Additionally, there was discussion regarding potential limitations on the color of the bulbs to red or white. There is concern that the colors chosen for the bulbs are similar to those utilized by emergency services and it is suggested that the provision be changed to reflect lighting that is of one color and that is not similar to that used by emergency services. Overall, staff has worked to incorporate changes requested by the Policy Committee with some changes to reflect safety concerns.

Proposal:

The following proposal is aimed to codify the proposed new permitting practices. Proposed language changes and additions are in **bolded, underlined, italics** for easy identification.

CHANGE #1- Add language for fuel signage to the definitions listed in 24-66 for clarification that these signs are not specifically prohibited by other sections of the ordinance.

Section 24-66 Definitions

*Flashing sign. An illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and/or color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. Signs which display only the time of day and temperature or only **changeable digital/LED fuel pricing** shall not be considered a flashing sign.*

CHANGE #2 – Add language to Section 24-70 that addresses fuel pricing signage on freestanding signs in Community Character Areas and along Community Character Corridors.

(1) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. are permitted so long as they comply with the following:

- a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 consider moving to c except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement so long as they are constructed in accordance with Section 24-73(m). An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicants exception request based on the review criteria outlined in section 24-72;

Change #3 – Add language that creates guidelines for the installation of such special digital sign displays.

Section 24-73 Special regulations for certain signs.

(m) Digital or LED signage advertising gas price in Community Character Corridors and Community Character Areas must adhere to the following requirements:

- (1) **Signs shall only advertise gas pricing on premises.**
- (2) **Sign shall be of monument style and of a brick or stone foundation.**
- (3) **Digital/LED displays shall accommodate no more than 50% of the total sign area.**
- (4) **Digital/LED lighting shall be of one color that does not mimic emergency services lighting.**
- (5) **There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso-footcandle diagram may be required with permit submission.**
- (6) **Sign copy neither flashes nor scrolls.**
- (7) **Any portion of the sign other than the gas pricing component requires the review and approval of the Planning Director in accordance with Section 24-70.**
- (8) **Signage must otherwise comply with the provisions of this chapter.**

Recommendation:

At the March 11, 2009 meeting, the Policy Committee of the Planning Commission recommended approval of the proposed amendment by a vote of (4-0) with changes that address the intensity of illumination, the style and composition of construction of the sign and the amount of light that trespassed across the property line. Staff has incorporated changes that address the intensity of the illumination and the style and composition of the construction of the sign. Also, staff has suggested that additional consideration be given to the limitation on color of the bulbs to red or white, as suggested, which may have the potential to mimic the appearance

of emergency services lighting in some circumstances. Staff recommends limiting the bulbs to a single color that cannot be confused with emergency services lighting.

Staff recommends that the Planning Commission recommend approval of the above amendment to the indicated sections of the Zoning Ordinance with the proposed changes as discussed above.

A handwritten signature in black ink, appearing to read 'Melissa C. Brown', is written over a horizontal line.

Melissa C. Brown
Zoning Administrator

Attachments:

Unapproved minutes of the March 11, 2009 Policy Committee Meeting

POLICY COMMITTEE MEETING

March 11, 2009

6:00pm

County Complex, Building A

A. Roll Call

Present

Mr. Rich Krapf

Ms. Deborah Kratter

Mr. Chris Henderson, Chair

Mr. Reese Peck

Others Present

Ms. Leanne Reidenbach, Senior Planner

Ms. Melissa Brown, Deputy Zoning Administrator

Mr. Jason Purse, Senior Planner

Mr. Brian Elmore, Development Mgmt Asst.

Absent

Mr. Jack Fraley

Mr. Henderson called the meeting to order at 6:05pm.

B. Minutes

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Ms. Kratter stated all of the minutes should be amended to change "motioned" to either "moved" or "made a motion."

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Mr. Purse stated Planning staff would be bringing an ordinance amendment to the Policy Committee next month regarding waivers for reduced setbacks. He stated that area studies in some Community Character Areas recommended reduced setbacks. Staff was bringing an initiating resolution before the Planning Commission to allow for reduced setbacks in M-1 zoning if the parcel is within one of these study areas. Applicant's currently cannot apply for setback reductions in M-1.

Mr. Krapf stated the Board determined that reduced setbacks would be more in keeping with the community character of the Toano area.

B. ZO-0005-2008 - Prohibition of Vehicle Sales in Certain Circumstances

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Ms. Brown stated that the ordinance seeks to limit vehicle sales to one at a time and three in a year. She stated the issue with multiple cars stored for sale on a lot was that the majority of the vehicles did not belong to the property owner. Mr. Henderson stated the property owner and their immediate family should be allowed to place for sale vehicles on empty lots. Also, the total number of vehicles sold should mirror what is permitted by the state.

Ms. Kratter stated that allowing five cars to be sold in a year could allow for almost permanent vehicle sales along some corridors.

Mr. Krapf stated allowing sales of two vehicles simultaneously would partially defeat the purpose of a restrictive ordinance.

Ms. Brown stated any "for sale" vehicles being driven in normal day-to-day circumstances of work and play would be exempt from the ordinance. The intention is to prohibit the long term parking of vehicles away from the owner's home or business for sale purposes. She said the ordinance closely resembled that of York County.

Mr. Peck stated he supported York County's "two vehicles at once, five per year" policy to create regional consistency.

Ms. Brown stated the Committee could present two options to the Planning Commission.

Mr. Peck suggested holding the recommendation until a future meeting pending further direction from the Board.

Mr. Henderson stated two options would go to the Commission, "one vehicle at a time and three per year" and "2 vehicles at a time and five per year."

Ms. Brown stated she would research the merits of exemptions for some rural areas.

Mr. Krapf moved for recommendation to the Commission of approval of the proposed ordinance with the proposed change of one vehicle parked for sale at once, with up to five for sale in a year and some other minor changes. Ms. Kratter seconded the motion.

In a voice vote, the Committee approved the recommendation (3-1; No: Henderson; Absent: Fraley).

C. ZO-0006-2008 – Signage Illumination in Community Character Areas and along Community Character Corridors

Ms. Brown stated that on January 13th, the Board adopted an initiating resolution to pursue review of signage illumination in Community Character Areas; specifically digital or LED gas pricing signs and associated new technology. She stated that some citizen support has been shown regarding the new BP sign at Five Forks.

Ms. Kratter asked if the light could be restricted from shining past the property line.

Mr. Peck stated the light should be blended in with surrounding properties.

Ms. Brown stated the business could provide an iso-footcandle diagram for the sign at the permit stage.

Mr. Henderson stated bulbs should be limited to either red or white.

Ms. Brown stated the ordinance can restrict certain colors.

Ms. Kratter asked why the ordinance was being amended for one situation.

Ms. Brown stated that the BP station was the catalyst for the conversation but, upon review, there seemed to be circumstances that warranted review of the code section in a limited fashion.

Mr. Henderson stated it would be an expensive proposition to exchange the bulbs on an existing sign.

Mr. Henderson stated it would be easier to mandate two colors rather than try and restrict all possible offensive colors.

Ms. Brown stated that the BP station would be required to change any portion of the sign that did not meet the new ordinance requirements.

Ms. Kratter asked if the BP station could be given an exemption based on error at approval.

Ms. Brown stated that local code nullifies any permit that is issued in conflict with the provisions of the ordinance.

Ms. Kratter questioned how to preserve a Community Character Corridor if any new signage technology is allowed display.

Mr. Henderson stated LED signs could be required to be placed on a brick or stone monument.

Mr. Krapf stated it appeared the Board's direction was to only deal with signage illumination.

Ms. Kratter stated that required expensive natural material monuments could discourage use of the signs along Community Character Corridors. She said the monument should include brick, stone, or veneer of either.

Mr. Krapf moved to approve the ordinance with proposed changes to require that the bulbs be red or white and that the base be monument style, with a second from Ms. Kratter.

In a unanimous voice vote, the changes were approved (4-0; Absent: Fraley).

C. ZO-0003-2006 – Outlet Malls Parking Amendment

Ms. Reidenbach stated the Board initiated a resolution to modify the parking ordinances to reflect how non-retail space is included in outlet mall parking ratios. Currently, the ordinance requires five spaces per 1,000 square feet, but does not specify whether it includes gross or retail square footage. Staff currently interprets this ordinance to count only retail floor area. The ordinance amendment is intended to clarify procedure. The actual parking requirements will not be changed.

Mr. Henderson stated that outlet malls require more parking than traditional shopping centers. He questioned how a stand-alone outlet store would be calculated.

Mr. Krapf stated that there are several uses whose parking requirements would fall under the Planning Director's discretion, including an outlet store.

Ms. Kratter suggested that outlet mall be defined so that it clarified what fell under this parking requirement.

Ms. Reidenbach handed out a draft definition of outlet mall to be included in the parking section of the ordinance.

Mr. Krapf moved for approval of the revised language, with a second from Ms. Kratter.

In a unanimous voice vote, the language was approved (4-0; Absent: Fraley).

D. Old Business

A. CIP ranking criteria

Ms. Kratter suggested moving discussion of CIP ranking criteria to another day.

Ms. Reidenbach stated that staff would like the Committee to consider their ranking sheet in relation to staff's score sheet to determine how they would interact. Ms. Reidenbach suggested incorporating staff's criteria, which deal primarily with the proposed project's relation to the Comprehensive Plan, as a first half of the Committee's overall criteria sheet.

E. Adjournment

Mr. Krapf moved for adjournment, with a second from Ms. Kratter.

The meeting was adjourned at 8:05 pm.

Chris Henderson, Chairman of the Policy Committee

MEMORANDUM

DATE: April 1, 2009
TO: The Planning Commission
FROM: Leanne Reidenbach, Senior Planner
SUBJECT: Case No. ZO-0003-2006, Outlet Mall Parking Amendment

Background and Analysis:

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to clarify how non-retail space is considered when calculating off-street parking requirements for outlet malls (Section 24-59(b)(12)).

James City County's parking ordinance for commercial use categories, such as planned shopping centers and high and moderate demand commercial uses (drug stores, arcades, retail stores in general, and building and automotive supply stores) specify that building square footage be based on retail floor area. Currently, the County requires 5 spaces per 1,000 square feet (or 1 space per 200 square feet) for outlet malls, but, unlike other use categories, does not specify whether the figure is based on gross or retail square footage. In the past, the Zoning Administrator has administratively processed deductions for non-retail space in outlet malls on a case by case basis. For example, the deduction to accommodate for non-retail floor area in the Prime Outlets expansion was approximately 20%. The figure was determined from knowledge of the proposed building's design and experience with similarly designed buildings already in operation within Prime Outlets.

Generally, other localities that base their parking calculation on total building square footage, such as York County and the City of Williamsburg, require fewer spaces per 1,000 square feet (typically 3.3 to 4 spaces per 1,000 square feet or 1 space per 303 square feet and 1 space per 250 square feet respectively). Based on staff's research, the County's current requirements for outlet mall parking fall in line with parking requirements of these other localities.

Locality/method of counting square footage	1 space per # square feet	# spaces required for 10,000 (gross) SF outlet mall
James City County (gross SF)	200	50
James City County (net SF – 20% deduction)	200	40
York County (gross SF)	250	40
Prince William County (net SF – 25% deduction)	200	38
City of Williamsburg (gross SF)	303	33

Proposal:

The following proposal is aimed to codify the current practice of deductions for non-retail space and clarify applicable definitions. Proposed language changes and additions are in underlined, italics for easy identification. A few changes have been made to the definition of *floor area*, *retail* since the Policy Committee endorsed the amendment. These are shown in **bold** and were made to clarify that the retail floor area on all levels of a building should be counted in the same way and that only commercial portions of mixed used buildings are considered under this definition.

CHANGE #1- Add definition of retail floor area
Chapter 24, Article I. In General, Section 24-2. Definitions
(insert alphabetically)

Floor area, retail. The total floor area of a commercial building or the commercial portion of a mixed use building, excluding stairwells, elevator shafts, equipment rooms (HVAC, plumbing, electrical, mechanical), storage areas, restrooms, hallways, and interior vehicle parking or loading. and all floors below the first or ground floor, except when these areas are used or intended to be used for human habitation or other service to the public. For the purposes of commercial parking calculations, the applicant shall be responsible for providing the Zoning Administrator with information detailing the allocation of retail and non-retail space.

CHANGE #2- Add clarification for outlet mall parking calculation and what classifies as an outlet mall
Chapter 24, Article II. Special Regulations Division 2. Highways, Streets, Parking, and Loading, Section 24-59(b)(12). Outlet malls.

(12) Outlet Mall, with four or more stores sharing a common parking area that primarily sell the products of a single manufacturer and are owned or leased by that manufacturer, shall provide 5 parking spaces per 1,000 square feet of retail floor area.

