

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
MARCH 3, 2010 - 7:00 p.m.

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A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF MARCH, TWO-THOUSAND AND TEN, 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:

Reese Peck  
Joe Poole  
Al Woods  
Mike Maddocks  
Rich Krapf  
Chris Henderson  
Jack Fraley

Staff Present:

Allen Murphy, Director of Planning/Assistant  
Development Manager  
Adam Kinsman, Deputy County Attorney  
Tammy Rosario, Principal Planner  
Leanne Reidenbach, Senior Planner  
Chris Johnson, Principal Planner  
Sarah Propst, Planner  
Luke Vinciguerra, Planner  
Jason Purse, Senior Planner  
Bill Cain, Chief Civil Engineer  
Melissa Brown, Zoning Administrator  
Brian Elmore, Development Management Asst.

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2. PERSONAL PRIVILEGE – JACK FRALEY

Mr. Jack Fraley honored the late Tony Obadal's contributions to the Planning Commission. He stated that the recent improvements to the Capital Improvements Program (CIP) process, linking CIP rankings to the County budget, were championed by Mr. Obadal. Mr. Obadal's other main accomplishment was helping spur the County's first water quality monitoring system through proffers.

3. PUBLIC COMMENT

Mr. Peck opened the public comment period.

Mr. Jack Haldeman, 1597 Founder's Hill North, representing James City County Citizens' Coalition (J4C), stated that the group was disappointed with the Board of Supervisors' decision to exclude citizen committees and outreach recommended in ordinance amendment Option A. He stated that the County should consider Rural Lands density, the wireless communications facilities master plan, mixed use revisions, and community character overlay. The County should look to other localities for models and studies, including for bikeways and the Economic Opportunity designation.

Ms. Sarah Kadec, 3504 Hunters Ridge, stated that she was concerned with potential environmental, stormwater, quality of life, safety, topographic, and density issues from the

Autumn West development. She stated that J4C is raising funds in an attempt to purchase the Autumn West site. She asked the Commission to deny the application.

Ms. Elizabeth Snyder, 514 Spring Trace, stated that Season's Trace residents expect new development to exceed code standards. She stated many of the new units would not be able to reach their own backyards.

Ms. Wendy Anthony, 112 North Trace, stated that she was concerned with additional traffic created by the Autumn West development, creating a safety issue for families. She stated she did not want additional development in Season's Trace.

Mr. John Moravetz, 119 Southeast Trace, stated that the Autumn West development represented a failure to follow the Season's Trace master plan. He stated that over time, new Season's Trace neighborhoods have exceeded the community's original lower density. Autumn West will have twice the density of neighboring Spring Trace. The new townhomes' character would be very different from the existing, buffered homes.

Dr. Eugene Slagowski, 512 Spring Trace, stated that the proposed Autumn West area, using Spring Trace as a model for density, could only accommodate 16 homes.

Mr. Andon Zebal, 536 Spring Trace, stated that he was concerned with the loss of undeveloped areas in Season's Trace. He stated he was unsure why new units would be added to an area with many already-vacant houses.

Ms. Willafey McKenna, 119 Deer Spring Road, stated that she was concerned with the Autumn West development's potential impact on the Powhatan Creek watershed. She stated that Season's Trace zoning has been changed to R-5 since the 1973 adoption of the Season's Trace master plan. The Autumn West development is not developable under current R-5 zoning, which requires a minimum three-acre site size and 35-foot buffer from surrounding property lines, neither of which is currently met.

Ms. Joyce Wolf, representing the applicant, stated that the development would benefit Season's Trace and the County. She stated that of the 429 townhomes allowed by the Season's Trace master plan, 116 units have yet to be built. Autumn West's three units-per-acre density is lower than surrounding neighborhoods. The developer will accept a tree preservation plan within the buildable area. Stormwater run-off will be improved by on-site BMPs. As a by-right development, she feels the developer has met and exceeded all regulations. The developer will agree to a permanent open-space conservation easement on two-thirds of the property.

Mr. Jack Fowler, 109 Wilderness Lane, stated that the Autumn West development will negatively impact the landscape, water, and quality of life.

Ms. Linda Reese, 511 Spring Trace, stated that the erosion issues behind Season's Trace are due to two water main breaks in the neighborhood, not Spring Trace run-off. She asked the Commission to vote 'no' on the Autumn West development.

Ms. Kim Masowich, 505 Spring Trace, stated that the Season's Trace Recreation Association was concerned about the impacts of additional traffic from the Autumn West development on children playing in the neighborhood. She stated the neighborhood has no speed bumps to slow down additional traffic.

Mr. Peck closed the public hearing.

5. MINUTES

A. February 3, 2010 Regular Meeting

Mr. Poole moved for approval of the minutes.

In a unanimous roll call vote, the minutes were approved (7-0).

6. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Rich Krapf stated that the February meeting of the Development Review Committee was held on February 24<sup>th</sup>. The DRC reviewed SUP-0032-2006, Prime Outlets Condition #21, which required Prime Outlets to evaluate entrance performance relative to traffic flow and internal circulation. The purpose of the condition was to ensure a traffic analysis of the site would take place prior to completion of the Prime Outlets expansion. By a vote of 4-0, the DRC approved the traffic study. The DRC also reviewed C-0002-2010, New Town Shared Parking Update. The DRC receives semi-annual updates on off-site and shared parking in New Town. The only significant change in the shared parking update was the proposed conversion of 4,000 square feet of office space in the Greene Leaf building to restaurant/retail. This will result in an increased parking demand of 11 spaces at the 8 p.m. hour; however, sufficient parking exists to absorb that demand. By a vote of 4-0, the DRC approved the shared parking update and will review shared parking at its August 25<sup>th</sup> meeting. Finally, the DRC reviewed C-0008-2010, Forest Heights and Neighbors Drive Redevelopment. This review is to allow discussion and feedback prior to the applicant submitting a project as a legislative application. The Office of Housing and Community Development is seeking construction funds from the VA Department of Housing and Community Development's Block Grant program. Funds would contribute to the redevelopment of the Forest Height Road/Neighbors Drive neighborhood located off Richmond Road between Prime Outlets and the property owned by the Salvation Army. Three conceptual plans for this project were reviewed by the DRC and discussed with the applicant.

Mr. Poole moved for approval of the report.

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

Mr. Krapf stated the Autumn West DRC report would be considered separately from the rest of the DRC meeting report. He noted that at the February Commission meeting, a 3-3 vote had deferred the report again. He asked if any Commissioners wanted to discuss the case further.

Mr. Chris Henderson stated that the applicant had sent the Commissioners an e-mail illustrating densities in several Season's Trace neighborhoods. He asked if staff agreed with the applicant's density interpretation.

Mr. Luke Vinciguerra stated that the document e-mailed to Commissioners was compiled using data supplied by staff at the applicant's request. He stated the applicant's density calculations were the same as staff's interpretation.

Mr. Henderson asked Mr. Kinsman to explain by-right development.

Mr. Adam Kinsman stated that by-right developments were those not subject to a legislative hearing. He stated that a site plan is a drawing showing how a parcel is going to be developed. Once a site plan complies with the Zoning Ordinance, the Commission's duty is ministerial. Approval is based upon meeting strict application of Code.

Mr. Henderson stated the Autumn West staff report recommends approval and states that according to staff interpretation, the applicant meets the terms of the ordinance. Mr Henderson asked Mr. Murphy to confirm.

Mr. Allen Murphy concurred that according to staff's interpretation, the application meets the terms of the ordinance.

Mr. Henderson asked if it was within the Commission's discretion to deny an applicant even though they meet the terms of the ordinance.

Mr. Kinsman stated that the Commission determined whether or not the applicant met the terms of the ordinance. The Commission may consider both staff interpretation and public comment, but the Commission makes the final decision.

Mr. Joe Poole asked if staff had density per developable acreage in Season's Trace. He stated the Commission did not want to include Resource Protection Areas (RPA) in its density calculations.

Ms. Wolfe stated she did not have that information.

Mr. Al Woods stated that there appeared to be conflict between the applicant and Mr. Kinsman on Autumn West common area improvements at the February Commission meeting. He questioned who would be responsible for the maintenance of the stormwater management system.

Ms. Wolfe stated that after the developer completed the basin it would be deeded to the Season's Trace Homeowners Association. The HOA would be responsible for further maintenance.

Mr. Woods asked if the 1973 Season's Trace master plan would be executable today.

Mr. Murphy stated that the master plan was grandfathered. He stated the master plan would not be accepted under current zoning requirements. Although the number of units allowed is grandfathered, new development must adhere to current regulation. Density was also determined by the master plan.

Mr. Woods stated that he wanted to clarify that current requirements may force the master plan's number of total units to be revised.

Mr. Murphy stated that most of Season's Trace did not have to deal with Chesapeake Bay and stormwater ordinances as Autumn West does.

Mr. Mike Maddocks asked what would be the starting price of Autumn West units.

Ms. Wolfe stated the opening prices would be in the \$190,000 to low \$200,000 range. She stated that Autumn West has a density of 6.76. The Autumn Trace neighborhood has a density of 7.48. Spring Trace has a density of 7.26. Pheasant Run and Woodduck Commons both have densities of 6.08. Regarding the viability of the master plan, the approved numbers of homes could not be built today due to higher standards.

Mr. Krapf stated that while Autumn West was not the type of development he would like to see in the County, the case is not legislative. He stated the Commission has a narrower range of actions it can take regarding approval of the site plan. The master plan called for 80% of Season's Trace to be townhomes, the same type of structures proposed by the applicant. Autumn West would improve currently uncontrolled stormwater run-off into Powhatan Creek. The proposed development would not flood the rest of Season's Trace, as the stormwater would drain underneath Longhill Road. Any motion to recommend approval should include a condition to commit the undeveloped 67% of the parcel as a conservation easement and a condition to accept the tree preservation plan. R-5 zoning allows density of up to 12 dwelling units per acre and this proposal was well within that cap.

Mr. Henderson stated that the project was sent to the DRC and Commission since it barely exceeded 30,000 square feet. If the project were slightly smaller, it would have received approval. He stated he agreed with Mr. Krapf's interpretation of the Commission's latitude regarding administrative or by-right cases. No building plans had been submitted to determine whether or not the units have rear access.

Ms. Wolfe stated the developer has the capacity to add walk-out basements. If buyers chose not to purchase the basement option, stoops will be added and rear access will be provided wherever possible. The Code does not require a secondary doorway.

Mr. Henderson asked if any adjustments to regulations had been made to approve the case.

Mr. Murphy stated he knew of no adjustments to rules in order to approve the case.

Mr. Henderson asked to confirm that staff had not approved any waivers to the administrative process.

Mr. Murphy stated that was correct.

Mr. Poole stated that the 30,000 square foot threshold has been implemented by the County to allow for smart growth of new large developments. He stated growth should occur in sustainable ways. That threshold exists for a reason, even for proposals slightly above the threshold. The proposal would improve the drainage situation in that area. While there are benefits, they are outweighed by a number of concerns, including topography not tying into the site, high developable-area density, and lacking guarantees regarding the tree preservation plan. The developable acreage will be clear cut. He stated he could not support the current proposal.

Mr. Fraley stated he referenced Zoning Ordinance sections on R-5, Site Plans, Landscaping, Chesapeake Bay Preservation, and Non-conformities to reach his decision. The R-5, Site Plans, and Landscaping sections all reference that new development should be consistent with the goals and policies of the Comprehensive Plan. Benefits of the proposal include the pond design and stormwater improvements. The design is intended to meet the minimum ordinance requirements, instead of building upon natural features and topography as required in Section 24-142 and the 2009 Comprehensive Plan. The plan's clear cutting, infilling, and retaining walls will forever alter the topography of the site. The potential for flooding always exists due to the site design. Potential exists for landslides and danger to adjacent property owners. Mature trees will be removed. Sustainable development, called for by the Comprehensive Plan, would minimize the amount of cut and fill and retaining walls, and match existing topography. Reduced densities, smaller building sizes, and alternative building layouts could reduce cut-and-fill, tree loss, and retaining walls. The proposal is in conflict with a number of ordinances, including Sections 24-205 and 24-314 of the R-5 district, 24-142 and 24-151 of the site plan ordinance, 24-86 of the landscaping ordinance, and Section 23-9(b)(2) of the Chesapeake Bay ordinance. The proposal is in conflict with the vision and standards of the Comprehensive Plan regarding residential development.