Recommendation:

At its meeting on March 11, 2009 the Policy Committee unanimously recommended approval of the proposed ordinance revision (4-0, Fraley absent). Staff recommends that the Planning Commission recommend approval of the above changes to the definitions and parking sections of the Zoning Ordinance to the Board of Supervisors.

Leanne Reidenbach

Attachments:

1. Unapproved minutes from March 11, 2009 Policy Committee meeting

**Unapproved minutes of the March 11, 2009
Policy Committee meeting**

A. ZO-0003-2006 – Outlet Malls Parking Amendment

Ms. Reidenbach stated the Board initiated a resolution to modify the parking ordinances to reflect how non-retail space is included in outlet mall parking ratios. Currently, the ordinance requires five spaces per 1,000 square feet, but does not specify whether it includes gross or retail square footage. Staff currently interprets this ordinance to count only retail floor area. The ordinance amendment is intended to clarify procedure. The actual parking requirements will not be changed.

Mr. Henderson stated that outlet malls require more parking than traditional shopping centers. He questioned how a stand-alone outlet store would be calculated.

Mr. Krapf stated that there are several uses whose parking requirements would fall under the Planning Director's discretion, including an outlet store.

Ms. Kratter suggested that outlet mall be defined so that it clarified what fell under this parking requirement.

Ms. Reidenbach handed out a draft definition of outlet mall to be included in the parking section of the ordinance.

Mr. Krapf moved for approval of the revised language, with a second from Ms. Kratter.

In a unanimous voice vote, the language was approved (4-0; Absent: Fraley).

SPECIAL USE PERMIT CASE NO. SUP-0024-2008 Windsor Meade Tower
Staff Report for the April 1, 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:	February 4, 2009	7:00 PM (deferred)
	March 4, 2009	7:00 PM (deferred)
	April 1, 2009	7:00PM

Board of Supervisors: May 12, 2009 7:00 PM (tentative)

SUMMARY FACTS

Applicant: Ms. Lisa Murphy, LeClaire Ryan

Land Owner: Robert Boyette, News Company LLC

Proposal: To construct a 120' cellular communications tower behind Belk in the Windsor Meade shopping center.

Location: 4900 Monticello Avenue

Tax Map/Parcel: 3831800001

Parcel Size: 19.9 acres

Existing Zoning: Mixed Use

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the conditions listed at the end of this report, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation and the Wireless Communications Performance Standards policy. Though the proposal does not fully satisfy each criterion of the Wireless Communications Performance Standards policy, staff finds the proposal substantially meets the policy provisions and recommends the Planning Commission recommend approval of the application with the conditions outlined in this report.

Staff Contact: Luke Vinciguerra, Planner

Phone: 253-6685

Luke Vinciguerra, Planner

PROJECT DESCRIPTION

Ms. Lisa Murphy has applied for a Special Use Permit to allow for construction of a 120' Wireless Communication Facility (WCF) behind Belk in the Windsor Meade shopping center. Tower mounted communication facilities of any height in the Mixed Use district require a Special Use Permit (SUP). The proposed WCF would be a "slick stick" which is essentially an enclosed cylinder with all electrical components hidden within, similar to towers at the government complex.

At the conceptual level, the applicant had originally requested the previous Planning Director to make a determination if the proposed tower could be considered camouflaged, which would require only administrative review. The Planning Director did not find the proposed tower to meet the camouflaged criteria. The applicant subsequently applied for a Special Use Permit to proceed. The property is subject to the New Town design guidelines and requires the New Town Design Review Board (DRB) approve the tower per the New Town proffers. The DRB has approved the proposal and will be submitting their comments in writing to the Planning Commission and Board of Supervisors.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek

Staff Comments: The Environmental Division has no comments on the SUP application at this time. Any site development issues will be dealt with at the site plan level.

Public Utilities and Transportation

The new WCF would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area.

VISUAL IMPACTS

Based on a publicly advertised balloon test that took place on January 14, 2009, staff has found that the proposed tower would be somewhat visible from the Windsor Meade shopping center parking lot, Monticello Marketplace, Mid County Park, westbound Route 199 at Monticello Avenue and on Windsor Meade Way at the main gate to the residential area. Excluding the Route 199/Monticello overpass and the Windsor Meade parking lot, the proposed tower is noticeable, but not the dominant feature in the viewshed. The proposed tower would be more noticeable from the Windsor Meade parking lot and as one travels along the Route 199 westbound overpass at Monticello Avenue. The applicant has provided photo simulations of the proposed tower from select locations around the vicinity of the site to better demonstrate the visual effect of the tower.

The proposed tower location is currently heavily buffered by wooded land to the north and by a 274' wooded buffer to the west, however, the landscaping around the remainder of Windsor Meade shopping center would not screen the proposed tower, however, the tower would be partially obscured by Belk.

The land behind Windsor Meade is currently being evaluated by staff for a proposed residential development as part of New Town Section 12. The proposed tower would be 154' away from the property line of the development. The Zoning Ordinance requires a 400' setback from residential structures, which may not be entirely met if and when the proposed residential development is approved. However, development on the Section 12 property near the Windsor Meade property line would likely be setback at least 100' from the Windsor Meade property line due to RPA straddling both properties. As New Town Section 12 has not been approved or platted, the setback does not apply, but staff finds this information to be worth acknowledging, as the tower, if approved, would potentially have an impact on this future development area.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (attachment #1).

Section 24-124 of the Zoning Ordinance states that “In considering an application for a special use permit for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the ‘Performance Standards for Wireless Communications Facilities’ In general, it is expected that all facilities should substantially meet the provisions of these performance standards.”

These performance criteria note that tower mounted WCFs should be located and designated in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County’s ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted the required special use permit have substantially met these standards, including those pertaining to visibility.

Collocation and Alternatives Analysis Criteria

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.

The applicant has provided documentation explaining why collocation is not a viable alternative. The document titled “NF 945J – 2 mile radius” depicts the other towers in the vicinity and pages 4-10 of the propagation maps show how service would be effected if collocation were to occur on any tower. Comparing the collocation propagation maps to the current coverage map reveals that collocation on any of the existing towers would offer minimal if any improvement to AT&T’s cellular service.

Staff has also evaluated the possibility locating a tower at Mid County Park, including the prospect of camouflaging an antenna as part of exterior lighting or flag pole. However, it was found that any option at this location would be too visually obtrusive.

2. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.

As discussed, the applicant has examined collocating on all surrounding towers. The applicant has indicated that to be effective, the antenna must be above the tree line and approximately 120 feet tall; there are no structures (other than the towers) 60’ tall or higher in the vicinity.

3. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.

The applicant has informed staff that all AT&T antennas in the vicinity operate at 100% transmission strength and to be effective, the antenna must be approximately 120 feet tall or higher; there are no structures

(other than the towers) 60' tall or higher in the vicinity.

For this situation, staff finds that the applicant has demonstrated sufficient effort in attempting to find other potential sites for an antenna.

4. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.

The proposed location is large enough for the placement of multiple towers.

5. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

The proposed towers can house a total of three antennas. Government agencies have been notified of the proposed tower.

Location and Design Criteria

1. Towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the tower would be located;

The proposed WCF would be higher than any structure in the vicinity; however, staff does not find the slick stick design to be incompatible within the development. It is noted that the site is surrounded by buildings and vegetation and that the tower would be set back over 1,000 feet from Monticello Avenue. Though the proposal is not compatible by use, scale, design or height, it is modest enough to not be overbearing visually.

2. Towers should be located and designed in a manner that protects the character of the County's scenic resource corridors and historic and scenic resource areas and their view sheds.

Staff finds the slick stick design to be less obtrusive than other tower designs. The tower is well screened behind Belk and is shielded from Windsor Meade Way by extensive mature tree growth. The proposed tower would be briefly visible on the Route 199 bridge over Monticello Avenue heading westbound.

3. Within a historic or scenic resource area or within a scenic resource corridor use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.

This proposal cannot meet the minimal intrusion criteria as it is visible off site above the tree line from certain view points. However, the proposed tower would be partially screened by the buildings of a large shopping complex and by mature vegetation, and therefore be relatively inconspicuous from most locations. The proposal would be briefly noticeable from the Route 199 bridge westbound over Monticello Avenue.

Buffering

1. Towers should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower base or related facilities.

The proposed tower is well buffered from the north and southbound on Windsor Meade Way by mature trees, while the shopping center buffers the tower from Monticello Avenue. The ornamental landscaping placed on the tower site offers little additional buffering. The access drive, base of the tower and equipment shed would be hidden behind Belk.

Staff finds the proposed location in the shopping center maximizes the extent to which existing features can screen the tower.

2. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

The proposed tower can meet this criteria on two sides. The tower site behind Belk is currently well vegetated with mature tree hundreds of feet deep, while Windsor Meade Way is partially screened from the tower by a 250 foot side area of mature vegetation. The other sides of the proposed sites do not have any mature trees to screen the proposed tower.

3. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the WCF.

As the proposed tower is located along a Community Character Corridor the proposed tower is subject to review under this criterion. As previously stated, the proposal would be screened by 100+ feet deep mature tree screening on two sides. There would be no mature vegetation to screen the tower from the south and east sides of the property. However, sightlines to the south and east are partially obscured by the development.

COMPREHENSIVE PLAN

Land Use Map

Designation	Mixed Use (Page 124): Mixed Use areas are centers within the PSA where higher density development, redevelopment, and /or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes.
	Staff Comment: The Mixed Use description of the Comprehensive Plan does not specifically discuss WCFs. However, staff finds that if the proposal can satisfy the WCF Performance Standards, this use could be acceptable in the Mixed Use designation.
Development Standards	<i>General Land Use Standard #4-Page 134:</i> Protect environmentally sensitive resources including Community Character Corridors and Areas, and other sensitive resources, by utilizing design features, including building and site design, and buffers and screening, to adequately protect the resource.
	Staff Comment: Route 199 and Monticello Avenue are both listed as Community Character Corridors in the 2003 Comprehensive Plan. Though the proposed tower is relatively innocuous from Monticello Avenue, it is highly noticeable from the Route 199 bridge over Monticello Avenue, the Windsor Meade shopping center parking lot, and the entrance gate at Windsor Meade Way. The proposed tower can also be seen from Mid County park. These impacts are noted by staff.
Goals, strategies and actions	<i>Strategy #2-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.
	Staff Comment: The proposed tower is well buffered by intense vegetation to the rear of the site and is also screened somewhat by the shopping center itself.

General	<p><i>Wireless Communications Facilities-Page 94:</i> In 1998, the increasing need for new wireless communications facilities prompted the County to establish Performance Standards for Wireless Communication Facilities and add a new Division in the Zoning Ordinance to address them. The decision to regulate WCFs stemmed from the intent of the County to:</p> <ul style="list-style-type: none"> - Protect health, safety, and general welfare of the community - Preserve the aesthetic quality of the community and its landscape - Protect property values - Protect the historic, scenic, rural, and natural character of the community - Minimize the presence of structures that depart from existing and future patterns of development, especially in terms of scale, height, site design, character, and lighting. - Provide for adequate public safety communications - Allow the providers of WCFs to implement their facilities in a manner that will fulfill these purposes, encourage their co-location, and allow them to fulfill their Federal Communications Commission licenses. <p>Staff Comment: Staff strongly encourages co-location options in order to mitigate impacts to additional land. However, the applicant has demonstrated that co-location is not a feasible option in this area. As the tower will be partially screened by the existing trees behind Windsor Meade and the existing shopping center, staff finds that the applicant has utilized the surrounding features to mitigate the visual impacts of the proposed tower to the greatest extent possible.</p>
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Community Character

Comprehensive Plan Staff Comments

Overall, staff finds that this application, as proposed, is generally in compliance with the Comprehensive Plan. While the tower will have a visual impact on the surrounding area, staff finds the tower to be relatively unobtrusive for most surrounding locations. Staff believes that the applicant has chosen the best possible location for the tower, given the desired target area that the applicant wishes to serve.

STAFF RECOMMENDATION

Staff finds the proposal, with the conditions listed at the end of this report, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation and the Wireless Communications Performance Standards policy. Though the proposal does not satisfy each criterion of the Wireless Communications Performance Standards policy, staff finds the proposal meets the intent of the policy and recommends the Planning Commission recommend approval of the application with the conditions listed below.

1. A maximum of one (1) tower shall be permitted at 4900 Monticello Avenue, further identified as JCC RE Tax Map No. 3831800001 (“the Property”). The tower and supporting equipment shall be located as generally shown on the overall site layout plan, prepared by BC architects engineers, titled “SR 199/Heritage Pt. Site No. NF495J” dated December 31, 2008 (“Master Plan”). The maximum height of the tower including the lighting rod shall not exceed 120 feet from existing grade. There shall be no signage, markings, flags or lighting on the tower unless required by the Federal Aviation Administration. The tower shall be a shade of gray that minimizes the towers visual impacts as determined by the Planning Director. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. Access drives shall be designed in a manner that provides no view of the tower’s base or related facilities.

2. Within 30 days of the issuance of a final Certificate of Occupancy by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County

Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.

3. The tower shall be designed and constructed for at least three (3) users and shall be certified to that effect by an engineering report prior to the site plan approval.

4. A statement from a registered engineer that NIER (nonionizing electromagnetic radiation) emitted from any equipment on or serving the facility does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute shall be submitted prior to preliminary site plan approval.

5. A final Certificate of Occupancy shall be obtained from the James City County Codes Compliance Division within one (1) year of approval of this special use permit, or the permit shall become void.

6. The tower shall be freestanding and shall not use guy wires for support.

7. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material to that generally used on a single-family residence, including the use of a gable or shed roof. The design shall be approved by the Planning Director prior to final site plan approval.

8. A screening and landscaping plan shall be provided for approval by the Planning Director or his designee prior to final site plan approval. The fencing used to enclose the lease area where the tower and supporting buildings and structures will be located shall be vinyl-coated and shall be dark green or black in color. The design of any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.

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

ATTACHMENTS:

1. Performance Standards for WCFs Policy
2. Location map
3. Binder application
4. Photos from the balloon test

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

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

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
 - a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
 - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.
 - c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

1. Towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be

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

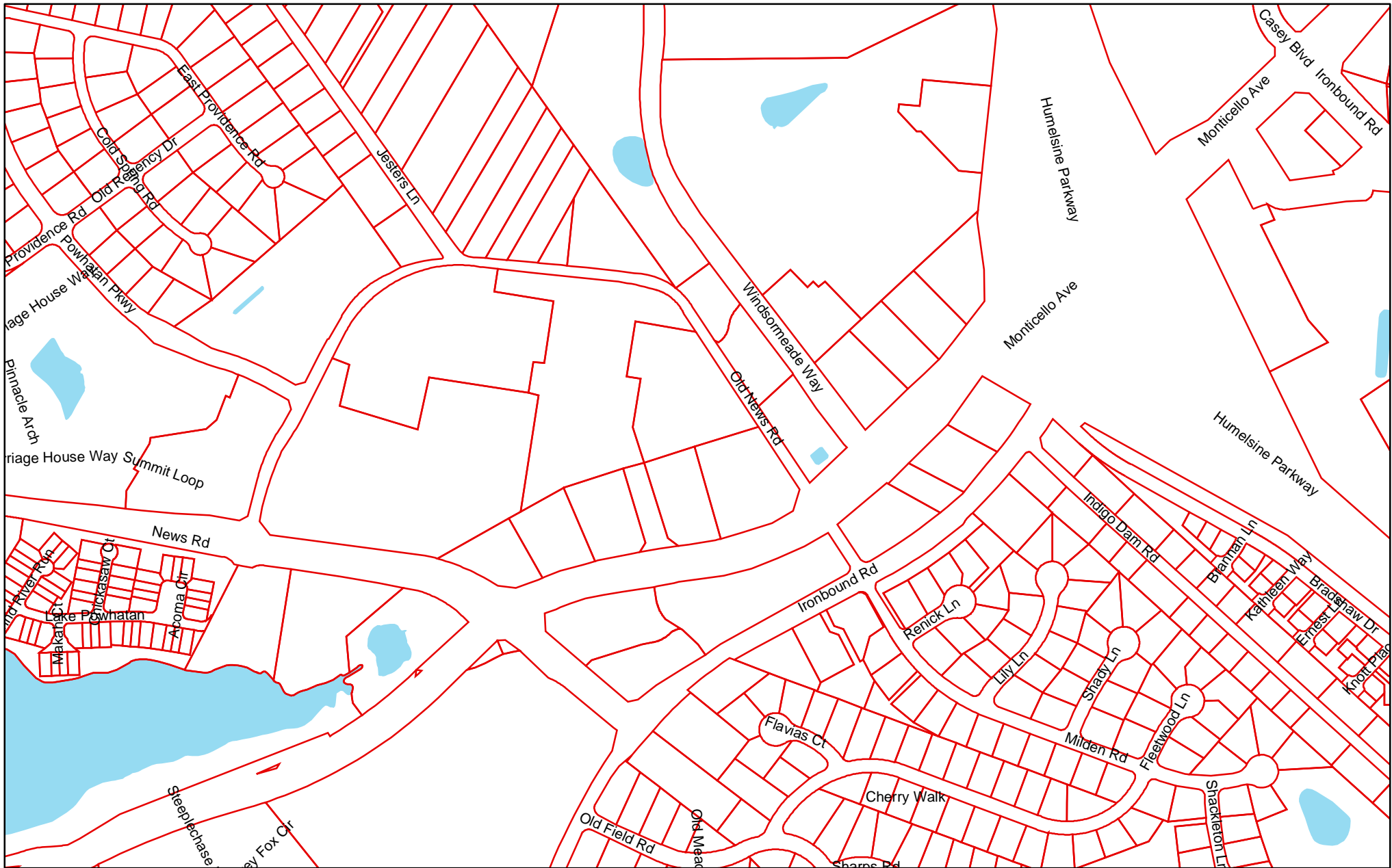
2. Towers should be located and designed consistent with the following criteria:

Proposed Location of Tower	Impact Criteria
a. Within a residential zone or residential designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
b. Within a historic or scenic resource area or within a scenic resource corridor	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
c. Within a rural lands designation in the Comprehensive Plan	For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors. For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.
d. Within a commercial or in an industrial designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
<p><i>Notes for the above table:</i></p> <ol style="list-style-type: none"> 1. Exceptions to these criteria may be made on a case by case basis where the location of the proposed tower is only on the following areas: (1) An area designated residential in the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses; (2) A golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property or a scenic easement. 2. A tower will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such tower should only be visible off site when viewed through surrounding trees that have shed their leaves. 3. Camouflaged towers having the design of a tree should be compatible in scale and location with surrounding natural trees or trees native to Eastern Virginia. 	

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

C. Buffering

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





March 30, 2009

**VIA ELECTRONIC MAIL &
OVERNIGHT COURIER**

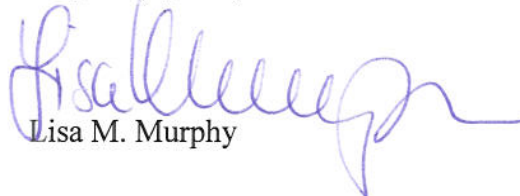
Mr. Luke Vinciguerra
James City County Planning Division
101-A Mounts Bay Road
Williamsburg, Virginia 23187

**Special Use Permit Application
SUP-0024-2008
New Cingular Wireless PCS, LLC ("AT&T")
120 Foot Slick Stick Wireless Communications Facility
4900 Monticello Avenue
AT&T Site #NF495J/Heritage Pointe**

Dear Luke:

I am writing to you on behalf of AT&T, the applicant in connection with the referenced application, to notify you that AT&T is hereby withdrawing the referenced application from further consideration. Please do not hesitate to contact me should you have any questions regarding this request. With kind regards, I am

Very truly yours,



Lisa M. Murphy

cc: Mr. Dan Bendl (via electronic mail)
Mr. John Miller (via electronic mail)

E-mail: lisa.murphy@leclairryan.com
Direct Phone: 757.217.4537
Direct Fax: 757.217.4599

283 Constitution Drive, Suite 525
Virginia Beach, Virginia 23462
Phone: 757.217.4530 \ Fax: 757.217.4599

**SPECIAL USE PERMIT-0006-2009: Sale/Repair of Lawn Equipment and Garden Supplies
Staff Report for the April 1, 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:	April 1, 2009	7:00 p.m.
Board of Supervisors	May 12, 2009	7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Nick Cianelli of Toano NCC Investments LLC

Land Owner: Toano NCC Investments LLC

Proposed Use: The applicant has applied for a special use permit to allow for the construction of a lawn equipment sale and repair and retail sales of plant and garden supplies shop (with major repair limited to a fully enclosed building) on site.

Location: 8231 Richmond Road

Tax Map and Parcel No.: 1240100007

Parcel Size: 2.11 acres

Existing Zoning: A-1, General Agricultural District

Comprehensive Plan: General Industry

Primary Service Area: Inside

STAFF RECOMMENDATION:

Staff finds this development, as currently proposed, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of the SUP application for this project with the attached conditions.

Staff Contact:	Jose Ribeiro, Planner	Phone: 253-6685
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Project Description

Mr. Nick Cianelli has applied for a special use permit to allow for the construction of lawn equipment and garden supplies sales and repair shop at 8231 Richmond Road. The sale and repair of lawn equipment (recently approved by the Board of Supervisors as an amendment to the zoning ordinance- ZO-004-2008) and sale of plant and garden supplies are specially permitted uses in the A-1, General Agriculture zoning district. The applicant is proposing to remove the existing dilapidated residential structure, accessory buildings and litter from the property, and redevelop the eastern end of the parcel with a single-story 7,500 square foot structure, 2,100 square foot of outdoor lawn equipment display area and 19 parking spaces.

According to information provided by the applicant, and as shown on the binding master plan, 5,100 square foot of the proposed building area will be made into a storage/shop area while 2,000 square foot of the building area will be used as a showroom for lawn and garden equipment/products. The applicant has indicated that, if approved, the proposed store will sell and repair medium-sized riding lawn machinery, chippers, tillers, blowers, etc. Additionally products such as fertilizers and plants will also be available for sale at the proposed store.

The applicant has proposed a 50-foot building setback and Community Character Corridor landscape buffer (please refer to SUP Condition No. 10). The property fronts on Route 60 and is located near the approved Villages at Whitehall development and the Hickory Neck Church, an eighteen century structure included on the National Register of Historic Places. Residential properties bordering the site to the north and south are all zoned A-1, General Agriculture and designated General Industry by the Comprehensive Plan. The site is also located approximately 934 linear feet west of the CSX railroad line. Although this parcel is not included in the Toano Community Character Area it is located approximately 1,600 linear feet from its northern perimeter.

PUBLIC IMPACTS

Archaeology:

Staff Comment: The subject property is a previously disturbed site and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment "Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia."

Planning Division Comment: Staff finds that given the size and nature of the site, no archaeological studies are necessary.

Environmental

Watershed: Diascund Creek

Environmental Staff Comments: Environmental Staff has reviewed the application and believes all remaining issues can be resolved at the site plan stage. The proposed infiltration-type BMP relies on the infiltration capacity of on-site soils. During the site plan review, should the soils be found unsuitable for an infiltration-type BMP, outflows must be discharged to an adequate and well-defined channel. If no receiving channel is present at the BMP outfall, offsite down streams improvements and/or drainage easements may be necessary on adjacent parcels. If no surface

discharge is proposed, a full geotechnical investigation would be required to show that the underlying soils beneath the trench are permeable and will infiltrate all increased runoff from the proposed development.

Planning Division Comments: Staff notes that Special Use Permit condition No. 3-BMP Discharge-has been designed to address the Environmental Division concerns regarding off-site runoff discharge. Staff further notes that in order to ensure that hazardous materials (e.g. pesticides, herbicides, petroleum by-products, etc) do not infiltrate into the site's drainage system or soil, a special use permit condition (SUP condition No.2-Spill Prevention and Control Plan) has been designed which requires that a spill prevention and control plan be submitted to the Environmental Division for review and approval prior to final site plan approval.

Public Utilities

JCSA Staff Comment: The site is located within the Primary Service Area (PSA) and will be served by public water and sewer. The JCSA staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards.

Planning Division Comments: Staff notes that water conservation and irrigation standards are part of the SUP conditions for this proposal (SUP conditions Nos. 4 and 5).

Transportation

- **2007 Traffic Counts:** From Route 30 (Andersons Corner) to Forge Road-Route 610, approximately 10,915 average daily trips.
- **2026 Volume Projected:** From Route 30 to Croaker Road (Route 607) projected 24,000 vehicles per day on a four lane divided road-"OK" category in the 2003 Comprehensive Plan.
- **Road Improvements:** There have been no road improvements proposed.

VDOT Comments: According to the Virginia Department of Transportation (VDOT) the proposed use does not have the potential to generate substantial trips during the peak hours, and impacts to the surrounding roadway network will be negligible. A standard entrance approved by VDOT will be required to provide access to the site from Route 60.