Mr. Peck stated that while the case is administrative, the Commission's role is to do more than approve a checklist. Standards should be read in concert with the Comprehensive Plan's directives. It is the Commission's judgment whether Comprehensive Plan principles are followed by the development.

Mr. Maddocks moved for approval of the DRC report.

Mr. Henderson stated the move for approval should include the conservation easement and tree preservation conditions.

In a roll call vote, the Commission recommended denial of the DRC report as amended (4-3; No: Poole, Fraley, Woods, Peck; Yes: Krapf, Maddocks, Henderson).

## B. Policy Committee



Mr. Fraley stated that the Policy Committee met on February 25<sup>th</sup>. The Committee discussed meetings with applicants and directed staff to draft by-laws that would allow Commissioners to meet with applicants, but require disclosure of those meetings. Staff was also directed to draft a policy as a guide for how to disclose external meetings. The Committee concurred with staff's recommendation to continue with the current format for meeting minutes. A Comprehensive Plan scorecard was discussed, using Augusta County as an example. Mr. Kinsman agreed to draft guidelines for Commission tie votes. At the March 17<sup>th</sup> meeting, the Committee will review the ordinance update process. Policy Committee agendas and materials are now available on [www.jccegov.com](http://www.jccegov.com).

Mr. Kinsman stated that an announcement at the current meeting would satisfy the 30-day rule for advertising by-law changes and noted that the Commission could act to amend its by-laws at the April 7<sup>th</sup> meeting.

Mr. Krapf moved for approval of the Policy Committee report.

Mr. Kinsman stated that staff will draft a letter to the Autumn West applicant citing those things the Commissioners identified as deficient.

Mr. Fraley stated the notification of denial is required within 10 days.

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

#### C. Other Reports

There were no other committee reports.

### 6. ZONING ORDINANCE PROCESS

Mr. Fraley stated that Ms. Tammy Rosario's presentation would summarize the three ordinance update ideas presented to the Board at its budget work session.

Ms. Rosario stated that the three ordinance update options were presented to the Board to solicit early feedback on the range and scope of the process for budget purposes. Option A is the largest in scope and includes stakeholder committees. Option B is more moderate in scope, input, and time frame and relies on work sessions and public workshops instead of committees. Option C uses the smallest public and consultant input. The Board preferred Option B at its budget worksession. Staff is currently drafting a process outline and methodology for consideration by the Policy Committee and welcomes Planning Commission feedback for consideration in that draft.

Mr. Krapf asked how traffic levels-of-service studies would be impacted by a decision to use Option B.

Ms. Rosario stated that Option B would not include policy choices for levels-of-service. Option A would have studied appropriate levels-of-service for different roads and different

circumstances.

Mr. Poole asked about the reasoning behind removal of items between Option A and Option B.

Mr. Fraley stated that Option B sets a certain level of funding. He stated those items reviewed will still be up for Commission discussion. He stated he hopes the entire Commission will weigh in on which priorities will be updated.

Ms. Rosario stated the Option B priorities were determined using Comprehensive Plan priorities, Commissioner and Board member priorities, development issues confronted by staff, and those update items easiest to achieve, while recognizing that it needed to represent a smaller scale than Option A. Staff expects the current recommendations in Option B will be revised based on additional feedback.

Mr. Murphy stated that the three options were to establish a budgetary framework. He stated that the Policy Committee, Commission, and Board will decide much of the update items.

Mr. Poole stated that if the ordinance rewrites do not add value, then the work done by staff, the public, the committees, and the Commission on the Comprehensive Plan would go to waste. He stated the high-quality and ground-breaking Comprehensive Plan needs high-quality ordinance updates to complement its work. He stated he was concerned with the reduction in public input in Option B.

7. PUBLIC HEARINGS

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

Mr. Peck stated that the case was withdrawn by the applicant.

Mr. Peck closed the public hearing.

B. SUP-0011-2009 7708, 7710 Cedar Drive Contractor's Warehouse

Mr. Peck stated that the case was withdrawn by the applicant.

Mr. Peck closed the public hearing.

C. SUP-0003-2010 Gilley Property Two-Family Dwelling

Mr. Peck opened the public hearing.

Mr. Jason Purse stated that Mr. Greg Davis had applied for a Special Use Permit for the construction of a two-family dwelling at 248 Neck-O-Land Road. The property is zoned R-2 and designated Low Density Residential. The applicant had previously received a Special Use

Permit for four nearby duplexes. A single family home on the property has been determined too expensive to renovate, and the owner is seeking to replace it with a duplex. Conditions for this case are identical to the previous SUP, except for a junk removal condition which has been fulfilled and an RPA setback (the property has no RPA). A driveway will be constructed to serve all of the duplexes. Staff finds the proposal generally consistent with neighboring properties, the Comprehensive Plan, and the Zoning designation. Staff recommends approval with conditions.

Mr. Greg Davis of Kaufman and Canoles, representing the applicant, stated that the proposal intends to develop a family farm and redevelop several dilapidated buildings in the area. The redevelopment will reduce impervious cover through a shared driveway and conform to current codes. The applicant is comfortable with all staff conditions.

Mr. Poole stated the duplex conditions are similar to other ones that have been before the Commission. He stated that duplexes serve a certain segment of the community.

Mr. Peck closed the public hearing.

Mr. Poole moved for approval with conditions.

In a roll call vote, the Commission recommended approval with conditions (7-0).

**D.**     SUP-0002-2010 CVS and Food Market at Soap and Candle Factory Site

Mr. Peck stated the applicant requested deferral.

Mr. Peck continued the public hearing until the April 7<sup>th</sup> Planning Commission meeting.

**E.**     SUP-0026-2009 Constance Avenue Wireless Tower

Mr. Peck opened the public hearing.

Ms. Sarah Propst stated that Ms. Lisa Murphy has applied for a Special Use Permit to place a 114 foot wireless communications tower at 115 Constance Avenue. The property is zoned R-8 and designated Low Density Residential. The parcel is currently undeveloped and the owner intends to add a single family residence in the future. Conditions include maintenance of a 100 foot wooded buffer on all sides. Staff finds the location suitable for a tower due to the wooded buffering and limited visibility. Due to both the 100 foot buffer and a 200 foot scenic easement, the tower would be barely visible from the Colonial Parkway. The National Park Service approves of the plan. Staff finds the tower generally consistent with the ordinance, the Comprehensive Plan, and Wireless Performance Standards, and recommends approval subject to conditions.

Mr. Poole asked why Condition #10, a vegetation protection easement, was removed from the proposal.

Ms. Propst stated that the condition was originally included because the owner requested a reduced 17 foot buffer on the western side of the wireless communications facility. She stated that given the buffer reduction immediately adjacent to the tower that staff felt the vegetative buffer along the western portion of the property would provide a similar effect of the needed buffer, but the owner did not agree to that condition.

Ms. Lisa Murphy, representing New Cingular Wireless, stated that New Cingular was expanding its network in central James City County. She stated there are cellular coverage lapses along the Colonial Parkway. Although locating towers near the Parkway is difficult, the proposed tower would fill a cellular void and provide co-location opportunity for another provider. Along the western property line, between 300 and 350 feet of property is protected by RPA or Chesapeake Bay ordinances. A 200 foot scenic easement extends along the southern property line, facing the Parkway. Due to the amount of buffering already on site, the applicant requested a reduction of the required 100 foot tower buffering on the western side. Due to the property owner's objections to an additional condition, the 100 foot buffer has been added back. The towers maintenance area has been changed from a vinyl to wood fencing at the request of an adjacent property owner. Several locations on the property were reviewed before the National Park Service gave its approval. No adjacent property owners came to an advertised public meeting in January.

Mr. Poole stated that he was comfortable that the project would not have any negative visual impacts. He stated he was concerned about future maintenance of the wood fencing and would prefer metal fencing with bayberries. Since the fencing was not visible from a public right-of-way, he stated he would not press the issue.

Ms. Murphy stated she would prefer a waiver of the 100 foot buffer on the western side, but that she understood staff's recommendation. The property owner would not object to the 100 foot tower buffer, but the applicant would have to negotiate for the additional leased square footage.

Mr. Henderson asked if it was within the Commission's purview to grant a waiver to the tower buffer.

Ms. Propst stated the Wireless Performance Standards are used to gauge visual impacts. She stated the Commission has the authority to provide a waiver. She was not aware of any towers approved without the buffers.

Mr. Murphy stated that he was not aware of any waivers. He stated that without the buffering, staff cannot be sure that policy standards are met, including RPA intrusion. He stated the property owner was not amenable to an easement along the western side and instead favored the 100 foot tower buffer.

Ms. Murphy stated that the property owner would not accept an easement along the delineated wetlands area and preferred the established 100 foot tower buffer. The owner wants to retain the right to present future development applications in that area. Without a recordable document signifying the protected areas, the owner would not provide a waiver. The tower's

collapse zone is within the 50' by 50' lease compound.

Mr. Kinsman stated that the tower buffer helps mitigate any future on-site tree removal, such as through timbering.

Mr. Doug Burris, the property owner, stated that he intends to ask for a RPA waiver in the future for additional development on the property. He stated he did not want the additional western buffer, but that any western buffer should include the tower compound itself. Any signed lease will include a provision for fence maintenance by the applicant. A RPA waiver for thinning trees around the house will also be requested. He stated a 100 foot buffer on all four sides of the compound was acceptable.

Mr. Peck closed the public hearing.

Mr. Henderson moved for approval as amended.

In a unanimous roll call vote, the Commission recommended approval as amended (7-0).

**F. FY2011-2016 Capital Improvements Program**

Mr. Peck opened the public hearing.

Ms. Leanne Reidenbach stated the Policy Committee was forwarding its FY2011-FY2016 Capital Improvements Projects (CIP). The Committee has adopted a new standardized set of evaluation criteria to prioritize projects. Criteria include quality of life, health and public safety, economic development, and regulatory compliance. These topics are weighted, scored, and averaged. Of the 47 projects reviewed, 11 requested funding in FY11. Those 11 projects were ranked and will be forwarded to the Board.

Mr. Peck closed the public hearing.

Mr. Krapf moved to approve the CIP rankings.

In a unanimous roll call vote, the Commission approved the rankings (7-0).

9. **PLANNING DIRECTOR'S REPORT**

There were no Planning Director comments.

10. **COMMISSION DISCUSSIONS AND REQUESTS**

Mr. Henderson asked if staff had any reaction to the David Neiman letter on the Kingsmill cell tower.

Mr. Kinsman stated he had not seen the letter. He stated if the letter regarded the Kingsmill cell tower, the cell tower is not under Commission purview.

Mr. Henderson stated the letter requested additional Kingsmill tower site landscaping.

Mr. Fraley stated Mr. Neiman had concerns regarding Verizon follow-through on landscaping promises made to the DRC.

Mr. Peck stated he received a statement from Mr. Bob Richardson where he stated it was unethical for Mr. Maddocks to participate in Autumn West hearings.

Mr. Kinsman stated the complaints centered on Mr. Maddocks newness to the Commission. He stated Commissioners have no tenure required before they can vote. There is no requirement that the Code of Ethics be signed immediately upon appointment. Mr. Maddocks has since signed the Code of Ethics. There is no evidence of any ethical violation.

9. ADJOURNMENT

Mr. Fraley moved to adjourn.

The meeting was adjourned at 9:15 p.m.

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Reese Peck, Chairman

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Allen J. Murphy, Secretary

## MEMORANDUM

DATE: April 7, 2010  
TO: Planning Commission  
FROM: Leanne Reidenbach, Senior Planner  
SUBJECT: Policy and bylaw amendment for outside meetings with applicants

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### **SUMMARY**

The Planning Commission determined that it would like to explore developing a policy for handling outside meetings with applicants and create guidelines for disclosing such meetings in a public forum. Upon researching best practices within the State and holding three meetings to discuss a County policy, the Policy Committee decided to amend the bylaws to include a simple statement regarding outside meetings and then draft a more inclusive policy to cover additional details about the meeting and disclosure process.

1. **Amend the Planning Commission's bylaws to include an additional article.** A copy of the redline bylaws is also included to reflect the placement of this change.

### **ARTICLE IV. OUTSIDE MEETINGS WITH APPLICANTS**

1. Planning Commissioners are permitted to meet with applicants outside of a Planning Commission meeting.
  2. Commissioners shall publicly disclose all meetings.
2. **Create a policy outlining the guidelines for outside meetings with applicants.** The guidelines recommended by the Policy Committee are attached to this memo.

### **RECOMMENDATION**

At its meeting on March 17, 2010, the Policy Committee unanimously voted to recommend approval of the attached bylaw amendment and policy guidelines to address the disclosure of outside meetings with applicants. Staff recommends that the Planning Commission approve these amendments and policy.

  
Leanne Reidenbach

### **Attachments:**

1. Redline bylaws
2. Planning Commission Guidelines for Outside Communications with Applicants

## **Planning Commission Guidelines for Outside Communications with Applicants**

Planning Commissioners are permitted to meet with applicants outside of a public hearing pursuant to the below. Applicants are defined as all individuals directly participating in the preparation of or having a material financial stake in the application that is the subject of the meeting.

1. Commissioners may find it helpful to contact Planning Division staff prior to such meetings to gather facts about the application; the staff may attend such meetings if requested by the Commissioner and approved by the Planning Director or designee.
2. The purpose of such meetings is limited to fact finding and clarification for all parties.
3. Commissioners shall not make a commitment of their voting intent.
4. Commissioners shall disclose all meetings by reporting them verbally at the Planning Commission meeting where the case is scheduled for public hearing.

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Reese Peck  
Chair

Adopted by the Planning Commission of James City County, Virginia, this 7th day of April, 2010 by a vote of \_\_\_\_\_.



## B Y L A W S

### PLANNING COMMISSION

#### COUNTY OF JAMES CITY, VIRGINIA

##### ARTICLE I. OBJECTIVES

This Planning Commission (the “Commission”) was established by the Board of Supervisors of James City County (the “Board”) on April 13, 1953, to direct the development of James City County (the “County”) and ensure its prosperity, health, safety, and general welfare, in accordance with Chapter 22, Title 15.2, Article 2, *Code of Virginia*, 1950, as amended (the “Virginia Code”).

##### ARTICLE II. MEMBERSHIP

The Commission shall consist of 7 or 9 members, each appointed by the Board for a term of four years.

##### ARTICLE III. MEETINGS

1. All meetings of the Commission shall be open to the public.
2. Regular meetings of the Commission may be called by the Chair or by two members upon written request to the Secretary. The Secretary shall deliver (via hand delivery, U.S. Mail, or electronic mail, return receipt requested) to all members, at least five days in advance of a special meeting, a written notice fixing the time, place and the purpose of the meeting.
3. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or at a previous special meeting at which all members were present.
4. The Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the Order of Adjournment. When a regular or adjourned regular meeting is adjourned as stated in this paragraph, the resulting adjourned meeting is a regular meeting for all purposes. When an Order of Adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. Adjourned special meetings will be considered special meetings for all purposes and all regulations concerning special meetings must apply.
5. A quorum of the Commission shall consist of a majority of the members of the Commission. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
6. The annual meeting for the election of officers (Chair and Vice Chair) shall be held as the first order of business at the regular meeting in February of each year and thereafter the

newly elected officers shall preside at the regular meeting in February. When a vacancy occurs for the Chair or Vice Chair, an election shall be held on the next regular meeting date.

7. All minutes and records of the Commission of its meetings, resolutions, transactions and votes, shall be kept by the Secretary.

#### ARTICLE IV. OUTSIDE MEETING WITH APPLICANTS

1. Planning Commissioners are permitted to meet with applicants outside of a Planning Commission meeting.
2. Commissioners shall publicly disclose all meetings.

#### ARTICLE V. MATTERS PENDING BEFORE THE COMMISSION

1. All matters which require an advertised public hearing in accordance with Section 15.2-2204 of the Virginia Code and which meet submittal requirements filed with the Planning Division at least six weeks before the regular meeting are to be placed on the agenda for the advertised public hearing. All other matters filed at least 15 days before the regular meeting in the Planning Division are to be placed on the agenda. Any matter not placed on the agenda in advance of the meeting can be considered at the meeting by a majority vote of the Commission.
2. For each public hearing, notices shall be forwarded to the Commission members no less than 15 days prior to the public hearing.

#### ARTICLE VI. HEARINGS

1. Advertised public hearings shall be scheduled during a regular meeting, except in the event of a joint public hearing between the Commission and the Board.
2. For each public hearing item, presentations by staff, applicants, individuals or groups shall be limited as follows:
  - a. Presentations by staff and applicants are limited to 15 minutes each;
  - b. Comments by individuals are limited to 5 minutes each;
  - c. Comments by citizen groups are limited to 10 minutes each; and
  - d. At a meeting, the time limits set forth in a, b, and/or c above may be extended at the discretion of the Chair.

## ARTICLE VII. VOTING

1. No member present shall abstain from voting on a roll call vote unless a member has a conflict of interest in the matter being voted upon. For the purposes of this paragraph, a “conflict of interest” shall exist when there is an actual conflict: (1) pursuant to the Virginia State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq. of the Virginia Code; or (2) pursuant to any applicable policy adopted by the Board of Supervisors; or (3) as stated by the Commission member unless objected to by a majority vote of the members of the Commission.
2. In reporting a vote to the Board, the Secretary shall indicate (in writing) the recorded roll call vote, including any abstentions.

## ARTICLE VIII. DUTIES

### A. CHAIR

The Chair shall have the following duties:

1. Preside at meetings and hearings of the Commission;
2. When authorized by the Commission, the Chair shall affix to any documents its signature on the Commission’s behalf;
3. The Chair or the Chair’s designee shall represent the Commission and keep it informed when not in session;
4. The Chair shall appoint all members and Chairs of committees and subcommittees; and
5. The Chair or the Chair’s appointee shall act as a liaison to the Williamsburg and York County Planning Commissions.

### B. VICE CHAIR

The Vice Chair shall perform the duties of the Chair during the absence or disability of the Chair.

### C. SECRETARY

The Secretary of the Commission shall be the Director of Planning and shall have the following duties:

1. Keep a record of all regular, adjourned regular, special, and adjourned special meetings and public hearings and transcribe in a minute book of the Commission;

2. Prepare and cause to be delivered all notices of all meetings required to be sent under these Bylaws to Commission members;
3. Have charge of all official books, papers, maps, and records of the Commission and conduct all official correspondence relative to hearings, meetings, resolutions, decisions, and other business of the Commission as directed by the Chair or reflected by valid actions of the Commission;
4. Receive minutes of all committee meetings and preserve these as official records of the Commission; and
5. Notify the Vice Chair, by telephone or in person, on the day the Chair informs him that he will not be present at a scheduled meeting. It is the duty of the Secretary to brief the Vice Chair on items to come before the Commission when the Vice Chair presides.

D. MEMBER DUTIES

Members of the Commission shall have the duties assigned to it by the Virginia Code, the County Charter, and as assigned by the Board. With respect to attendance at meetings, the Commission shall have the following specific duties:

1. Attend regular, adjourned regular, special and adjourned special meetings and public hearings;
2. Attend regular, adjourned regular, special, and adjourned special committee meetings to which the member is appointed;
3. Represent the Commission at Board meetings in rotation; and
4. Attend ad-hoc committee meetings as agreed to by the Commission.

ARTICLE IX. COMMITTEES

1. The Director of Planning or the Director's designee shall serve as a non-voting, ex officio member of all standing and special committees.
2. All committee reports written or oral shall be an official record of the Commission.
3. The following committees and their Chair shall be appointed by the Commission Chair within thirty days after the Chair takes office:
  - a. Development Review Committee. This Committee shall be composed of at least four members and have the following responsibilities:

1. Review those applications for subdivisions which are required by law to be submitted to the Commission for approval, receive and review staff reports on them, and make recommendations to the Commission;
  2. Review those site plan applications that are required by law to be submitted to the Commission for approval, receive and review staff reports on them, and make recommendations to the Commission.
- b. Policy Committee. This Committee shall be composed of at least four members and shall have the following responsibilities:
1. Address long-range planning goals of the Commission and explore strategies for achieving them; and
  2. Address ways to maintain and improve working relationships between the Commission, other County organizations, as well as with surrounding jurisdictions and organizations involved in planning initiatives.
  3. Conduct the Commission's initial review of the Capital Improvement Plan.
  4. Recommend and prepare new and revised policies for the Commission.
  5. Conduct the Commission's initial review of ordinance amendments, as directed by the Chair of the Commission.
- c. Leadership Committee. This committee shall be composed of three members; the Chair and Vice Chair of the Commission and the Chair of the Policy Committee. The Leadership Committee shall review concerns raised regarding the conduct of the Commission or any one of its members acting in his or her official capacity. The Leadership Committee shall, if deemed necessary by the Leadership Committee, recommend appropriate remedial measures to the Commission.

#### ARTICLE X. PARLIAMENTARY AUTHORITY AND ORGANIZATIONAL PROCEDURE

The Commission shall follow the Robert's Rules of Order, Newly Revised 10<sup>th</sup> edition, October 2000, and more specifically, the provisions which pertain to the "conduct of business in boards" at page 469 et seq., in particular, the "Procedure in Small Boards."

#### ARTICLE XI. AMENDMENT

Amendments may be made to these Bylaws by a two-thirds (2/3) vote of the Commission voting members only after a minimum 30 days' prior notice is given and only at a regular scheduled meeting.

Adopted November 28, 1978  
Amended July 10, 1990  
Amended May 12, 1992  
Amended March 8, 1994  
Amended May 4, 1998  
Amended June 1, 1998  
Amended June 3, 2002  
Amended August 5, 2002  
Amended January 12, 2004  
Amended January 6, 2010  
Amended April 7, 2010

Reese Peck, Chair  
Planning Commission


## MEMORANDUM

DATE: April 7, 2010  
TO: The Planning Commission  
FROM: Melissa C. Brown, Zoning Administrator  
SUBJECT: Zoning Ordinance Amendment- Initiating Resolution

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Staff has received a request to amend the Zoning Ordinance to allow for the inclusion of pedestrian-oriented and directional signage in certain districts. Specifically, this ordinance amendment would allow pedestrian oriented signage in districts governed by a binding master plan and a design review board or other districts where there exists a binding area study approved by the Board of Supervisors. The intent of the proposal is to address business owner concerns regarding the ability of their customers to easily locate the businesses located in the districts.

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

  
Melissa C. Brown  
Zoning Administrator

Attachments:

- Initiating Resolution

## RESOLUTION

### INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE PEDESTRIAN-ORIENTED SIGNAGE

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

WHEREAS, on November 24, 2009, the Board of Supervisors adopted the 2009 Comprehensive Plan; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Article II. Division 3. Section 24-66, Definitions, Section 24-71, Building face signs, Section 24-73, Special regulations for certain signs, and Section 24-75, Prohibited signs, of the Zoning Ordinance for the consideration of permitting pedestrian-oriented and directional signage. 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.

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Mr. Reese Peck  
Chair, Planning Commission

ATTEST:

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Allen J. Murphy, Jr.  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 7th day of April, 2010.