Planning Division Comments: Staff notes that an existing median crossover is located parallel to the proposed entrance to the property. Further, staff notes that this area of Richmond Road is not in the watch category according to the 2003 Comprehensive Plan. Staff finds that this section of Route 60 does provide good mobility due to its divided nature and low number of intersections and driveways and believes that this proposed use would have a minimal impact on this section of Richmond Road.

COMPREHENSIVE PLAN

Land Use Map

Designation	General Industry (Page 123): The James City County Comprehensive Plan Land Use Plan designates this property as General Industry. General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses. Secondary uses in General 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.
	Staff Comment: Staff has consulted with the Office of Economic Development regarding this application and the current Land Use designation. The parcels in this vicinity were designated General Industry primarily due to their proximity to the CSX railroad. However, due to significant resource protection area buffers paralleling the railroad, future proposals to access the property from the railroad are unlikely without encroaching into a RPA buffer; therefore it is staff's belief and the belief of the Office of Economic Development that although parcels in this area are designated for General Industry, it would not be economically practical to develop them for industrial uses requiring rail access. This particular parcel, as currently configured, is not directly adjacent to the railroad tracks. Staff notes that properties adjacent to this site are generally residential dwellings, which are neither primary nor secondary uses for land designated as General Industry. Further, the proposed use (the majority of the proposed operation will be dedicated to the repair and storage of equipment) constitutes only a small portion (2.11 acre) of the industrially designated area, which includes the 157-acre Hankins Industrial Park and the 7-acre Toano Business Center.

Economic Development

Goals, strategies and actions	<i>Strategy # 1-Page 20:</i> Promote and encourage development of James City County as a premier location for business and industry that is compatible with the character and image of the area and has a positive fiscal impact for the County.
	<i>Action #1-Page 20:</i> Continue to maintain an active and effective Economic Development strategy which includes existing business retention and expansion, the formation of and assistance to new business, and new business recruitment.
	Staff Comment: Staff finds that the proposed lawn and garden equipment sales and repair shop would be compatible with the rural character of the Toano area. Further, staff finds that the creation and retention of local small business is in keeping with the intent of the Economic Development Section of the Comprehensive Plan.

Environmental

Goals, Strategies, and actions	Strategy #2-Page 65: Assure that new development minimizes adverse impacts on the natural and built environment.
	Action #5-Page 66: Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.
	Staff Comment: According to information provided by the applicant, 78% of the total area of the parcel will remain pervious; thereby minimizing adverse impacts on the natural environment. Further two Low Impact Development (LID) features are proposed at the site in order to improve the quality of run-off water: five of the nineteen parking spaces will be constructed with permeable pavers and four rain barrels (with capacity for 300 gallons of water each) will be used to capture roof water run-off.

Transportation

General	Richmond Road- Page 77: This section of Route 60 provides good mobility due to the absence of either existing or planned intense development and its divided nature and low number of intersections and driveways. The Comprehensive Plan states that Richmond Road's role in inter-County travel will become more important as I-64 becomes more congested; therefore a high degree of mobility should be maintained. Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such developments would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination will be crucial.
	Staff Comment: This area of Richmond Road is not in the watch category according to the 2003 Comprehensive Plan. Staff finds that this section of Route 60 does provide good mobility due to its divided nature and low number of intersections and driveways and believes this proposal supports this section of the Comprehensive Plan by being a low traffic generator. Staff believes the proposed use will have a minimal impact on this section of Richmond Road.

Community Character Area

Goals, strategies, and actions	<p>Strategy #2-Page 95: Ensure that development is compatible in scale, size and location to surrounding existing and planned development.</p> <p>Strategy #3-Page 95: Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p>Strategy #6-Page 95: Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery and scenic views.</p> <p>Action #11-Page 96: Continue to require underground utilities in all new developments.</p> <p>Action #24(g)-Page 98: Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County.</p> <p>Staff Comment: Staff finds that the proposed single-story structure with a 50-foot landscaped Community Character Corridor buffer will be compatible with the surrounding residences on Route 60. Additionally, staff has included a special use permit condition that will require at a minimum, 125 percent of the landscaping otherwise required in the Zoning Ordinance. Staff further notes that the site plan for this project will require that all new utilities be placed underground. Lastly, given the low trip generation triggered by the proposed development, staff finds that this use will not have an adverse impact on the traffic on Route 60.</p>
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SIDEWALK MODIFICATION REQUEST:

The applicant is proposing a request for modification to the sidewalks requirements in sections 24-35 of the Zoning Ordinance. According to information provided by the applicant, a five-foot gravel walk is proposed along the front of the property. Staff notes that according to Section 24-35 of the Zoning Ordinance "Sidewalks shall be required for all projects requiring site plan review and residential developments." However, the ordinance states that upon a favorable recommendation of the development review committee, the planning commission may modify the requirements for sidewalks and issue a waiver. At this point the applicant has not submitted further information regarding how the criteria would be met. Should this application be approved, staff will take this request to the Development Review Committee (DRC) for further consideration.

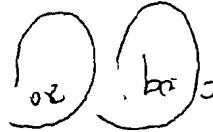
RECOMMENDATION:

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff finds the attached conditions will adequately mitigate impacts from this development. Staff recommends that the James City County Planning Division recommends approval of this application with the acceptance of the following special use permit conditions.

1. **Master Plan:** This Special Use Permit (the “SUP”) shall be valid for the construction of an approximately 7,500 square-foot lawn equipment sale and repair and plant and garden supplies store (with major repair limited to a fully enclosed building) on the property located at 8231 Richmond Road and further identified as JCC Tax Parcel Number 1240100007 (the “Property”). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled “Master Plan of property located at 8231 Richmond Road, James City County, Virginia,” prepared by LandMark Design Group and dated July 25, 2008 and revised on March 19, 2009 (the “Master Plan”) with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. **Spill Prevention and Control Plan:** Prior to final site plan approval, a spill prevention and control plan which addresses chemical handling shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval. Such plan shall include, but is not limited to, fertilizers, pesticides, herbicides, diesel fueling container solvents, oil, and gasoline.
3. **BMP Discharge:** Overflows from the proposed Best Management Practice (BMP) facility shall be discharged to an adequate and well-defined channel in accordance with State Minimum Standard #19. If no receiving channel is present at the BMP outfall, offsite downstream improvements and/or drainage easements may be necessary on adjacent parcels. If no surface discharge is proposed, a full geotechnical investigation is required to show that the underlying soils beneath the trench are permeable and will infiltrate all increased runoff from the proposed development. Said BMP facility design must be reviewed and approved by the Environmental Director 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 (“JCSA”) prior to final site plan approval. The standards may include, but are not 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. The proposed rain barrels shown on the Master Plan shall be included in the Agreement.
5. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration 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 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 shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.

6. **Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the Property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
7. **Fencing:** Information on the style, height, colors, and material of any proposed fencing which is either designed for security and/or ornamental purposes shall be submitted to the Planning Director or his designee for review and approval prior to final site plan approval.
8. **Dumpsters/HVAC Units:** All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval.
9. **Architectural Review:** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is compatible in terms of design, scale, materials, and colors with other structures in the vicinity.
10. **Landscaping:** A landscaping plan for the entire Property shall be prepared in accordance with the requirements set forth by the zoning ordinance and approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include, at a minimum, the preservation of some of the existing plantings along the perimeter of the Property and along the 50-foot-wide community character corridor buffer. Further, plantings at 125% of the required size of plantings shall be required as means to supplement the existing vegetation within the 50-foot-wide community character corridor.
11. **Outdoor Display Areas:** No equipment or garden materials and supplies for sale on the Property shall be displayed in areas which are not specifically indicated on the Master Plan as "outdoor display area".
12. **Junk Removal:** All junk shall be removed from the Property prior to issuance of any Certificate of Occupancy. For purposes of this SUP condition, "junk" shall mean trash, 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 shall verify, in writing, and prior to issuance of any Certificate of Occupancy, 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.

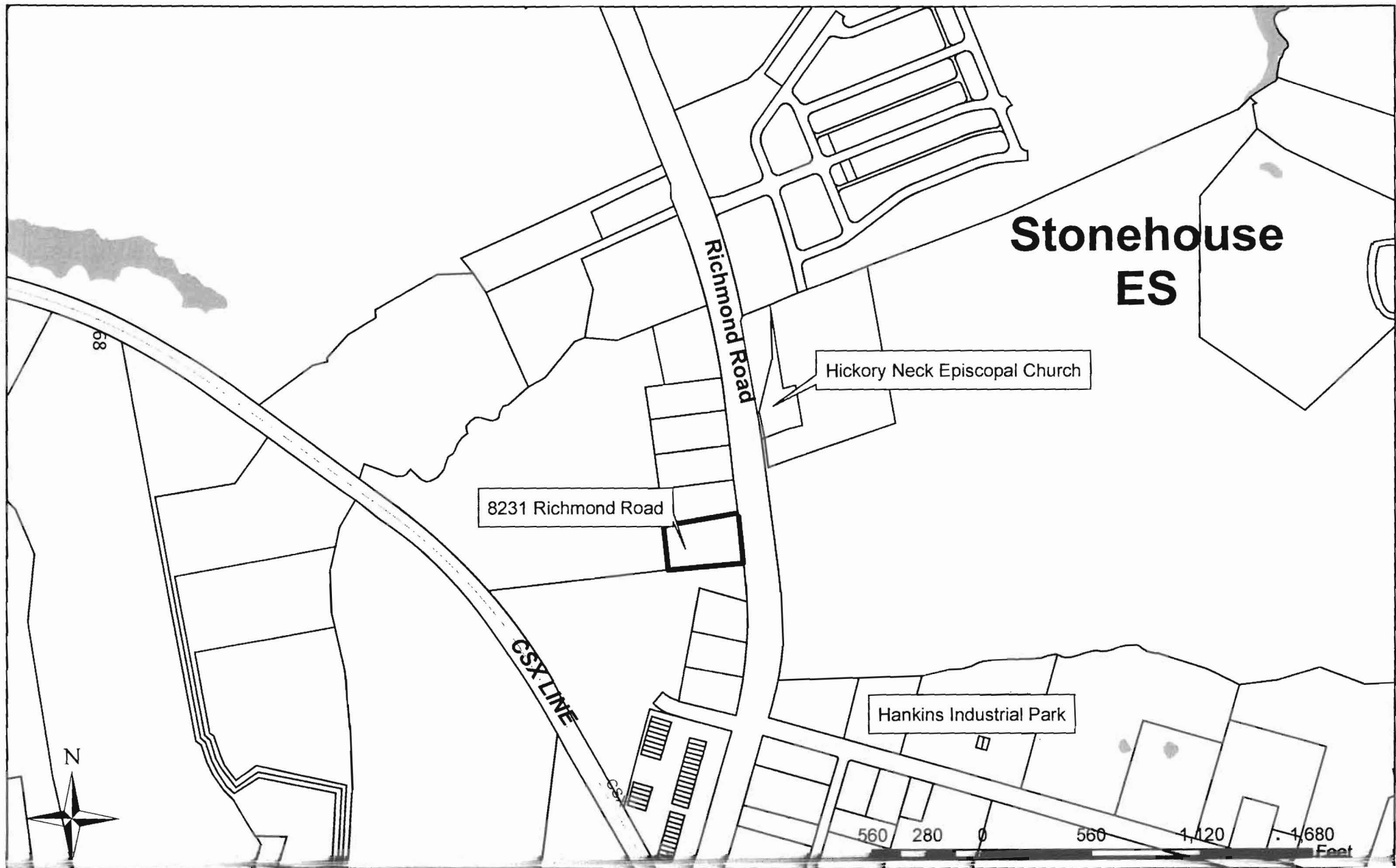
13. **Commencement of Use:** Use of the property as described in this SUP shall commence within thirty-six (36) months from the date of approval of this SUP, or this permit shall be void.
14. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.



Jose Ribeiro, Senior Planner

Attachments:

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

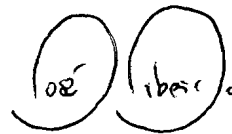


MEMORANDUM

Date: April 1, 2009
To: Planning Commission
From: Jose Ribeiro, Senior Planner
Subject: Reconsideration of Z-0003-2008/MP-0003-2009-Candle Factory

On January 7, 2009 the Planning Commission voted 4-2, with one vacancy, to recommend approval of this application. This case was scheduled for the February 10th Board of Supervisors meeting. However, the applicant requested deferral of this case to the next available Board of Supervisors meeting on March 10th. On March 04, staff was notified by the County Attorney's Office that the applicant had notified them of a procedural error that occurred when they turned in the rezoning application for this project. The signature of one of the original owners of the property, Mr. Jack Barnett, was missing from the application. Mr. Barnett is the owner of a 25-foot-wide access strip (please refer to the attached map for further reference) which runs north-south through the property. To ensure that there would not be a procedural problem with this rezoning application, staff was advised by the County Attorney's Office that this case needed to be returned to the Planning Commission for consideration/hearing and it could be pre-advertised for the April 28th Board of Supervisors meeting. At the March 10th meeting, the Board of Supervisors opened and closed the public hearing on the Candle Factory case. The Board, referred the case back to the Planning Commission for consideration.

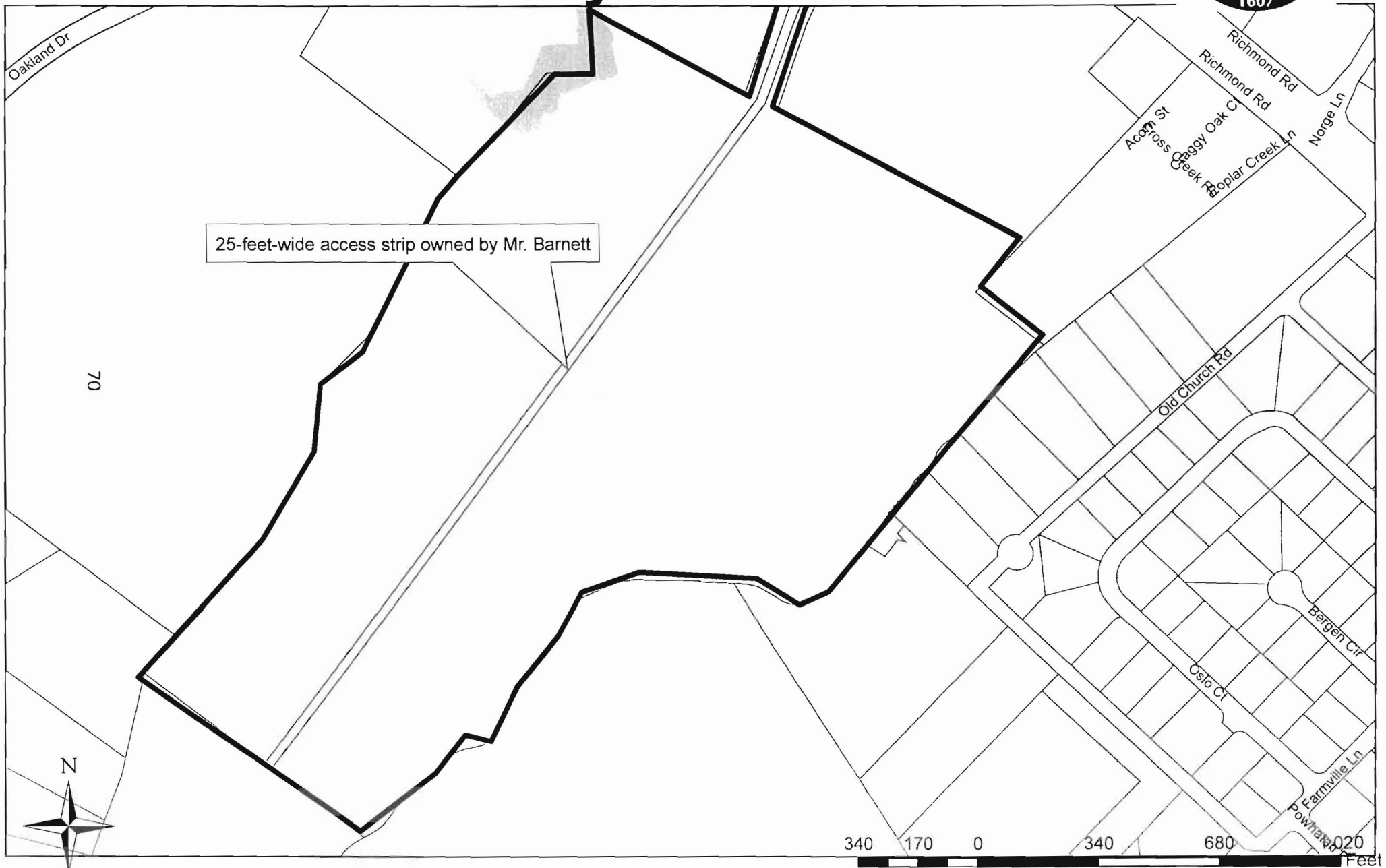
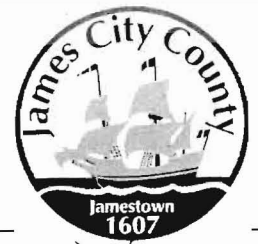
The rezoning and master plan application/materials in front of the Planning Commission are essentially the same application previously considered by the Planning Commission on January 7, 2009. However, an additional proffer, Proffer No. 21-Right of Way Reservation, has been included in the proffer document. The subject of the proffer is also reflected in the revised Master Plan, which now shows an area for connectivity with adjacent parcel (please refer to the label "*Corridor to adjacent property reserved for possible future road/pedestrian connection*" on drawing No.4 of the Master Plan.) Staff notes that all changes made to this application since Planning Commission consideration on January 7, 2009 were summarized, with text highlighted in grey, under the "Proposed Changes Made since the last Planning Commission Meeting" section of the staff report. The revised Master Plan and proffers have been distributed to all members of the Planning Commission. Please note that, since Mrs. Kratter was not a Planning Commission member at the time this case was originally consider, staff has submitted all attachments previously submitted to the Commission to Mrs. Kratter. Please note that you are all welcome to review the filed copies of any of the original materials previously submitted to the January 07, 2009 meeting.

A handwritten signature in black ink, appearing to read "Jose Ribeiro", written over a horizontal line.

Jose Ribeiro, Senior Planner

Z-0003-2008/MP-0003-2008

The Candle Factory



**REZONING CASE NO. Z-0003-2008 /MASTER PLAN CASE NO. MP-0003-2008-The Candle Factory
Staff Report for the April 1, 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. (approved by a vote of 4-2)
Planning Commission:	April 1, 2009	7:00 p.m.
Board of Supervisors	February 10, 2009	7:00 p.m. (deferred by the applicant)
Board of Supervisors	March 10, 2009	7:00 p.m. (referred to Planning Comm.)
Board of Supervisors	April 28, 2009	7:00 p.m.

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; and
- School proffers not consistent with current policy.

Staff notes that two previous proffers related to road improvements (please see below) were addressed by the applicant during the last Planning Commission meeting and are no longer grouped as reasons for staff's recommendation of denial for this application:

- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road has been addressed; and
- Completion of proffered traffic improvements has been addressed;

Staff recommends that the Planning Commission recommend denial of this application. Should the Planning Commission recommend approval of this application the enclosed proffers have been attached to this report for Planning Commission consideration.

PLANNING COMMISSION RECOMMENDATION

On January 07, 2009 the Planning Commission voted 4-2, with one vacancy, to recommend approval of this application.

Proposed Changes Made since the last Planning Commission Meeting:

Amendment to Existing Proffers

Proffer No. 06-Entrances; Traffic Improvements (a): The number of lanes proposed for the private driveway at the Route 60/Croaker Road intersection was upgraded from three to four lanes (i.e. addition of a dedicated right turn lane) as recommended by VDOT staff. As amended this entire proffer now reads:

"The existing private driveway at the Route 60/Croaker Road intersection shall be reconstructed to a public road with a four lane road section at the Route 60 intersection and tapering to a two lane section. The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall include a left turn lane with 200 feet of storage, a through lane, and a right turn lane. "

Staff supports the above amendment to Proffer No. 06(a) as this new configuration potentially reduced delays experienced by vehicles turning right, thereby improving intersection safety and capacity.

Proffer No. 06-Entrances; Traffic Improvements (d): The applicant has modified the trigger for completion of proffered road improvements from "issuance of any certificate of occupancy for buildings" to "final subdivision plat or site plan approval." As amended this entire proffer now reads:

"The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (c) shall be completed or their completion bonded in forma satisfactory to the County Attorney prior to final subdivision plat or site plan approval for the development on the Property. "

Staff supports the above amendment to Proffer No. 06(d) as it secures that proffered road improvements will be finalized by the developer and not by future property owners.

New Proffer:

Proffer No. 21-Right of Way Reservation: Per the request of the Planning Commission, the applicant has provided a new proffer addressing vehicular/pedestrian connectivity with adjacent parcel located at 341 Farmville Lane. The new proffer reads:

"Owner shall reserve the area shown on the Master Plan as Corridor to Adjacent Property Reserved for Possible Future Road/Pedestrian Connection for the possible future public road/sidewalk connection to the adjacent property. Owner shall have no responsibility to construct a connecting road/sidewalk in this area and shall not be obligated to permit the owners of the adjacent parcel to construct a road/sidewalk in such area unless and until Owner and the owner of the adjacent parcel have entered into an agreement providing for compensation acceptable to Owner for dedication of the reserved right-of-way, limiting the amount and type of traffic projected to utilize the road to an amount and type acceptable to Owner and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements on Owner's property warranted by the additional traffic from the adjacent parcel. "

Part of the Planning Commission motion to approve this case included the understanding that the applicant was willing to provide for connectivity with the adjacent property to the south and located at 341 Farmville Lane. The proffered connectivity, as currently written, makes the actual future connection difficult to materialize. The owner is absolving himself of any responsibility to construct the connection and sets up terms that make it difficult for an agreement to succeed. Staff suggests that a better proffer would be to construct or guarantee the connection to the property at such time as the adjoining parcel provides a physical connection.

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

	The Candle Factory 2006 Application	The Candle Factory 2008 Application
Scope of Project	Two combined applications (Rezoning and SUP) under single master plan. Rezoning application: To rezone 64.45 acres from A-1 to MU, with proffers. SUP application: To allow the construction of two non-residential mixed-use buildings.	Rezoning application: To rezone 64.45 acres from A-1 to MU, with proffers. SUP application: N/A
Number of Residential Units	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).
Total Gross Residential Density	2.79 dwelling units per acre	2.71 dwelling units per acre (excludes the 97 assisted living facility units)
Number of Affordable Units	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
Non-residential square footage	Rezoning application: 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. SUP application: Two non-residential mixed-use buildings of approximately 45,000.00 square-feet.	Rezoning application: 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, dinning 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:
SFD¹	Single Family Detached	33 units	Market Price	33 units	\$ 4,011	\$1,000	\$1,217.00	\$631.00	\$ 500.00	\$242,847
SFA²	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
<p>Source: Rezoning Application Materials Associated with-Z-0003-2008/Master Plan-0003-2008 ¹SFD = Single Family Detached; ²SFA = Single Family Attached.</p> <p style="text-align: right;">Total Contributions</p>										\$748,103.00

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 foot 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 ¹	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
Total	1535	2,978	2259	37	2514

Source: 2007-2008 5 Year Enrollment Projection Report

¹ 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 four 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)];

- Right-of-way reservation to connect the proposed development with adjacent property located at 341 Farmville Lane (Proffer No.21).
- 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 notes that during the last Planning Commission meeting, the applicant agreed to proffer a dedicated right-turn lane to the north bound approach to the intersection of Route 60 and Croaker Road.

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

	Candle Factory Site (Total Acreage)	Mixed Use Designated Area	Low Density Residential Designated Area	Limited Industry Designated Area
Area	±64.45 Acres	±23 acres	±26 acres	±16 acres
Uses Proposed	Residential, non-residential, and recreational uses	Residential: Single-Family Attached Units Recreational: ±1.90 acre of park land Non-residential: Thirty-thousand square feet of commercial/office space	Residential: Single-Family Detached Units Recreational: ±0.75 acre of park land	Non-Residential: Ninety-thousand square-foot Assisted Living Facility with capacity for 96 units
Density	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	<p>Low Density Residential (Page 120): 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.</p> <p>Staff Comment: 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> <p>Mixed Use (Page 124): 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>Staff Comment: 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>Limited Industry (Page 123): 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>
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	<p>Staff Comment: 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>
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Parks and Recreation

Goals, Strategies and actions	<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>Staff Comment: 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>
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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>Staff Comment: 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>
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Housing

Goals, strategies, and actions	Goal # 1-Page 106: Achieve a range of choice in housing types, density, and price range.
	Goal# 3- Page 106: Increase the availability of affordable housing.
	Staff Comment: 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.

Transportation

General	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.
	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.
	Staff Comment: The proposed development is planned as a master planned community with internal private and public roads and shared access between residential and commercial uses. Staff finds that the revised traffic road improvements will mitigate the negative impacts of increase in traffic flow, particularly at the intersection between Route 60 and Croaker Road.
Goals, Strategies, and actions	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.
	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.
	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>Staff Comment: 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-feet 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>
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Community Character Area

Goals, strategies, and actions	<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>Staff Comment: 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 foot-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.