## MEMORANDUM

DATE: April 7, 2010

TO: The Planning Commission

FROM: Christopher Johnson, Principal Planner

SUBJECT: Subdivision Ordinance and Zoning Ordinance Amendments – Initiating Resolution

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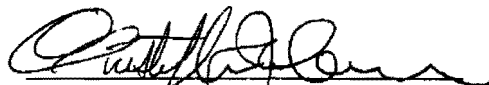
The Business Climate Task Force (BCTF) Report was presented to the Board of Supervisors in January 2008. The report identified qualities, characteristics, and categories of businesses preferred in James City County and proposed policies, programs and ordinance changes that would attract, retain, and expand those businesses. A subcommittee of the BCTF evaluated the development plan review process and forwarded the following recommendations in their report:

1. "Amend site plan ordinance and site plan review to make the process more predictable. Use internal and external historical review data to set adequate review time for full comments, extending the timeline, if needed."
2. "Change ordinance to reduce the number and type of projects that require Development Review Committee and Planning Commission consideration."

County Administration charged Development Management with organizing a team to review the County's development plan review process, identify issues at every level of the process and make recommendations to fulfill the BCTF action items. The Subdivision/Site Plan Review Improvement Team (SSPRIT) recommendations were designed to provide transparency throughout the plan review process, improve communications between staff and the development community, enhance the quality of plans and foster a positive perception of the review process for all parties involved.

Several SSPRIT recommendations require legislative amendments to the Subdivision and Zoning Ordinance review criteria and procedures for administrative and commission review of conceptual plans, site plans and subdivisions.

Staff recommends that the Planning Commission adopt the attached resolution to initiate consideration of amendments to the Subdivision and Zoning Ordinances, and to refer this resolution to the Policy Committee.

  
Christopher Johnson, Principal Planner

Attachment:

- Initiating Resolution

## RESOLUTION

### INITIATION OF CONSIDERATION OF AMENDMENTS TO THE SUBDIVISION AND ZONING ORDINANCES

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2240 and §15.2-2285 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a subdivision ordinance and zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Subdivision Ordinance and Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required, pursuant to Virginia Code §15.2-2240 and §15.2-2285; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Chapter 19, Article II, Procedures and Documents to be Filed, Sections 19-19 through 19-31 of the Subdivision Ordinance and Chapter 24, Article III, Site Plan, Sections 24-142 through 24-160 of the Zoning Ordinance for the consideration of amendments to procedures and review criteria for administrative and commission review of conceptual plans, site plans and subdivisions. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinances and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

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Reese Peck  
Chair, Planning Commission

ATTEST:

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Allen J. Murphy, Jr  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 7th day of April, 2010.

## MEMORANDUM

DATE: April 7, 2010

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager

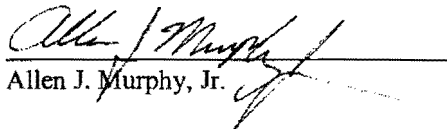
SUBJECT: Zoning and Subdivision Ordinance Update Methodology

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Following adoption of the 2009 Comprehensive Plan in late 2009, staff has moved into the implementation phase. One significant component of the Comprehensive Plan implementation process is updating the Zoning Ordinance and Subdivision Ordinance and related policies. In January, staff prepared draft scope and process documents that were presented during the Board budget retreat, and received general guidance about the scope of consultant assistance that could be expected. The draft update scope and process information were then provided to the Planning Commission at its March 3, 2010, meeting for feedback prior to developing a detailed draft methodology document and revised scope and process spreadsheets. The Policy Committee considered this feedback and the resulting draft methodology at its meeting on March 17, 2010. The Policy Committee (and other Planning Commission members in attendance) thoroughly discussed the methodology and provided guidance on desired revisions. This guidance, and the draft methodology in general, were subsequently the subject of the joint Planning Commission/Board of Supervisors work session on March 23, 2010.

As a result of the guidance provided at the March 17, 2010, Policy Committee meeting, the methodology has been revised in several ways. The ordinance update priority items identified at that meeting have been inserted into the methodology in the "Scope of Work" section at the top of page 3. In addition, this section of text was revised to include a goal of completing/adopting the priority items by the end of 2011. The other significant change to the methodology reflects the desire of the Committee to have two forums at the beginning of the process which involve the whole Planning Commission, would be televised, and would focus on collecting the input of groups (similar to the Community Participation Team Forums during the Comprehensive Plan). The text reflecting this is in the "Process Components" section at the top of page 4.

Staff recommends that the Planning Commission endorse the attached revised methodology and forward it to the Board of Supervisors for consideration at its May 11, 2010, meeting.

  
Allen J. Murphy, Jr.

### Attachments

1. Methodology and Spreadsheets

## **Zoning and Subdivision Ordinance Update Methodology**

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### **Introduction**

Following adoption of the 2009 Comprehensive Plan in late 2009, staff has moved into the implementation phase. One significant component of the Comprehensive Plan implementation process is updating the Zoning Ordinance and Subdivision Ordinance and related policies. Partial or complete updates of the ordinances were undertaken shortly after adoption of two of the last three Comprehensive Plans (1991, 1997). However, the ordinances were not updated in a comprehensive fashion after the most recent previous Comprehensive Plan update in 2003. Please note that this methodology focuses on Zoning and Subdivision Ordinance implementation actions to be achieved during approximately the next two fiscal years – work on additional implementation actions would continue beyond the two years. Ordinance update processes also provide an opportunity, as appropriate, to coordinate ordinances with amendments to State code, changes in related County documents, or reflect evolutions in development-related technologies, techniques, or best practices.

### **Groundwork**

This methodology was shaped by a number of factors. In terms of the scope of issues to be looked at during this update, much of the groundwork was laid through the extensive public comment and technical analysis that resulted in the 2009 Comprehensive Plan's implementation actions (see "Scope of Work" below). In terms of process, staff analyzed past James City County ordinance update processes, talked with other Virginia localities about processes they have used, and consulted professional publications. Staff used the information gained through this research to help draft the methodology, which is presented for input and guidance from, and subsequent endorsement by, the Policy Committee, the Planning Commission, and the Board of Supervisors.

### **Goals**

Having an overall set of goals for the updated ordinance can help make sure expectations are met and inform the challenging decisions that will need to be made both about policy directions, and about the language of the ordinance text. Staff offers the following five goals for enhancing the updated ordinances:

- Reflect the Comprehensive Plan and community input (for example, address actions listed in the Plan's goals, strategies, and actions);
- Organize in a logical and understandable manner (for example, consider consolidating all process language in one section, rather than in each district);
- Incorporate clear standards (for example, adding graphics if possible);
- Use best practices (for example, looking at a form based code for Toano); and

More information about each of the major research items listed above can be found in Attachment #1 Explanation of Research Items and these items are also shown in Attachment #2 Scope of Work.

Completing the proposed research items and comprehensive ordinance drafting is an ambitious scope of work for the timeframe. Staff has suggested that the Policy Committee, Planning Commission and Board of Supervisors identify a smaller number of priority items that would be the focus of the overall effort and could potentially move through the process in advance of other items, or at least continue on track if other items prove to be more difficult to work through in the allotted timeframes. Based on feedback received, those priority items/groups of ordinances would be:

- Cumulative Impact Database Set-up
- Sustainability Audit
- Development Standards - with Sign Ordinance
- Commercial/Business Districts
- Economic Opportunity District

In addition, feedback was received indicating that a goal should be established that these five priorities be completed/adopted prior to the end of 2011.

## Process Components

The Zoning Ordinance update process is divided into three stages: (1) identification of issues and evaluation of options, (2) preparation and revision of ordinances, and (3) adoption. These stages are described below, and are also shown in Attachment #3 Process and Timeframe. This process uses a mixture of consultant and staff work, and is anticipated to take approximately twenty months. The process is designed to be undertaken primarily by staff and the Policy Committee, with periodic Planning Commission and Board of Supervisors check-in points.

### *Stage 1: Identification of Issues and Evaluation of Options*

The first stage of the process will last approximately eight months. During this time, staff will retain and subsequently work with consultants on a variety of the research items. Staff will also work on non-consultant research items and will conduct a general technical review of the ordinance to catalogue known issues and identify any additional issues. The goal of this work is to come up with a list of possible needed amendments and to develop options for how those amendments could be accomplished. These options would then be brought forward to the Policy Committee, Planning Commission and Board of Supervisors for decisions and guidance before moving into the next stage, preparation of draft ordinance language.

This first stage will include significant opportunities for early community input and Planning Commission and Board guidance. In terms of community input, this stage will include opportunities at two Planning Commission forums at the very beginning of the process to assist in identifying issues (within the scope of work items). The primary purpose of these two forums would be to collect the input of groups

## Other Community Information Resources

As outlined above, the process includes many opportunities for community involvement and input. Staff anticipates that the Planning Commission and Planning Commission/Board work sessions will be televised, that the Policy Committee meetings will be open for public comment, and that meeting agendas and meeting materials will be posted on the webpage. Staff can undertake notification of potentially interested parties to make them aware of the upcoming ordinance process, and in consultation with the Policy Committee, could invite additional community input at meetings.

In addition, staff is in the process of outlining a communications plan that would include use of the *FYI* Newsletter, press releases, and the video center. Other avenues of publicity may include flyers, articles, editorials, direct mailings, and email subscription lists. In particular, staff anticipates that a significant amount of information will be posted on the Internet, which is a feature that was not present in past ordinance update processes.

## Staff's Role in the Process

Staff will participate in this process in several ways. Staff will draft option explanations and ordinances, provide advice on best practices, and make recommendations to the Policy Committee, Planning Commission and Board of Supervisors. Overall, staff will work to assist the Planning Commission in developing a product that the Commission can recommend approval of to the Board of Supervisors.

## Access to the Updated Text and Map

Once the Board has approved the amendments, the updated text will be posted on the Internet. Hard copies of the text will also be available for purchase upon request. Any amended Board policies or other associated guidance documents will also be posted on the Internet. The Zoning map will continue be available on the internet through the County's Property Information System or in hard copy through the County's Mapping Division.