Staff notes that the above setback reduction request was approved by the Planning Commission concurrently with the recommendation of approval for this project.

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 plan 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, as shown in the master plan, and has proffered (Proffer No. 16) maintenance of the private streets through the Home Owners Association.

RECOMMENDATION:

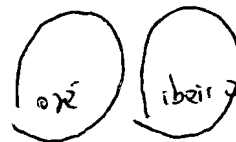
Staff finds this development, as currently proposed, to be generally inconsistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation for the following reasons:

- 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; and
- School proffers not consistent with current policy.

Staff notes that two previous proffers related to road improvements (please see below) have been addressed by the applicant during the last Planning Commission meeting and are no longer grouped as reasons for staff's recommendation of denial for this application:

- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road has been addressed;
- Completion of proffered traffic improvements has been addressed.

Staff recommends that the Planning Commission recommend denial of this application. Should the Planning Commission recommend approval of this application, the enclosed proffers have been attached to this report for the consideration of the Planning Commission.



José-Ricardo Linhares Ribeiro
Senior Planner

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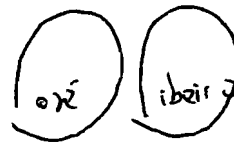
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Staff recommends that the Planning Commission recommend denial of this application. Should the Planning Commission recommend approval of this application, the enclosed proffers have been attached to this report for the consideration of the Planning Commission.



José-Ricardo Linhares Ribeiro
Senior Planner

Rezoning for

THE CANDLE FACTORY

Z-0003-2008/MP-0003-2008

Includes:

Revised Master Plan

Revised Proffers

Approved Minutes from January 7th, 2009 Planning Commission

April 1st, 2009 Planning Commission

THE CANDLE FACTORY

PROFFERS

THESE PROFFERS are made this 27th day of January, 2009 by CANDLE DEVELOPMENT, LLC (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of two tracts or parcels of land located in James City County, Virginia, with addresses of 7551 and 7567 Richmond Road, and being Tax Parcels 2321100001D and 2321100001E, containing approximately 64.356 acres, being more particularly described on Exhibit A hereto (the "Property").

B. The Property is now zoned A-1, M-1 and MU. The Property is designated Mixed Use, Light Industrial and Low Density Residential on the County's Comprehensive Plan Land Use Map.

C. The Owner has applied to rezone the Property from A-1, M-1 and MU to MU, with proffers.

D. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC" prepared by AES Consulting Engineers dated September 24, 2008, last revised December 15, 2008 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended (the "Virginia

Code”), and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Density.** (a) There shall be no more than 175 dwelling units (“dwelling units”) in Areas 1B and 1C as shown on the Master Plan. There shall be no more than 96 assisted living units (“assisted living units”) in Area 1A as shown on the Master Plan. The term “assisted living unit” shall mean a non-medical residential room in the assisted living facility in Area 1A licensed in accordance with Sections 63.2-1800 et seq. of the Virginia Code and Sections 22 VAC 40-72 et seq. of the Virginia Administrative Code where adults who are aged, infirm or disabled are provided personal and health care services and 24-hour supervision and assistance. Rooms must meet the standards set forth in 22 VAC 40-72-730 and 880. Typically rooms are occupied by one person. No more than two persons may occupy a room and only persons directly related by blood or marriage may occupy the same room.

(b) All assisted living units developed on the Property shall be occupied by persons eighteen (18) years of age or older in accordance with applicable federal and state laws and regulations, including but not limited to: the Fair Housing Act, 42 U.S.C. 3601 et seq. and the exemption therefrom provided by 42 U.S.C. 3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. 3601 et seq.; the Virginia Fair Housing Law Va. Code 36-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age

restriction described above and provisions for enforcement of same shall be set forth in a recorded document which shall be subject to the review and approval of the County Attorney prior to issuance of the first building permit for construction in Area 1A.

2. **Owners Association.** There shall be organized a master owner's association for the Candle Factory development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual neighborhoods and for commercial uses within the Property in which all owners in the neighborhood or commercial area, by virtue of their property ownership, also shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, if any, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall authorize the Association to develop, implement and enforce a water conservation plan and nutrient management plan as provided herein.

3. **Water Conservation.** (a) The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority ("JCSA") and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscaping materials and warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

(b) In the design phase, Owner shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. If the Owner desires to have outdoor watering of common areas on the Property it shall provide water for irrigation utilizing surface water collection from the surface water ponds or other rainwater collection devices and shall not use JCSA water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

4. **Affordable and Mixed Costs Housing.** A minimum of 19 of the dwelling units shall be reserved and offered for sale at a sales price to buyer at or below \$160,000 subject to adjustment as set forth herein ("Affordable Units"). A minimum of an additional 19 of the

dwelling units shall be reserved and offered for sale at a price at or below \$190,000 subject to adjustment as set forth herein. A minimum of an additional 20 of the dwelling units shall be reserved and offered for sale at a price at or below \$225,000 subject to adjustment as set forth herein. The maximum prices set forth herein shall include any adjustments as included in the Marshall and Swift Building Costs Index (the "Index") annually beginning January 1, 2010 until January 1 of the year in question. The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index of the adjusting year. Owner shall consult with and accept referrals of, and sell to, potential buyers qualified for the Affordable Housing Incentive Program ("AHIP") from the James City County Office of Housing and Community Development on a non-commission basis. At the request of the Office of Housing and Community Development, Owner shall provide downpayment assistance second deed of trust notes and second deeds of trust for the Affordable Units for the difference between the appraised value of the Affordable Unit and its net sale price to the purchaser in accordance with AHIP using the approved AHIP form of note and deed of trust. The Director of Planning shall be provided with a copy of the settlement statement for each sale of an Affordable Unit and a spreadsheet prepared by Owner showing the prices of all of the Affordable Unit that have been sold for use by the County in tracking compliance with the price restrictions applicable to the Affordable Units. Affordable Units shall not be constructed all in the same location.

5. Cash Contributions for Community Impacts. (a) A contribution of \$4,011.00 for each single family detached dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County shall use these funds for school use.

(b) A contribution of \$1,000.00 for each dwelling unit other than an Affordable Unit and of \$250.00 for each assisted living unit on the Property shall be made to the County for emergency services, off-site road improvements, future water needs, library uses, and public use sites.

(c) A contribution of \$1,217.00 for each single family detached dwelling unit, of \$913.00 for each single family attached dwelling unit and of \$456.00 for each assisted living unit, in each case other than an Affordable Unit, on the Property shall be made to the JCSA for water system improvements.

(d) A contribution of (i) \$631.00 for each single family detached dwelling unit each single family attached dwelling unit other than an Affordable Unit and (ii) \$558.00 for each assisted living unit and (iii) an amount equal to \$2.04 per gallon per day of average daily sanitary sewage flow as determined by JCSA for each non-residential building based on the use of the building(s) shall be made to the JCSA to defray the costs of the Colonial Heritage Pump Station and Sewer System Improvements or any project related to improvements to the JCSA sewer system.

(e) A contribution of \$500 for each dwelling unit shall be made to the County for off-site stream restoration or other environmental improvements in the Yarmouth Creek watershed.

(f) A one-time contribution of \$30,000.00 shall be made to the County for off-site sidewalks. The County shall not be obligated to issue certificates of occupancy for more than 87 residential dwelling units on the Property until this contribution has been paid.

(g) The contributions described in paragraphs (a) through (e) above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or final site plan

approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above in paragraphs (a) through (e) shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(h) The contribution(s) paid in each year pursuant to this Section and Section 6(e) shall be adjusted annually beginning January 1, 2010 to reflect any increase or decrease for the preceding year in the Index. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (e) of this Section and Section 6(c). The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

6. Entrances; Traffic Improvements. (a) The existing private driveway at the Route 60/Croaker Road intersection shall be reconstructed to a public road with a four lane road section at the Route 60 intersection and tapering to a two lane section. The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall include a left turn lane with 200 feet of storage, a through lane and a right turn lane.

(b) 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.

(c) 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.

(d) The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (c) shall be completed or their completion bonded in form satisfactory to the County Attorney prior to final subdivision plat or site plan approval for development on the Property.

(e) Within 180 days after the County issuing building permits for more than 135 of the residential units on the Property, Owner shall pay to VDOT the costs, not to exceed \$10,000.00, of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of that signal and the signal at the Croaker Road/Route 60 intersection.

(f) Subject to the prior approval of VDOT and when sidewalk has been constructed on the north side of Route 60 at the Croaker Road/Route 60 intersection to receive pedestrians, Owner shall install or pay the costs of installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection ("Pedestrian Improvements"). The County shall not be obligated to issue building permits for more than 100 residential units on the Property until either (i) the Pedestrian Improvements have been installed,

or (ii) Owner shall have paid the costs of such improvements to the County or posted a bond in form satisfactory to the County Attorney for the installation of such Pedestrian Improvements.

7. **Connections to Adjacent Properties.** Owner shall provide pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001C) generally as shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Property. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of final site plan approval for the phase of the development in which such connection is located.

8. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy or, with the permission of VDOT, the plantings (meeting County standards for plant size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the subdivision or site plan approval process. Street trees shall be located no farther than 10 feet from the edge of pavement, subject to VDOT approval. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential or non-residential units adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential or non-residential units in adjacent structures.

9. **Recreation.** (a) The following recreational facilities shall be provided:
approximately 3.65 acres of parkland; one centrally located, shared playground at least 2,500

square feet in area with at least five activities either in composite structures or separate apparatus; one picnic shelter of at least 625 square feet; a minimum eight foot wide, concrete or asphalt shared use path along one side of the entrance road approximately .36 miles in length and an additional approximately .94 miles of soft surface walking trails generally as shown on the Master Plan; one paved multi-purpose court approximately 50' x 90' in size; and two multi-purpose fields, one of which will be at least 200' x 200' in size. The exact locations and design of the facilities proffered hereby and the equipment to be provided at such facilities shall be shown on development plans for the Property and approved by the Director of Planning.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Parks and Recreation Master Plan as determined by the Director of Planning

10. Archaeology. If required by the Director of Planning, a Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National

Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

11. Design Guidelines and Review; Sustainable Building. Owner shall prepare and submit design review guidelines to the Director of Planning for his review and approval setting forth design and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on file with the Planning Department and the general intent of the design standards outlined in Comprehensive Plan for the Norge Community Character Area and incorporating appropriate and suitable sustainable building practices listed in the NAHB Model Green Building Guidelines, 2006 edition, including, without limitation, energy efficiency features such as use of air sealing packages, energy star rated windows, heat pump efficiency, water efficiency features such as low flow fixtures, and use of recommended lot design, preparation and development practices, such as use of native plant species, water conservation features, nutrient management and limiting development on steep slopes, for the approval of the Director of Planning prior to the County being obligated to grant final approval to any development plans for the Property (the

“Guidelines”). Once approved, the Guidelines may not be amended without the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

12. **Sidewalks.** There shall be sidewalks installed on at least one side of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design.

13. **Curb and Gutter.** Streets (but not the private alleys) within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

14. **Master Stormwater Management Plan.** (a) Owner shall submit to the County a master stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated September 24, 2008 (“Stormwater Plan”) and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County’s 10 point stormwater management system requirements and the special stormwater criteria applicable in the Yarmouth Creek watershed (“SSC”) and, in addition, including additional LID measures to treat stormwater from 30% of the impervious areas on the Property, which additional LID measures are over and above those necessary to meet the 10 point and SSC requirements. Prior to the County granting final approval of any subdivision or site plan, Owner shall submit to the Environmental Division a geotechnical report from a duly licensed engineer confirming the embankment of Marston’s

Pond is structurally sound or indentifying any repairs needed to make the embankment structurally sound. Any necessary repairs shall be incorporated into the development plans for the Property. The master stormwater plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The master stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior approval of the Environmental Division. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

15. **Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual single family lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 25% of the units shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information

seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants. The County shall be provided evidence of the seminars taking place by submitting to the Planning Director a seminar agenda and or minutes no later than 10 days after each seminar.

16. Private Streets. All private streets, if any, and alleys on the Property shall be maintained by the Association. The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee prior to final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

17. Development Phasing. The County shall not be obligated to grant final subdivision plat or site plan approval for more than the number of lots/dwelling units on a cumulative basis set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Lots/Units</u>
1	55
2	115
3 and thereafter	175

18. **Water and Sanitary Sewer Master Plan.** Owner shall submit to the JCSA for its review and approval a master water and sanitary sewer plan for the Property prior to the submission of any development or subdivision plans for the Property.

19. **Route 60 Median Landscaping.** Subject to VDOT approval, Owner shall install landscaping as provided herein in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet. The landscaping shall consist of 20 street trees at least 125% of Ordinance caliper size requirements. A landscape plan for the median shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer and the County's Streetscape policy. The median shall be planted or the planting bonded in a form satisfactory to the County Attorney prior to the County being obligated to issue building permits for buildings located on the Property.

20. **Crosswalks.** Subject to VDOT approval, Owner shall provide a crosswalk across Croaker Road from Tax Parcel 2321100001B to Tax Parcel 2321100001C and crosswalks providing access to the two internal parks on the Property both in the locations generally as shown on the Master Plan at the time the final layer of pavement is placed on the segment of Croaker Road where the crosswalks are located.

21. **Right of Way Reservation.** Owner shall reserve the area shown on the Master Plan as "Corridor to Adjacent Property Reserved for Possible Future Road/Pedestrian Connection" for the possible future public road/sidewalk connection to the adjacent property. Owner shall have no responsibility to construct a connecting road/sidewalk in this area and shall not be obligated to permit the owners of the adjacent parcel to construct a road/sidewalk in such

area unless and until Owner and the owner of the adjacent parcel have entered into an agreement providing for compensation acceptable to Owner for dedication of the reserved right of way, limiting the amount and type of traffic projected to utilize the road to an amount and type acceptable to Owner and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements on Owner's property warranted by the additional traffic from the adjacent parcel.

22. **Master Plan.** The Property shall be developed generally as shown on the Master Plan. Development plans may deviate from the Master Plan as provided in Section 24-518 of the Zoning Ordinance.

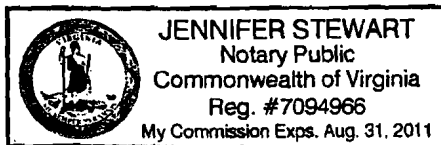
WITNESS the following signatures.

CANDLE DEVELOPMENT, LLC

By: [Signature]

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged this 30th day of
January, 2008, by Peter Henderson, as owner of Candle Development, LLC
on behalf of the company.



Jennifer Stewart
NOTARY PUBLIC

My commission expires: August 31, 2011.
Registration No.: 7094966.

Exhibit A
Property Description

Parcel D1

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel D1 as shown on a certain plat entitled "PLAT OF SUBDIVISION ON THE PROPERTY OWNED BY JOHN B. BARNETT JR., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 6, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. .

and

Parcel E

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel E as shown on a certain plat entitled "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY JOHN B. BARNETT JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 4, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 060013607.

APPROVED MINUTES FROM THE JANUARY 7, 2009 PLANNING COMMISSION
MEETING

Z-0003-2008/MP-0032008 The Candle Factory

Mr. Jose Ribeiro stated Mr. Vernon Geddy submitted an application on behalf of Candle Factory Development LLC to rezone 64.45 acres from Agricultural, Limited Industry, and Mixed Use to Mixed Use, with proffers. The site is located at 7551 and 7567 Richmond Road and a three lane driveway is proposed at the Richmond Road/Croaker Road intersection. The Candle Factory was originally reviewed by the Planning Commission in 2007, after which the applicant deferred the case indefinitely to incorporate comments and suggestions made by the Commissioners. The revised application has new features including: 142 single family attached units, 33 single family detached units, 30,000 square feet of commercial and office uses, and a 90,000 square foot assisted living complex. He said the assisted living facility proposes 96 rooms in 16 clusters and is proposed to be operated by Crosswalk Community Church. The 2003 Comprehensive Plan designates the area as Mixed Use, Low Density Residential, and Limited Industry. He reviewed zoning and land use designations of nearby properties and noted that the Comprehensive Plan does not offer a specific recommendation for this Mixed Use quadrant but does offer a general recommendation for Mixed Use areas near major thoroughfares, which calls for intense commercial uses, as opposed to the large residential component of this proposal. He said staff finds the proposal inconsistent with the 2003 Comprehensive Plan and that the assisted care facility is inconsistent with the Limited Industry designation. Staff recognized several positive features including interconnectivity, environmental and open space features, recreational and architectural features, as well as affordable housing, but recommended denial for the following reasons: inconsistency with the 2003 Comprehensive Plan Mixed Use and Limited Industry designations, insufficient traffic improvement proffers, and school proffers that are not in accordance with the current proffer policy.

Mr. Peck asked what zones allow assisted living facilities.

Mr. Ribeiro stated there was not a specific use for assisted living in any zoning category. He said assisted living is seen as a hybrid use, with both commercial and residential features.

Mr. Peck asked why assisted living facilities do not count as service industry. He said the County does not count the patients at these facilities as residents.

Mr. Ribeiro stated the lack of specific use for assisted care homes creates a subjective application.

Mr. Murphy stated the Steering Committee should find a specific place for assisted living in the future Comprehensive Plan. He said so far they are generally consistent with Low Density Residential, but fiscal impacts are closer to limited industrial uses.

Mr. Peck stated the ambiguity in the Comprehensive Plan placed applicants at risk.

Mr. Krapf asked Mr. Ribeiro to elaborate on proffered traffic improvements.

Mr. Ribeiro stated the current traffic improvement proffers, regarding the reconfiguration of entrance to the property, was supported by VDOT. However, VDOT and staff preferred the addition of a dedicated right turn lane out of the property. He said without a dedicated right turn lane into the property, additional future development around the Candle Factory could pose a traffic problem. Current proffers language requires their completion prior to the issuance of certificate of occupancy but staff would like the proffer language to change to say completion before a site plan or plat is approved.

Mr. Fraley stated the Limited Industry designation is outdated, relating to traffic improvements that were never made.

Mr. Murphy stated the Limited Industry designation was accepted in anticipation of further development at Candle Factory.

Mr. Fraley stated at the January 5, 2009 Steering Committee presentation, staff recommended changing the Candle Factory designation to Low Density Residential.

Mr. Henderson stated possible archeological sites on the property could pose an issue for development. He asked about the methods on the adequate public facilities test for schools. He said many of those tests do not account for cumulative development.

Mr. Ribeiro stated the school analysis was not cumulative.

Mr. Fraley stated that staff is reviewing the adequate public facilities test itself.

Mr. Vernon Geddy, representing the applicant, Candle Factory Development, LLC, stated the Candle Factory is intended to be a small village community with a mix of uses, prices, and ages. He said there is consistent internal design, great environmental protections, the revised proposal is less intense, includes more workforce and affordable housing and is consistent with nearby uses. Staff recommended denial because the proposal is not intense enough, although the local market cannot support intensive commercial uses. He contrasted the proposal with New Town and stated it is closer in use to the Five Forks area. He said Crosswalk Community

Church proposed the assisted living facility. He discussed the proposal's layouts and facilities. He said the applicant would be willing to install a dedicated right turn lane and change the proffer language to install it before site plan or plat approval. Regarding compliance with the School Cash Proffer Policy, Mr. Geddy stated that the application was filed in 2006, while the most current school proffer rules went into effect in June 2007. He said a third of the proposed units were affordable or workforce.

Mr. Krapf asked Mr. Geddy to verify his willingness to install the right turn lane and change the proffer language.

Mr. Geddy stated the changes would be bonded prior to approval of a subdivision plat.

Mr. Krapf asked why the assisted nursing facility was being delayed until the end of development.

Mr. Geddy stated the church views the assisted living facility as a long term project. He said if the church does not choose to move forward with the project, another developer will be found and that he could not guarantee a year the facility would be built.

Mr. Krapf asked about the school proffers.

Mr. Geddy stated school proffer policies were determined by the date the application was filed. He said the original Candle Factory application was filed in 2006.

Mr. Kinsman stated applicants decide how much to proffer. He said the County's school fiscal impact numbers were only a guide. He said it is a legislative decision to accept any proffer case by case.

Mr. Henderson asked about connectivity to a neighboring undeveloped property.

Mr. Geddy stated the applicant would be willing to provide for future access if the Commission wished.

Mr. Henderson stated interconnectivity between neighborhoods would help keep people off the main arterial roads.

Mr. Billups stated the Commission should not force the applicant to build a road that may never be used.

Mr. Peck stated any road should be balanced with RPA destruction.

Richmond Road with residences behind. He said interconnectivity could be left up to individual neighborhoods to decide and finance.

Mr. Fraley closed the public hearing session.

Mr. Peck stated that although he likes the environmental features, he was concerned about cost impacts. He said he wanted to hear other Commission members' opinions before finalizing his answer.

Mr. Billups stated he supported staff on the denial. He said some issues discussed need to be reviewed by the Steering Committee. He said he would like to see the project deferred until after the Comprehensive Plan process. He asked if the Commission was obligated to provide setback waivers and noted that 16% of new development units was a consistent standard for affordable and workforce housing.

Mr. Poole stated that he saw many merits in the application and did not want to delay it further, and that he did not want to move forward on a major rezoning without concrete Comprehensive Plan designations in place.

Mr. Krapf stated it had been a difficult case for him to decide. He said the large amount of upcoming growth is creating a situation where infrastructure cannot keep up but that he is also a proponent of affordable and workforce housing. He said despite negatives, he favored the assisted living facility and two-tiered workforce housing and felt the public benefits were some of the best he had seen even before discussing environmental impacts.

Mr. Henderson thanked the applicant for a well-thought and needed proposal. He said the surrounding businesses support the affordable housing and reducing Richmond Road traffic.

Mr. Fraley stated the Commission gives staff's recommendation weight. He said the Limited Industry designation was not proper and that any Comprehensive Plan changes to the properties would have to be reviewed by the Steering Committee, the Commission, and the Board. He said the County's Cluster goals for workforce and affordable housing, and environmental protections are all met by the applicant. He said a lack of workforce housing was repeatedly heard by the Community Participation Team and that the proposal was the most attractive affordable housing plan he had seen.

Mr. Peck stated the applicant has met repeatedly with staff and the community to try and put together a workable project. He said the rules should not be changed on the applicant. He said no one came out to speak against the development. He said he would support the proposal.

Mr. Billups stated he did not want to see too much weight given to affordable housing compared to fiscal impact and Comprehensive Plan changes. He said he liked the project's design.

Mr. Henderson motioned adoption of the rezoning and master plan, amended to include updated traffic impacts and access to the adjoining property.

Mr. Murphy stated the motion should include the applicant's willingness to provide connectivity to the Ash Parcel, revised proffers relating to road improvement timing, an additional turn lane at the entrance road, and approval of the setback reduction request.

Mr. Krapf seconded.

In a roll call vote, the motion was adopted (4-2) AYE: Peck, Fraley, Krapf, Henderson. NAY: Billups, Poole. (Obadal absent)

SPECIAL USE PERMIT CASE NO. SUP-0007-2009 Relocation of the Tewning Road Convenience Center

Staff Report for the April 1, 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:

Building F Board Room; County Government Complex

April 1, 2009

7:00 PM

Board of Supervisors:

May 12, 2009 (tentative)

7:00 PM

SUMMARY FACTS

Applicant:

Larry Foster, General Manager of the James City Service Authority

Land Owner:

James City Service Authority

Proposal:

To relocate the existing convenience center to an adjacent parcel along Tewning Road

Location:

105 and 149 Tewning Road

Tax Map/Parcel:

3910100003 and 3910100156

Parcel Size:

12.33 acres

Existing Zoning:

PL, Public Lands

Comprehensive Plan:

Federal, State, and County Land

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the below conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The relocated convenience center is similar in size and has similar impacts on surrounding property as the existing center. Additionally, with the new conditions staff believes that the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Planning Commission recommend approval of the special use permit application, with the attached conditions, to the Board of Supervisors.

Staff Contact:

Jason Purse, Senior Planner

Phone: 253-6685

PROJECT DESCRIPTION

Mr. Marc Bennett, of AES Consulting Engineers has applied on behalf of the James City Service Authority for a Special Use Permit to allow for the relocation of the existing Convenience Center on Tewning Road. The parcels are a combined 12.33 acres and are zoned PL, Public Lands. The parcels are located at 105 and 149 Tewning Road.

Currently, the convenience center is located at 105 Tewning Road. The center consists of refuse containers for the disposal of materials from newspaper, cardboard, glass, and aluminum to waste motor oil, antifreeze, and kitchen grease. The relocated convenience center will continue to collect the same products.

Because of future expansion potential of this parcel for a JCSA building, the convenience center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the convenience center; it merely provides additional flexibility for future JCSA needs.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek Watershed

Staff Comments: Environmental staff has reviewed the application and concurs with the Master Plan and proposed conditions. Environmental Division staff has requested conditions be placed on this application that:

- Require the BMP design to address potential runoff contaminants from the convenience center; and
- Ensure the design meets the requirements of the approved New Town storm water master plan, which references this existing basin.