### Attachments:

1. Explanation of Research Items
2. Scope of Work Spreadsheet
3. Process and Timeframe Spreadsheet

Attachment 1: Explanation of Research Items

Zoning Ordinance Update Category	Potential Large Research Item	Explanation of Research Item
Miscellaneous Items	Sustainability Audit	The product would be a report that that Identifies provisions of the Zoning Ordinance that may create obstacles to sustainability and an outline of recommended changes to meet specific sustainability goals. The sustainability audit will include specific recommendations on changes that can be made to the Zoning Ordinance, including model language.
	Green Building Standards Investigation	Regulations or policy regarding green building standards, such as LEED or EarthCraft, for new construction.
Wireless Communications Ordinance and Performance Standards Policy	New Technologies update	Determine options for the ordinance to be adjusted to accommodate new technologies.
Residential Districts (R-1, R-2, R-4, R-5, R-6), Cluster Overlay, and Manufactured Home Parks	Affordable Dwelling unit ordinance or affordable housing overlay district investigation	(Discussed in detail in the Comprehensive Plan Housing Section)
	Cluster Overlay update	This was a recommendation that emerged from the Better Site Design process and subsequent implementation committee. At a Board work session on September 25, 2007, the Board provided guidance that this should be looked at during the Zoning Ordinance update process.
	Infill Residential Provisions Investigation	(Discussed in detail in the Comprehensive Plan Housing Section)
Rural Lands Districts (R-8, A-1)	Facilitated Session with BOS to discuss the 2007 draft ordinance (with preparation of an update memo as well)	The staff would prepare and facilitate a BOS work session, and technical assistance (consultant) to get direction on whether to proceed with old narrative or work on something new.
		This would be a detailed review, to include (among many other things) an evaluation of potential challenges and opportunities of a TDR program in James City County, to include a discussion of the current proffer system, existing density incentive programs, and a review of the zoning ordinance to determine the relationship of density to development. It would also explore the idea that higher density development is necessary in order to make density increases in potential "receiving areas" marketable, and whether sufficient market demand for higher density development exists? What are basic characteristics of the residential development market in the county relative to a market for transferring of densities?
	Transfer of Development Rights Investigation	
Multiple Use Districts (Mixed use, R-4, PUD)	Investigate Form Based Code for Toano	This item would involve looking at the 2006 Design Guidelines for the Toano Community Character Area and assessing the feasibility of developing a form based code for this area.
	For Economic Opportunity, Investigate possible amended mixed use district or creation of a new district. Also, Urban Development Area (UDA) investigation.	Due to the creation of the new Economic Opportunity designation, this investigation would seek to determine whether the existing Mixed Use district would be appropriate or whether a new or modified district might be advisable.
Commercial Districts (LB, B-1, M-1, M-2)	BCTF items	These items are listed in the Business Climate Task Force recommendations.
Development Standards (Landscaping, Parking, Lighting, Signs, Streets, Sidewalks and Paths, Utilities, Outdoor Operations and Storage, and Timbering) & Overlay Districts	Sidewalk/Trail Inventory, Master Planning, and Text update	Update the existing and outdated Sidewalk Master Plan which is referenced in the zoning ordinance. This item originates from the Transportation and Parks and Recreation sections and would create an up-to-date baseline for where we have sidewalks, multi-use paths, etc in order to make administration-of the ordinance more effective.
Procedural Descriptions, Submittal Requirements, and Administrative Items (including definitions, fees, SUP and Rezoning submittal requirements and procedure, site plan requirements and procedure, enforcement, nonconformities, and BZA)	Submittal Requirement Guidelines - for Traffic Studies.	Developing guidelines would involve setting down a specific list of items that should be included in traffic studies so that studies are comprehensive and consistent - this would build on VDOT's new traffic study regulations, but put in place items that are expected in James City County.
	Submittal Requirement Guidelines - for Environmental	Preparation of a guidance document that outlines information needed to evaluate the environmental impact of a development.
	Submittal Requirement Guidelines - Fiscal Impact Statement	Developing guidelines would involve setting down a specific list of items that should be included in fiscal impact studies so that studies are comprehensive and consistent. It would focus fiscal impact studies on the fiscal picture of the development once it is built (rather than on revenues associated with the construction phase).
	Cumulative Impact Modeling - Database Set-up Investigation (to allow tracking of approved units in relation to public facilities, traffic, etc.)	This item would involve investigating software to model the cumulative impacts of development (tracking approved units in relation to public facilities, traffic, etc.)
Subdivision Ordinance	Alternative Onsite Sewage Systems Investigation	New regulations were put in place during the 2009 General Assembly session that should be investigated by staff.

Attachment 2: Option B Scope

Zoning Ordinance Update Category	Potential Large Research Item	Research Item Consultant Cost / Staff work hours*	Comp Plan Priority/Timeframe	Ordinance Text Drafting Consultant Cost / Staff work hours*	Total Consultant Cost / Staff Work Hours*
Miscellaneous Items	Sustainability Audit	Approx. \$10,000 / 200 hours	High/0-5 (LU 1.7.1)	(Staff work hours incorporated in time estimates below)	Approx. \$10,000 / 400 hours
	Green Building Standards Investigation	na / 200 hours	High/0-5 (ENV 1.4.3, H 1.1.1)		
Wireless Communications Ordinance and Performance Standards Policy	Determine options for the ordinance to be adjusted to accommodate new technologies	Approx.\$10,000 / 600 hours	High/0-5 (CC 1.7.1)	na / 1200 hours	Approx. \$10,000 / 1800 hours
Residential Districts (R-1, R-2, R-4, R-5, R-6), Cluster Overlay, and Manufactured Home Parks	Affordable Dwelling unit ordinance or affordable housing overlay district investigation	na / 450 hours	High/0-5 (H 1.3.7)	na / 1200 hours	na / 2,700 hours
	Cluster Overlay update	na / 600 hours	n/a specific (Better Site Design)		
	Infill Residential Provisions Investigation	na / 450 hours	High/0-5 (H 1.1.6)		
Rural Lands Districts (R-8, A-1)	Staff/BOS meetings to discuss the 2007 draft ordinance (with preparation of an update memo as well as consultant assistance)	Approx. \$6,000 / 100 hours	High/0-5 (LU 1.6.2)	To take the narrative ordinance to final ordinance= approx. \$14,000 / 1200 hours	Approx. \$60,000 / 1900 hours
	Transfer of Development Rights Investigation	Approx. \$40,000 / 600 hours	Moderate/0-5 (LU 1.6.1.2(d))		
Multiple Use Districts (Mixed use, R-4, PUD)	Investigate Form Based Code for Toano	na / 600 hours	Moderate/0-5 (LU 1.4.5.3)	na / 1200 hours	na / 2520 hours
	For Economic Opportunity, investigate possible amended mixed use district or creation of a new district. Also, Urban Development Area (UDA) Investigation.	na / 720 hours	n/a specific		
Commercial Districts (LB, B-1, M-1, M-2)	BCTF Items	na / 450 hours	High/0-5(ECON 1.1.6), High/On-going (ECON 1.1.5)	na/ 1000 hours	na / 1450 hours
Development Standards (Landscaping, Parking, Lighting, Signs, Streets, Sidewalks and Paths, Utilities, Outdoor Operations and Storage, and Timbering) & Overlay Districts (Cluster, Floodplain, Airport)	Sidewalk/Trail Inventory, Master Planning, and Text update	na / 450 hours	Moderate/0-5 (P&R 1.5.5), overall Sidewalk MP update not in Comp Plan	na/1200 hours	na / 1650 hours
Procedural Descriptions, Submittal Requirements, and Administrative Items (including definitions, fees, SUP and Rezoning submittal requirements and procedure, site plan requirements and procedure, enforcement, nonconformities, and BZA)	Submittal Requirement Guidelines for Traffic Studies (LOS criteria not included in the scope of work)	na / 320 hours	Moderate/0-5 (LU 1.5.2.1)	na / 1200 hours	Approx. \$55,000 / 2890 hours
	Submittal Requirement Guidelines for Environmental	na / 320 hours	Moderate/0-5 (LU 1.5.2.1)		
	Submittal Requirement Guidelines Fiscal Impact Statement	Development of Impact statement data guidelines - approx. \$5,000 / 450 hours	Moderate/0-5 (LU 1.5.2.1)		
	Cumulative Impact Modeling - Database Set-up Investigation (to allow tracking of approved units in relation to public facilities, traffic, etc.)	Approx. \$50,000 / 600 hours (An additional development potential analysis step would be approximately \$31,000)	High/0-5 (LU 1.5.1.1)		
Subdivision Ordinance	Alternative Onsite Sewage Systems Investigation	na / 200 hours	n/a specific (very recent state code issue)	na / 1000 hours	na / 1200 hours
* Staff work hours is an estimate only. The estimate includes Planning/Zoning staff, front desk staff support and supervisory review. The estimate does not include time spent by other divisions or agencies, such as the County Attorney's office, Environmental Division, etc.. These estimates may not be reflective of the total number of hours if an item proves to be controversial, has heavy public interest, or has a higher amount of time spent on it by the Planning Commission or Board. The staff work hours for the Zoning Ordinance review represent the following percentages of total staff hours: 34% for Option A, 36% for Option B, and 30% for Option C.					Approx. \$135,000 / 16,510 hours



Attachment 3: Option B Process and Timeframe

Attachment 3: Option B Process and Timeframe									Month												
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Stage 1 : ID of Issues & Eval. Of Options	Joint Planning Commission/Board of Supervisors Work Session																				
	2 Planning Commission Meetings/Forums																				
	Staff general review of the ordinance sections and ID of problems																				
	Staff works on non-consultant research items																				
	Work to get consultants under contract for research items																				
	Consultant work on research items, preparation of reports and options																				
	4 - 8 Policy Committee meetings/Public comment				←*	←	←														
	1 Planning Commission Work Session/Public comment				←*	←	←	←													
	1 Board Check-In Work Session/Public comment																				
Stage 2 : Prep & Revision of Ordinances	Preparation of the draft ordinances																				
	8 - 12 Policy Committee meetings/Public comment										←*	←									
	1 Planning Commission Work Session/Public comment										←*	←	←	←							
	1 Board Check-In Work Session/Public comment																				
	Ordinance Finalization & Vetting of draft ordinances through zoning administrator and attorney's office																				
	2 Policy Committee meetings/Public comment																				
Stage 3 : Adoption	Advertisements & Written Notice - Prep and publication or mailing											←*	←	←	←	←	←	←	←	←	←
	Planning Commission consideration											←*	←	←	←	←	←	←	←	←	←
	BOS consideration											←*	←	←	←	←	←	←	←	←	←

\* Priority items or other more straightforward items may be moved through the process more quickly

**REZONING-0002-2009 / MP-0002-2009: Governor's Grove Section III: Proffer and Master Plan Amendment**

**Staff Report for the April 7, 2010 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**

July 1, 2009	(applicant deferral)
August 5, 2009	(applicant deferral)
September 9, 2009	(applicant deferral)
December 2, 2009	(applicant deferral)
January 13, 2010	(applicant deferral)
April 7, 2010	(applicant deferral)

Board of Supervisors:

T.B.D.

**SUMMARY FACTS**

Applicant:

Mr. Vernon Geddy, III, on behalf of Jard Properties

Land Owner:

Five Forks II, LLC and Five Forks III, LLC

Proposal:

To modify the proffers and master plan approved with rezoning Z-0009-2005 / MP-0006-2005 to allow for the applicant's desired roadway entrance configuration associated with a pharmacy proposed for the Section III Commercial Parcel of the Governor's Grove development.

Location:

4399 and 4365 John Tyler Highway (Route 5)

Tax Map/Parcel No.:

4710100115 and 4620100014A, respectively

Parcel Size:

2.965 acres and 5.121 acres, respectively (8.086 acres in total)

Existing Zoning:

MU, Mixed Use, with Proffers

Proposed Zoning:

MU, Mixed Use, with amended Proffers

Comprehensive Plan:

Low Density Residential and Moderate Density Residential on the 4399 John Tyler Highway (Section 3 / commercial) parcel, and Moderate Density Residential on the 4365 John Tyler Highway (Section 2 / open space) parcel

Primary Service Area:

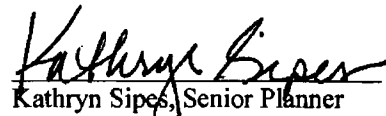
Inside

**STAFF RECOMMENDATION**

The applicant has requested that this case be deferred until May. Planning staff concurs with this decision on the part of the applicant, and recommends that the Planning Commission defer this case as requested.

Staff Contact: Kathryn Sipes

Phone: 253-6685

  
Kathryn Sipes, Senior Planner

Attachment: Deferral request from applicant

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

March 24, 2010

VERNON M. GEDDY, JR. (1928-2009)  
STEPHEN D. HARRIS  
SHELDON M. FRANCK  
VERNON M. GEDDY, III  
SUSANNA B. HICKMAN  
RICHARD H. REZK  
ANDREW M. FRANCK

MAILING ADDRESS:  
POST OFFICE BOX 879  
WILLIAMSBURG, VIRGINIA 23187-0879

vgeddy@ghfhllaw.com

Ms. Kate Sipes  
James City County  
101-A Mounts Bay Road  
Williamsburg, Virginia 23185

Re: Governor's Grove Section 3 – Z-0002-2009 and MP-0002-2009

Dear Kate:

I am writing on behalf of the applicant to request that the Planning Commission defer consideration of this application until its May meeting.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VMG/

cc: Mr. James Jard

**SPECIAL USE PERMIT CASE NO. SUP-0002-2010, CVS and Food Market, Soap and Candle Factory Site,  
Staff Report for the April 7, 2010 Planning Commission Public Hearing**

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

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

Planning Commission: April 7, 2010 7:00 p.m.  
Board of Supervisors: May 11, 2010 7:00 p.m. (tentative)

**SUMMARY FACTS**

**Applicant:** Mr. David Todd of The Rebkee Company

**Land Owner:** KTP Development, LLC

**Proposal:** To construct a drive-thru pharmacy/retail store building of approximately 13,600 square feet and a grocery store of approximately 34,928 square feet. A Special Use Permit (SUP) is required in accordance with Section 24-11 of the Zoning Ordinance.