The project parcel was not included on the approved New Town Master plan for Section 5. However, on the approved Stormwater Management plan a BMP was shown in this area to serve portions of Section 5 of New Town. The design of this BMP was anticipated to support acreage from that section, and the Environmental Division has requested that its design continue to support that additional acreage. At the site plan level, calculations will need to be submitted documenting appropriate sizing has been done in accordance with the approved Stormwater Management Plan for the New Town development.

Public Utilities

This parcel is currently served by public water and sewer.

Staff Comments: JCSA staff has reviewed the application and concurs with the Master Plan and proposed conditions.

Transportation

The relocation does not propose any additional road connections on Tewning Road. The existing parking lot entrance will serve the new convenience center, and an existing stub will serve as the exit. No additional trips are expected, as the size and function of the convenience center is not changing.

VDOT Comments: VDOT staff has reviewed the application and concurs with the Master Plan as proposed.

COMPREHENSIVE PLAN

Land Use Map

Designation	Federal, State, and County Land (Page 130): Recommended uses for Federal, State, and County Land include publicly owned County offices or facilities, larger utility sites, and military installations.
	Staff Comment: The relocated convenience center will continue to function as a County operation, and therefore continues to meet the recommendations of the Land Use Designation description.
Development Standards	<i>General Land Use Standard #4-Page 134:</i> Protect environmentally sensitive resources including the Powhatan Creek and other sensitive resources by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers and screening to adequately protect the resource.
	Staff Comment: Staff believes that since the convenience center is only relocating adjacent to its current location, and because of the additional conditions placed on this application that this project meets the land use standards of the Comprehensive Plan.

Public Facilities

General	<i>Public Health: Refuse collection and disposal (page 31):</i> Maintain the three waste disposal facilities to accommodate an average disposal rate of 7.5 pounds of waste per person per day.
	Staff Comment: The relocation of the convenience center along the same roadway allows for expansion of other County facilities without interrupting the refuse disposal needs of this area of the community.
Goals, strategies and actions	<i>Strategy #5-Page 32:</i> Design facilities to allow for maximum site utilization while providing optimum service to, and compatibility with, the surrounding community. <i>Action #6-Page 32:</i> Evaluate all proposed public facilities for potential impacts and provide buffering and mitigation equal to or greater than required under County ordinances.
	Staff Comment: Since the convenience center is only relocating down the street from its current location, staff continues to believe that Tewning Road is a compatible area for this service. Because of the fencing and screening condition placed on this application, staff also believes that this project meets the above referenced strategies and actions.

Environment

General	<i>Action 3 (page 65):</i> Ensure that development projects, including those initiated by the County, are consistent with the protection of environmentally sensitive areas and the maintenance of the County's overall environmental quality.
	Staff Comment: A condition has been placed on this application requires BMP design to capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site, which will help to protect overall environmental quality.

Comprehensive Plan Staff Comments

Overall, staff believes that this application, as proposed, is in general compliance with the Comprehensive Plan. Given the existing tree buffer to the rear of the property, and the proposed fencing, staff does not believe the relocated convenience center will have a negative impact on surrounding property. Additionally, since the convenience center provides an important service to this area of the community staff believes that it is important to have the relocation take place close to the original location. Staff does not believe there are any new adverse impacts with the relocation and believes the proposed conditions adequately mitigate its objectionable features.

RECOMMENDATION

Staff finds the proposal, with the below conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The relocated convenience center is similar in size and has similar impacts on surrounding property as the existing

center. Additionally, with the advantage of the new conditions staff believes that the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Planning Commission recommend approval of the special use permit application, with the attached conditions, to the Board of Supervisors.

1. This SUP shall be valid for the operation of the Tewning Road Convenience Center and accessory uses thereto as shown on the Master Plan titled "Special Use Permit Exhibit #1 Relocation of Convenience Center at Tewning Road" dated February 12, 2009 (the "Master Plan"). The convenience center shall be located at 105 and 149 Tewning Road, further identified as JCC RE Tax Map Nos. 3910100003 and 3910100156 ("Properties"). Development of the Properties shall be generally in accordance with the Master Plan as determined by the Director of Planning. Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. The Special Use Permit shall be valid for the operation of the convenience center within the fenced area, as shown and identified on the Master Plan as "relocated convenience center".
3. Should new exterior site or building lighting be installed for the operation of the convenience, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher, shall extend outside the property lines.
4. The convenience center shall be developed in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the convenience center and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
5. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
6. The proposed dry extended detention BMP shall be designed and constructed in accordance with the design parameters for BMP C-07 as contained in the approved New Town Master Stormwater Plan dated August 18, 2004, September 17, 2004 with the revision date of December 2, 2004.
7. The design of the BMP shall be approved by the Director of the Environmental Division. An additional component shall be incorporated into the design of the proposed BMP to successfully capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site. This additional measure shall prevent, to the greatest extent practicable, these materials from entering the downstream tributaries while assisting in the containment and proper disposal of any spilled materials.
8. 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 securing permits for land disturbance.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jason Purse, Senior Planner

ATTACHMENTS:

1. Location Map
2. Master Plan

PLANNING DIRECTOR'S REPORT

April 2009

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

- **New Town.** No materials were submitted for review so the Design Review Board did not hold a meeting in March.
- **Policy Committee Meetings.** The Policy Committee met on March 11 to discuss ordinance amendments for signage in Community Character Corridors, vehicles for sale, and outlet mall parking. The results of this meeting are included in this month's PC packet for full consideration. The next meeting is scheduled for April 15 at 6:00 p.m. in the Building A large conference room. Topics include an ordinance amendment to permit setback reductions in the M-1 zoning district for parcels in locations with approved sub-area studies and review of CIP ranking criteria.
- **Worksessions.** The Parks and Recreation Advisory Committee held a joint worksession with the Board of Supervisors on March 24 at 4:00 p.m. Topics included the Shaping Our Shores Master Plan and the Parks and Recreation Master Plan.
- **Parks and Recreation Master Plan and Shaping Our Shores.** Drafts of each plan have been released for public review and comment and were discussed at a Board worksession on March 24th. The Parks and Recreation Master Plan is available on <http://www.jccgov.com/index.php> and the Shaping Our Shores report is available on <http://www.jccgov.com/sos/>. The plans are anticipated to be heard by the Board of Supervisors in May.
- **Steering Committee.** The Steering Committee continues to hold weekly meetings in the Board Room-Building F. During the month of March, the Steering Committee discussed Public Facilities, Economic Development, Parks and Recreation, and Community Character. A complete schedule, blog, and all materials are available on www.jccplans.org.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – March 10th and 24th
Case No. SUP-0021-2008 Jamestown Road Mediterrean Restaurant – Adopted 5-0
Case No. Z-0003-2008 / MP-0003-2008 The Candle Factory – Referred to the Planning Commission, to be heard by the Planning Commission on April 1, 2009
- **APA-Virginia/VAZO Conference.** Staff attended for the APA-Virginia/VAZO Conference held March 25-27 in Williamsburg. Staff helped host the event and Leanne Reidenbach made a presentation along the theme of "Green Communities Virginia."
- **Staff Changes/Announcements.** At their March 24th meeting, the Board of Supervisors appointed Ms. Melissa Brown as Zoning Administrator effective April 1, 2009. Ms. Brown has served as Acting Zoning Administrator since January 1, 2008. In addition, the Board authorized Ms. Brown to designate Ms. Christy Parrish as Acting Zoning Administrator in times of her absence.

Allen J. Murphy, Jr.

Year	Calendar 2009
	Feb 09 - March 09

Case Type	Case Number	Case Title	Address	District	Description	Planner
Conceptual Plans 102	C-0010-2009	Walsh Electric	9225 POCAHONTAS TR	Roberts	Conceptual plan proposing two buildings for office/storage use totaling roughly 40,000 sq feet in Greenmount	Luke Vinciguerra
	C-0011-2009	Marriott Manor Club Antenna Proposal	101 ST ANDREWS DR	Powhatan	This case proposes placement of 3 antennas to the existing chimneys and outdoor cabinets located on the rooftop	Luke Vinciguerra
	C-0012-2009	DeMari Minor Subdivision	124 COOLEY ROAD	Jamestown	Conceptual Plan for a minor subdivision	Jose Ribeiro
Master Plan	MP-0001-2009	Colonial Heritage Master Plan Amend	499 JOLLY POND ROAD	Powhatan	Incorporate approx. 220 acres in Colonial Heritage Master Plan; amend Land Bays VII and VIII; incorporate workforce housing on 63.9 acres.	Jason Purse
Rezoning	Z-0001-2009	Colonial Heritage Deer Lake Property Amendment	499 JOLLY POND ROAD	Powhatan	Incorporate 66.4 acres into Colonial Heritage with amended master plan and proffers; incorporate no less than 50 workforce housing units on 63.9 acres with amended master plan and proffers.	Jason Purse

Site Plan 103	SP-0018-2009	Clara Byrd Baker E.S. Freezer	3131 IRONBOUND ROAD	Berkeley	To replace existing freezer/refridgerator cool inside the existing building and construct a new freezer outside the existing building.	Luke Vinciguerra
	SP-0019-2009	Busch Gardens SP Amend. Regraded Flume Queue, Added Cart and Shed	7851 POCAHONTAS TR	Roberts	This site plan amendment revises the grades for the Flume queue and the movement of the food cart and the addition of a second food cart and the addition of a shed.	Jennifer VanDyke
	SP-0020-2009	Industrial Blvd.Co-Location Cricket Communications	185 INDUSTRIAL BLVD	Stonehouse	Co-location on existing cell tower	Sarah Propst-Worthley
	SP-0021-2009	SP Amendment - Former Stuckeys Site	9220 OLD STAGE ROAD	Stonehouse	The proposal is to demolish the existing structure on site, and build a new structure the same size as the original housing four fast food restaurants. The proposal also includes a gas station.	Luke Vinciguerra
	SP-0022-2009	Freedom Park Water Main Extension	5537 CENTERVILLE RD	Powhatan	Extends public water into Freedom Park for the proposed Interpretive Center in accordance with approved SUP.	Leanne Reidenbach
	SP-0023-2009	VFW Post #8046	5343 RIVERVIEW ROAD	Stonehouse	Construction of a new VFW building on Riverview Road	Jose Ribeiro

104	SP-0025-2009	Stonehouse Landbay IV RV Storage		Stonehouse	Construction of an RV storage lot for Stonehouse residents	Jason Purse
	SP-0027-2009	Kingsmill Employee Kitchen Landscaping SP Amend	1000 KINGSMILL ROAD	Roberts	Site plan to amend landscaping to match installed conditions.	Scott Whyte
	SP-0028-2009	Warhill H.S. Softball Dugouts	5700 WARHILL TRAIL	Powhatan	Adding two dugouts to existing concrete slabs on the softball field	Luke Vinciguerra
	SP-0029-2009	New Town Sec. 2&4, Block 3, Parcel I SP Amend.	4920 COURTHOUSE STREET	Berkeley	Proposal modifies building 567 (at the corner of Courthouse St. and Main St. in New Town across from California Tortilla) and adjusts planter in front of it in Village Square	Leanne Reidenbach
Subdivision	S-0007-2009	Settlement at Powhatta Creek Lot 61-63 BLE	4017 CORONATION	Berkeley	Boundary Line Extinguishment and resubdivision. Turning 3 lots into 2	Sarah Propst-Worthley
	S-0008-2009	Settlement at Powhatan Creek Lots 100-102	4043 RIVER MOOR	Berkeley	To combine 3 existing single family lots off of River Moor in Settlement at Powhatan Creek into 2 lots	Leanne Reidenbach
	S-0010-2009	Win Win Win Subdivision	5437 RICHMOND ROAD	Berkeley	Subdivision of one lot on Win Win Win property	Sarah Propst-Worthley

	S-0011-2009	Monticello Woods Lots 111 & 112 BLE	3700 MESA RIVER	Berkeley	Merging both lots to create a single .819 acre parcel	Luke Vinciguerra
	S-0012-2009	Chanco's Grant Sec. 2 Lot 35- A		Berkeley	Change parcel designation from Recreation Area to Lot 35-A	Christy Parrish
	S-0013-2009	Gilley Subdivision	248 NECK-O-LAND RD	Jamestown	Construction/Development of 5 lots on 4.72 acres	Jason Purse
Zoning Ordinance Amendment	ZO-0002-2009	Home Occupation Fee Addition			Proposed new fees for home occupation applications	Melissa Brown
	ZO-0003-2009	Reduction of M-1 Setbacks			Reduction of M-1 setbacks	Jason Purse