**Location:** 7521 Richmond Road

**Tax Map/Parcel:** 2321100001C

**Parcel Size:** 14.36 acres. The parcel will be subdivided to accommodate the proposed pharmacy/retail store on an area of approximately 1.80 acres and the Food Lion on an area of approximately 4.54 acres.

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

**Comprehensive Plan:** Mixed Use

**Primary Service Area:** Inside

**STAFF RECOMMENDATION**

This development is 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 SUP-0002-2010 with the attached landscape modifications requests and special use permit conditions.

Staff Contact: Sarah Propst, Planner  
Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. David Todd of The Rebkee Company has applied on behalf of KTP Development, LLC for a special use permit to allow the construction of a drive-thru pharmacy/retail store ("CVS") and a grocery store ("Food Lion") on the property located at 7521 Richmond Road. The 14.36-acre property, formerly known as the site for the Williamsburg Soap and Candle Factory, will be subdivided to accommodate the proposed 13,600 square foot drive-through pharmacy/retail building (CVS) in a 1.80 acre-area and the 34,928 square foot grocery store (Food Lion) on a 4.54 acre-area. Once subdivided from the 14.36 acre-parent parcel, the property will be bounded on the east by the remaining Soap and Candle Factory parcel, to the north by Richmond Road and directly across Richmond Road by areas zoned General Business. Property to the west is zoned Mixed Use (i.e. the Cross Walk Community Church parcel) and areas to the south are currently zoned A-1, General Agriculture. The property is located within the Norge Community Character Area and fronts on Richmond Road, which is designated by the 2009 Comprehensive Plan as a Community Character Corridor.

Access to the proposed CVS and Food Lion will be via two proposed right-in/right-out entrances (one on Richmond Road and one on Croaker Road Extended) and one full-movement entrance on Croaker Road Extended. The existing Candle Factory parking lot area will be modified to accommodate a 50 foot landscape buffer along Richmond Road and a 30 foot landscape buffer along Croaker Road Extended. An existing 5-foot wide sidewalk along the entire northern property line and parallel to Richmond Road will be preserved. This proposal includes the construction of an 8-foot wide shared use path along the eastern side of Croaker Road Extended, which will connect with the existing sidewalk along Richmond Road. A bike lane will be constructed along Richmond Road, from the intersection of Richmond Road and Croaker Road to the right-in/right-out entrance.

The proposed development will provide two fewer parking spaces than is required by the Ordinance. In order to allow for this decrease in parking a shared parking agreement will be entered into by both the CVS and the Food Lion (Condition 18). An additional condition has been included which will require a parking analysis prior to the application for the site plan of the proposed 7,000 foot expansion on the Food Lion (Condition 19). This analysis will determine if the proposed expansion's parking demand will be met by existing parking spaces.

## **PROJECT HISTORY**

The Williamsburg Soap and Candle Factory was founded in 1964 by John Barnett. The commercial complex consisted of a restaurant, a manufacturing plant, and many smaller shops. In 2005, the plant closed its doors. Currently, only a small portion of the commercial complex is operating.

In 2006, KTP Development LLC and Candle Development, LLC applied for a combined special use permit and rezoning application (Z-0003-2008/MP-0003-2008) to allow the development of a master planned community spread out in three contiguous parcels located at 7521, 7551 and 7567 Richmond Road. This application is scheduled to be heard at the April 13<sup>th</sup> Board of Supervisors Meeting.

In 2008, a special use permit application for a Walgreen's drive through pharmacy/retail building (SUP-0016-2008) was approved by the Planning Commission but the application was withdrawn per the applicant's request prior to being considered by the Board of Supervisors.

A special use permit (SUP-0008-2009) was approved in July 2009 for the property at 7521 Richmond Road. This SUP allows for the construction of a 13,225 square foot drive-through pharmacy/retail building (the CVS store) on a 2.09 acre area of the 14.36 acre parcel.

Currently, the Soap and Candle Factory commercial complex occupies a building area of approximately 183,300 square feet. The proposed development will demolish approximately 27,581 square feet of existing retail space and vacant storefronts. The existing uses along the west end of the commercial complex to be redeveloped include: one vacant shop, one restaurant (Candle Light Kitchen), one antique store (Dovetail Antiques), one hair salon (Cindy's Classic Cuts), and one public restroom. The owner of the property has informed the applicant that he intends to relocate all of those existing businesses within the remaining portion of the Soap and Candle Factory development.

## **PUBLIC IMPACTS**

### **1. Archaeology:**

**Staff Comment:** This project will be located on 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."

### **2. Environmental:**

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

**Environmental Staff Comments:** According to information provided by the applicant, the 1.80 acre area being delineated as the proposed CVS site currently has 87% impervious coverage. However, this area will be redeveloped to an impervious area of 61%. The 4.54 acre Food Lion site currently has an impervious area of 5% and this will be increased to 64%, upon development. To mitigate the proposed impacts the site design will include measures to improve stormwater quality and attenuate runoff rates leaving the site such as manufactured filtration systems, sumped or bottomless inlets, dry detention, grass swales, an underground sand filter, and/or multiple bioretention areas.

The Environmental Division has indicated that a receiving drainage system may be required; connection to an offsite system may require the need for offsite drainage easements.

**Planning Division Comments:** Staff has designed a special use condition (Condition No. # 9) requiring the applicant to demonstrate compliance with Section 23-9 (b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance-Impervious Coverage, prior to site plan approval. A special use condition has also been written (Condition No. #7) to ensure that all necessary drainage easements for the site are secured.

### **3. Public Utilities**

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

**4. JCSEA comments:** Staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards. Water Conservation and Irrigation standards are part of the SUP conditions for this proposal (Conditions Nos. 5 & 6).

### **5. Traffic**

#### **Access:**

This site will primarily be accessed through the signalized intersection of Richmond and Croaker Roads. An off-site right-in and right-out driveway from Richmond Road to the Candle Factory Commercial Complex Parcel will be relocated to approximately 430 feet east of the Richmond and Croaker Roads intersection. This entrance will serve as a secondary access to the site (Condition No. 12). One existing access point on Croaker Road Extended will be closed as part of this development. The site will be accessed via one full movement access point located approximately 480 feet south of the Richmond Road and Croaker Road intersection and a right-in and right-out access approximately 270 feet south of the Richmond Road and Croaker Road intersection. The full movement access will be aligned across from the church entrance which is being moved by the CVS and Food Lion development (Condition No. 14).

#### **Traffic Counts:**

**2007 Traffic Counts:** On Richmond Road (Route 60) from Rochambeau Drive to Croaker Road (Route 607), there were 17,201 average daily trips. On Richmond Road from Croaker Road (Route 607) to Norge Elementary, there were 21,892 average daily trips. On Croaker Road from Rochambeau Drive to Richmond Road, there were 9,275 average daily trips.

**2035 Volume Projected:** On Richmond Road from Rochambeau Drive to Croaker Road 29,293 average daily trips are projected. On Richmond Road from Croaker Road to Norge Elementary 39,110 average daily trips are projected. On Croaker Road from Rochambeau Drive to Richmond Road 28,584 average daily trips are projected. The segment of Richmond Road between Croaker Road and Norge Elementary is listed on the "watch" category and the section of Croaker Road is "recommended for improvements" in the Comprehensive Plan.

**Traffic Impact Assessment:**

A Traffic Impact Assessment (TIA) to address the requirements set forth by VDOT's Traffic Impact Analysis regulations, commonly known as Chapter 527, was prepared for the proposed CVS and Food Lion development and submitted as part of this SUP application for review by Planning Staff and VDOT (Attachment No. 4). The scope of this study encompassed (i) the existing conditions for (a) the signalized intersection at Croaker Road and Richmond Road (Route 60), (b) the signalized intersection at Richmond Road and Norge Lane, (c) the signalized intersection at Richmond Road and Norge Elementary, (d) The signalized intersection at Croaker Road and Rochambeau Drive, (e) the proposed Richmond Road right-in/right-out entrance, (f) the proposed right-in/right-out entrance on Croaker Road extended, (g) the proposed full-movement entrance on Croaker Road extended, (ii) trip generation for existing development, (iii) traffic volumes for the 2011 and 2017 Build and No-Build scenarios, (iv) Level of Service (LOS) analysis for Richmond Road and Croaker Road Intersection and for the Richmond and Croaker Road entrance, (v) turn lane analysis, and (vi) queuing analysis.

According to the TIA, this development has the potential to generate, a total of 5,256 daily vehicular trips with 181 AM peak hour trips and 621 PM peak hour trips.

**Level of Service at Intersections:**

According to the TIA, the Level of Service for Richmond Road at the intersection with Croaker Road is currently at level C for a.m. peak hours and C for p.m. peak hours. At the same intersection, assuming the road improvements shown on the master plan, the Level of Service is projected to decline to Level D for p.m. peak hours and remain at Level C for a.m. peak hours for the 2017 "No-Build" scenario. Under the 2017 "Build" scenario, with the road improvements shown on the masterplan, the Level of Service is projected to remain at Level D for p.m. peak hours and at Level C for a.m. peak hours (both compared to 2017 "No-Build" scenario).

**Study Recommendations:**

Below are the recommendations for road improvements as identified by the Traffic Impact Analysis for CVS and Food Lion, not including any approved but unbuilt or planned developments:

**At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):**

- (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100 foot taper;
- (ii) An eastbound right-turn lane 200 foot taper must be provided;
- (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200 foot taper;
- (iv) Dual westbound left-turn lanes shall be constructed with a total of 600 feet of storage (400 feet and 200 feet of storage in each of the respective left-turn lanes).
  - a. This improvement shall also include the construction of a second receiving lane on Croaker Road that will terminate at the entrance for the Food Lion and the Church, as a southbound right-turn lane;

**At the right-in and right-out entrance to the development from Richmond Road (U.S Route 60):**

- (i) A right-turn lane shall be provided, with 100 feet of storage and a 200 foot taper on eastbound Richmond Road shall be provided at this entrance; and
- (ii) These road improvements shall be depicted on the site plan for the Property and shall be completed or bonded prior to final CO.

**VDOT comments:**

VDOT has reviewed this application and traffic studies. VDOT concurs with the traffic generation and with the levels of service described in the studies. The improvements which VDOT has suggested are recommended in Condition 13 or will be covered in the site plan.

**Planning Division Comments**

*Vehicular and Pedestrian Connectivity with Adjacent Properties:*

Pedestrian access to and from the site will be facilitated by the construction of an eight foot wide, shared use path along the entire length of the northwestern property line (Condition No. 16). Once constructed, the path will provide pedestrian connectivity with the proposed mixed-use development to the south of the property (The Candle Factory development) by connecting to an eight foot wide shared use path proffered by the developers of the Candle Factory

Mixed Use project. Further, 5 foot wide concrete sidewalks will connect the north-south shared use path along the eastern boundary of the properties with the both retail stores.

## COMPREHENSIVE PLAN

### Land Use Map

General	<p><i>Mixed Use-page 124:</i> 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.</p> <p><b>Staff Comment:</b> Staff finds the proposed commercial development to be in keeping with the intent and land use recommendations for mixed use areas located at or near major transportation corridors, as indicated by the Land Use Section of the 2009 Comprehensive Plan.</p>
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### Environment:

Yarmouth Creek Watershed Management Plan Area	<p><i>Description-Page 47:</i> Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin in James City County. The Creek drains into the Chickahominy River, which in turn discharges into the James River.</p> <p><b>Staff Comment:</b> Because of its location, this property is subject to Special Stormwater Criteria (SSC) established for developments located within the Yarmouth Creek Watershed Area.</p>
Goals, Strategies and Actions	<p><i>Action 1.1.2. Page 77:</i> Promote the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs).</p> <p><b>Staff Comment:</b> According to information provided by the applicant, the following methods will be considered for implementation and compliance with the requirements set forth by Special Stormwater Criteria (SSC) for the Yarmouth Creek Watershed Management Plan Area: (i) manufactured filtration systems, (ii) sumped or bottomless inlets, (iii) dry detention, (iv) grass swales, (v) an underground sand filter, (vi) and/or multiple bioretention areas. Staff is encouraged by the proposed use of such Low Impact Designs (LIDs) methods on the property.</p>

### Transportation:

Richmond Road	<p><i>Description-Page 181:</i> Although future volumes indicate the potential need for widening Richmond Road between Centerville Road and the City of Williamsburg/Rochambeau Road to Croaker Road, it is recommended that Richmond Road remain four lanes. Widening in these sections, which includes Norge, should be avoided or limited due to the physical limitations and the negative impacts on existing uses and the character of this historic community.</p> <p>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. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination is crucial.</p>
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	<p><b>Staff Comment:</b> According to the Traffic Engineer's traffic analysis conclusions, the traffic generated by this proposal may lower the Level of Service for this segment of Richmond Road from C to D during p.m. peak hours.</p> <p>This proposal will not require additional signals or entrances onto Richmond Road. One existing Candle Factory entrance will be closed on Richmond Road and a new entrance will be built approximately 125 feet west of that location on Richmond Road.</p> <p>VDOT concurs with the Staff's conditions for this application.</p>
Goals, Strategies and Actions	<p>Action 1.3.4.-Page 188: Encourage pedestrian circulation by providing safe, well-lit, and clearly marked crosswalks and unobstructed sidewalks.</p> <p>Action 1.3.9. -Page 189: Include bikeways and/or pedestrians facilities within major developments and elsewhere in the County, especially connecting residential and non-residential areas.</p> <p><b>Staff Comment:</b> According to the James City County, Williamsburg, and York County Regional Bikeway Map this Section of Route 60 includes a shoulder bike lane. The applicant has agreed to provide accommodations for a bicycle lane to meet VDOT standards along the frontage of the property adjacent to Route 60 (please refer to SUP condition No. 15). In order to facilitate internal pedestrian access and connectivity with adjacent parcels, the applicant will provide an eight-foot shared use path along the entire northwestern side of the property (please refer to sup condition No. 16). Further, crosswalks located within the parking lot area are provided in order to encourage a safe interaction between pedestrians and motor vehicles at the site.</p>

#### **Community Character Corridor (CCC):**

Suburban and Urban CCC	<p><i>Description-Page 84:</i> a suburban or urban CCC is characterized as an area that has moderate to high traffic volumes, moderate to high levels of existing or planned commercial or moderate-density residential uses, and may contain some natural screening buffers along roads. The predominant visual character of these CCCs should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.</p> <p>Development in urban and suburban CCCs should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general, and an emphasis on innovative design solutions.</p> <p><b>Staff Comment:</b> Staff notes that the applicant proposes to increase the width of the existing landscape buffer along Richmond Road from the existing 15 feet to 50 feet and the parking lot for the Food Lion will be screened from Croaker Road Extended by a 40+ foot setback (please refer to SUP condition No. 8).</p>
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#### **Community Character Area (CCA):**

Norge Area	<p><i>Description-Page 86:</i> Norge has been significantly impacted by recent commercial development along Richmond Road. While Norge continues to have a unique, very identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts, the early 20<sup>th</sup> century "village" character of its business and residential areas along Richmond Road has been significantly impacted by infill</p>
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	automobile-oriented development.
	<b>Staff Comment:</b> Staff notes that enhanced and increased landscaping along Richmond and Croaker Road Extended are proposed. The applicant has provided architectural elevations (please refer to the Community Impact Statement) for the proposed buildings. Staff has written a condition ensuring the final architecture of the building to be similar to the architectural elevations presented during the SUP request (please refer to SUP condition No. 2). Architectural elevations of the proposed building are discussed further, in a later section of this report.

**Staff Comment:**

Staff finds that this proposal is consistent with Comprehensive Plan recommendations for this area in Norge. Staff also finds that the proposed development promotes a balance between two important elements concerning land development in Norge, the economic benefits for the area (i.e. generation of employment and revenues, expansion of services and amenities, etc) and the desire to preserve the “village style” character of Norge.

The Comprehensive Plan (page 86) outlines design standards intended to guide future development and redevelopment in the Norge area. Staff finds that the applicant has addressed some of the Norge design standards primarily by providing measures to (i) share parking (see condition 17); (ii) design new landscape areas which complement and enhance the proposed buildings and site design, and (iii) provide pedestrian and bicycle circulation through the provision of crosswalks, sidewalks, a shared use path, and a bike lane.

Staff further notes that, the Norge design standards call for design elements such as the architecture, scale, materials, spacing, and colors for buildings to complement the historic character of the area. Staff has evaluated the architectural elevation for the proposed buildings and finds the following architectural features noteworthy of positive feedback:

- The materials used for the construction of the building (i.e. bricks, hardieplank siding, and standing seam roofs);
- Piers, gables, and windows which break up the mass of the buildings;
- Decorative brackets and accents to fit in with the village feel of Norge.

On January 27, 2010, the Development Review Committee reviewed the architectural elevations proposed for the CVS and Food Lion buildings. The Committee offered the following comments to be considered by the applicant for the Food Lion:

- The massing of the brick piers should be changed,
- Add details along the roofline,
- The architecture of the Food Lion should fit with the character of surrounding development.

**Request for Landscape Modification:**

Section 24-99 (c)(1) of the Zoning Ordinance states that “A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width.” Staff notes that the two parcels to be subdivided from the parent parcel will establish new property lines adjacent to the portion of the existing Candle Factory building not slated for demolition and between the CVS and Food Lion parcels. To minimize the impervious pavement necessary to serve all three parcels the applicant proposes to share access drives between the newly created parcels. In order to do this the landscaping normally required along the lot lines of the adjoining parcels will need to be relocated to other areas of the site. The applicant has submitted a request to modify the landscape requirements for the eastern side yard of the Property and the southern side of the CVS parcel, by transferring landscape materials from those areas to the two street frontage buffers along Richmond Road and Croaker Road Extended (please refer to the Community Impact Statement for The Candle Factory Conceptual Planting Plan).

Section 24-88 of the Zoning Ordinance states that “the commission or planning director may modify, permit substitution for any requirement of this section, or permit transfer of required landscaping on a site upon finding that:”

- (1) Such requirement would not promote the intent of Section 24-88 of the Zoning Ordinance;

- (2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section;
- (3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section;
- (4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this section, shall have no additional detrimental impacts on the orderly development of character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of Section 24-88 of the ordinance.

The Planning Director has reviewed the requests for landscape modification for this project and found them to meet the criteria listed above. Staff recommends that the Planning Commission approve the request for landscape modification concurrent with their recommendation for the overall project.

#### **RECOMMENDATION:**

Staff finds the proposal to be generally consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Further, staff believes that the special use permit conditions associated with this case will mitigate any impact on adjacent properties and along Richmond Road. Staff believes that this proposal achieves significant objectives in the Norge Design Guidelines of the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of SUP-0002-2010 with the attached landscape modifications requests and special use permit conditions:

**1. Master Plan:** This Special Use Permit (the "SUP") shall be valid for the construction of an approximately 13,600 square foot, 1-story high drive-through pharmacy/retail store building (the "CVS" store) and an approximately 34,928 square foot grocery store building (the "Food Lion" store). The grocery store building may have a possible future expansion of approximately 7,000 square feet for the grocery store, or additional shop space. The property is located at 7521 Richmond Road and further identified as JCC Tax Parcel Number 2321100001C (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "CVS and Food Lion Master Plan", prepared by Kimley-Horn and Associates date stamped February 23, 2010 (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. Architectural Review:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the final building elevations and architectural design for the CVS and the Food Lion. Such buildings shall be reasonably consistent, as determined by the Planning Director or his designee, with the CVS architectural elevations titled "CVS #75584 James City County, VA" and dated January 13, 2010 and the Food Lion architectural elevations titled "Food Market-Intersection of Rt. 60 and Croaker Road" dated February 2, 2010 submitted with this special use permit application and prepared by The Rebkee Company.

**3. Free-standing Sign:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the design and location of the ground-mounted signs for the Property for consistency with the Norge Community Character Area, as described in the James City County Comprehensive Plan. The sign base shall be made of brick and the colors and materials shall be similar to the CVS and Food Lion buildings.

**4. Dumpsters/HVAC Units:** All heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing. Dumpsters shall be screened from view by a brick enclosure (exclusive of doors). All screening devices must be approved by the Planning Director, or his designee, prior to final site plan approval.

**5. Water Conservation:** The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

**6. 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"), or water taken from an underground cistern, 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 a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.

**7. Subdivision:** Prior to approval of the Food Lion parcel subdivision plat, evidence must be provided to the County that JCSA has the ability to connect waterlines from the fire hydrant on the southeast corner of the parcel located at 7521 Richmond Road and further identified as JCC RE Tax Map No. 2321100001C to the parcel directly to the south, located at 7551 Richmond Road and further identified as JCC RE Tax Map No. 2321100001D, in perpetuity.

**8. BMP Discharge:** Overflows from any proposed BMP(s) shall discharge to an adequate channel in accordance with State Minimum Standard #19 and shall not be conveyed through any of the adjacent parcels without an offsite drainage easement. All associated easements shall be of an appropriate width to permit access for maintenance of the channel and any associated appurtenances such as outlet protection, flow control devices, channel linings, etc. Said easement shall be in place prior to the issuance of a Land Disturbing Permit.

**9. Landscape Plan:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve a landscape plan for this development. The landscape plan shall meet all applicable zoning ordinance requirements and shall include at a minimum: (i) enhanced landscaping within the northern fifty-foot landscape buffer along Richmond Road, (ii) enhanced landscaping within the western thirty-foot landscape buffer along Croaker Road, and (iii) enhanced landscaping along the southern property line. Enhanced landscaping is hereby defined as 125 percent of the size requirements of the James City County Landscape Ordinance.

**10. Impervious Coverage:** Prior to final site plan approval, the applicant must demonstrate compliance with the provisions of Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance. Demonstration of equivalent water quality will be through compliance with guidelines established by the Environmental Director.

**11. 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, or his designee, 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.

**12. Internal Traffic Signage Plan:** The applicant shall include along with the materials submitted as part of the site plan review process for this development, an internal signage plan indicating the location of internal traffic signs and the orientation of vehicular flow within the Property. The internal signage plan shall be reviewed and approved by the Planning Director, or his designee, concurrently with the site plan submission for this project.

**13. Roadway Improvements:** Prior to issuance of a Certificate of Occupancy for the Food Lion, the road improvements listed below shall be constructed or bonded in a manner acceptable to the County Attorney:

a. At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):

- (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100 foot taper;
- (ii) An eastbound right-turn lane 200 foot taper must be provided;
- (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200 foot taper;
- (iv) The westbound left-turn lane shall be lengthened to 300 feet of storage and a 200 foot taper;

Prior to issuance of a Certificate of Occupancy for the CVS, the road improvements listed below shall be completed at the following intersections:

b. At the right-in and right-out entrance to the development from Richmond Road (U.S Route 60):

- (i) The existing entrance into the Candle Factory complex from Richmond Road will be relocated to 430 feet east of the Richmond Road Croaker Road intersection; and
- (ii) A right-turn lane shall be provided, with 100 feet of storage and a 200 foot taper on eastbound Richmond Road shall be provided at this entrance.

The applicant shall construct westbound dual left-turn lanes on Richmond Road and all associated VDOT requirements (which includes a receiving lane) at the intersection with Croaker Road upon the request of the County or VDOT but no later than April 7, 2017. The applicant shall submit a traffic impact study to the County and VDOT within three years of the date of approval of this Special Use Permit to determine the construction timing of the dual left-turn lanes, unless a study is required by VDOT prior to that date. The submission of the traffic impact study may be delayed upon request and approval of the Director of Planning and VDOT. This request must demonstrate that the dual left-turn lanes are not warranted due to development timing.

**14. Shared Access Easement:** Prior to issuance of a Certificate of Occupancy for either the CVS or the Food Lion, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easements have been obtained and recorded, as applicable, allowing vehicular access to the Property. This includes the entrance being relocated 430 feet east of the intersection of Croaker Road (Route 607) and Richmond Road (U.S. Route 60), off of Richmond Road, and the existing entrance located across from Croaker Road.

**15. Church Entrance Realignment:** Prior to the issuance of a Certificate of Occupancy for the Food Lion the entrance to the Crosswalk Community Church must be realigned with the proposed entrance to the Food Lion as shown on the Master Plan. The realignment must not prevent access to the Church and should not pose any safety risk to visitors to the Church.

**16. Bike Lane:** Prior to issuance of a Certificate of Occupancy for the CVS, a VDOT standard shoulder bike lane along the front of the Property adjacent to Richmond Road (U.S. Route 60) shall be provided. This bike lane shall be depicted in the site plan for the Property.

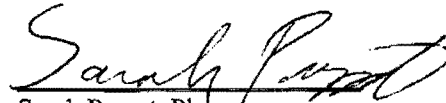
**17. Sidewalk:** Should the construction of the proposed CVS or Food Lion building start on the Property prior to construction of any building at adjacent parcels located at 7551 and 7567 Richmond Road, The Rebkee Company shall provide and construct along the length of the northwestern property line a portion of the eight-foot-wide, concrete or asphalt shared use path referenced by the Master Plan titled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC." Construction shall be hereby defined as obtaining permits for building construction and installation of footings and foundations.

**18. Shared Parking Agreement:** Prior to the issuance of a Certificate of Occupancy for the Food Lion, a shared parking agreement shall demonstrate to the satisfaction of the County Attorney that both the CVS and the Food Lion will have access to adequate parking. Proffer 6, from case Z-0003-1997, requiring shared parking for parcel 2321100001B on the Property, must also be satisfied.

**19. Parking Analysis:** Prior to application for a site plan to expand the Food Lion building (the "Expansion"), a parking analysis shall be prepared and submitted to the Planning Director for review and approval. If, after review of the parking analysis, the Planning Director determines that the Expansion requires additional parking spaces beyond that which is already provided, the site plan for the Expansion must accommodate such additional parking spaces.

**20. Commencement of Use:** Use of the Property as described in this SUP shall commence within (36) months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business with regular business hours and/or obtaining permits for building construction and installation of footings and foundations.

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

  
Sarah Propst, Planner

**ATTACHMENTS:**

1. Location Map
2. Landscape Modification Request
3. Master Plan (non-binding)
4. Community Impact Statement
5. Traffic Impact Assessment
6. Traffic Analysis Addendum



## 1. Project Information

## 2. Applicant/Contact Information

### 3. Modification Information

4. Signature of Applicant: V. K. L. Date: 1/18/10

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

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## **Request for Landscape Modification**

### **3. Modification Information continued**

The applicant desires to subdivide an existing developed parcel and master plan the proposed uses and remaining uses for three newly created parcel. In order to minimize the impervious pavement necessary to serve all three parcels the applicant proposes to share access drives between the newly created parcels. In order to do this the landscaping normally required along the lot lines of the adjoining parcels (where the shared access drives are proposed) will need to be relocated to other parts of the site. The applicant proposes that the required landscape material be relocated to the two street frontage buffers along Route 60, Croaker Road Extended and also along the rear yard transitional buffer.



**REZONING-0001-2009/SPECIAL USE PERMIT-0007-2010/SUP-0011-2010/MP-0001-2009.  
Colonial Heritage Deer Lake.**

**Staff Report for the April 7, 2010 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:

Board of Supervisors:

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

April 7, 2010

7:00 p.m.

May 11, 2010

7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:

Mr. Greg Davis, Kaufman and Canoles

Land Owner:

Lennar Corporation

Proposal:

To rezone a 130.3 acre portion of the 731.5 acre Deer Lake parcel located at 499 Jolly Pond Road from A-1, General Agricultural, to MU, Mixed-Use, and R-2, General Residential, with proffers, with Special Use Permits for the extension of public utilities and a cluster overlay.

Location:

499 Jolly Pond Road.

Tax Map/Parcel Nos.:

2240100007

Parcel Size:

731.5 acres (130.3 acres subject to the new rezoning)

Existing Zoning:

A-1, General Agricultural and MU, Mixed-Use with proffers

Proposed Zoning:

MU, Mixed-Use, with amended proffers and R-2, General Residential with proffers and a cluster overlay

Comprehensive Plan:

Rural Lands and Low-Density Residential

Primary Service Area:

Outside, but requesting public water and sewer service

**STAFF RECOMMENDATION**

Staff finds the proposal to be clearly contrary to the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff also finds this proposal clearly violates the Primary Service Area as a growth management tool, as it proposes an extension of suburban residential development outside the PSA. While the proposed 90 acre conservation open space area provides a substantial contiguous amount of land for conservation, on balance, this feature with other aspects of the proposed design show no distinct environmental benefit compared to the rural cluster. Regardless of any positive impact created by the proposed residential cluster, under this new proposal 66 acres of land would be rezoned Mixed-Use and developed at a proposed density of 4.6 dwelling units an acre, which is much greater than the .33 dwelling units an acre recommended for Rural Lands outside the PSA. Furthermore, the approved rural cluster development potential for this area is .226 dwelling units an acre. Many of the proposed units would not be realized on this land if not rezoned. Any perceived benefits from the proposed residential cluster must also take into account the impact that will be created by the new Mixed-Use area as well. Staff recommends the Planning Commission recommend denial of this rezoning, master plan amendment and the special use permit applications to the Board of Supervisors.

Staff Contact:

Jason Purse, Senior Planner

Phone: 253-6685

## Proffers

The signed proffer package was signed and submitted in accordance with the James City County Proffer Policy.

## Project History

On November 27, 2001, the Board of Supervisors approved rezoning and master plan applications (Case Nos. Z-4-00 and MP-1-01) for a 2,000-unit, gated and age-restricted community known as Colonial Heritage at Williamsburg. The applications rezoned approximately 777 acres from A-1, General Agricultural, and M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers. The master plan for the development included 425,000 square feet of commercial development fronting on Richmond Road. The owner, Lennar Corporation, has marketed the community to retirees and those approaching retirement, and restricts the age of residents to 55 and above through proffers and covenants. The community focuses on an 18-hole golf course with associated amenities and provides several residential products, including single-family, townhomes, and multifamily condominiums.

In 2004, the applicant filed a rezoning application to incorporate the approximately 731-acre Boy Scout property into the existing Colonial Heritage at Williamsburg development. The applicant received approval to rezone approximately 229 acres from A-1, General Agricultural, to MU, Mixed Use, with proffers to incorporate the PSA portion of the Boy Scout property into the previously approved Colonial Heritage development with no increase to the approved 2,000 residential dwelling units and the entire proffer package was amended and restated at that time. The applicants also applied to rezone approximately 503 acres from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The 503-acre portion of the Boy Scout property located outside the PSA would be subject to the amended and restated proffers but would not be subject to the amended master plan. The amended Colonial Heritage at Williamsburg master plan proposed up to 1,400 single-family residential lots, 800 townhomes, 240 condominiums (subject to the proffered 2,000-unit cap), and 425,000 square feet of commercial, retail, and office space, 18 holes of golf course, amenities, and open space.

The 229 acre portion of the Boy Scout property located within the PSA is designated Low-Density Residential on the Comprehensive Plan Land Use Map. The 503-acre portion of the Boy Scout property located outside the PSA is designated Rural Lands on the Comprehensive Plan Land Use Map.

In addition, the applicants applied for a special use permit to allow a 50-lot rural cluster development (SUP-0021-2004). The proposed rural cluster would be located on the portion of the Boy Scout Property located outside the PSA.

**Table No. 1-Comparison between revised Applications for the Colonial Heritage**

	<b>2001 Application</b>	<b>2004 Application</b>	<b>2009 Application</b>
<b>Scope of Project</b>	<b>Rezoning application:</b> To rezone 777 acres from A-1 to MU, with proffers.  2,000-unit, gated and age-restricted community and 425,000 square feet of commercial development fronting on Richmond Road	<b>Rezoning application:</b> Incorporated 732-acre Boy Scout property into existing Colonial Heritage Master Plan. Rezoned 229 acres of that property from A-1 to MU. The remaining 503-acres was rezoned from A-1 to A-1 with proffers, which dedicated 282-acres as conservation open space. The 2,000 unit cap did not change. The entire proffer package was amended and restated at that time.  <b>SUP application:</b> From the 503-acre A-1 property, the 221 acres <u>not</u> dedicated as open space could also contain a 50-lot rural cluster which was located outside the PSA and would be sold at market rate, but was not age-restricted.	<b>Rezoning application:</b> From the original 503 acres that was left as A-1 in 2004 there was 221 acres that was not dedicated as open space. Of the 221 acres, 66.4 is to be rezoned to MU and rolled into the Colonial Heritage Master Plan. 63.9 acres is to be rezoned to R-2, with a cluster overlay, for 50-lots. The remaining 90 acres will be dedicated as additional conservation open space. The 90 acres will remain A-1.

## **Project Description**

Mr. Greg Davis, of Kaufman and Canoles, on behalf of the Lennar Corporation, has applied to rezone a 130.3 acre portion of the 731.5 acre Deer Lake parcel located at 499 Jolly Pond Road from A-1, General Agricultural, with proffers, to MU, Mixed-Use, and R-2, General Residential, with amended proffers, with Special Use Permits for the extension of public utilities and a cluster overlay.

The existing Master Plan for Colonial Heritage has a unit cap of 2000, which includes a 50-lot rural cluster on approximately 221 acres of land located outside the PSA and zoned A-1. On that same 221 acres, the new proposal is seeking rezone 66.4 acres to Mixed-Use, to be included in the Colonial Heritage Master Plan, and also rezone 63.9 acres to R-2 (with a cluster overlay) for the 50 lot cluster both with the extension of public water/sewer. The applicant would dedicate the remaining 90 acres zoned A-1 as conservation area. The applicant is not seeking a change to the total 2000 unit cap of the Colonial Heritage Master Plan.

The Primary Service Area line was affirmed by the Board of Supervisors in November of 2009. A land use application change request was submitted by the applicant to allow essentially the same rezoning proposal that would have moved the PSA line to include this area of land. However, the Board of Supervisors did not approve the change during the Comprehensive Plan update process and therefore this land (the 503 acres of the Deer Lake parcel not a part of the Colonial Heritage Master Plan) is still located outside the PSA and is designated Rural Lands on the Comprehensive Plan Land Use Map.

All references made to the “rural cluster” refer to the 50-lot rural cluster previously approved under SUP-0021-2004. References made to the “residential cluster” refer to the current rezoning proposal with 50-lots zoned R-2 to the southwest of Deer Lake.

Along with attachments showing the newly proposed Master Plan, staff has also included the Master Plan for the rural cluster (approved under SUP-0021-2004) along with those approved SUP conditions as well.

## **Surrounding Zoning and Development**

Colonial Heritage is located along Richmond Road across from the Pottery Factory and adjacent to the Colonial Towne Plaza shopping center. The Deer Lake portion of this development extends from the intersection of Jolly Pond Road and Centerville Road down Cranston’s Mill Pond across the street from the School Operations Center. While there is MU, Mixed-Use zoned parcels that are a part of the Colonial Heritage Master Plan area, a majority of the parcels adjacent to the Deer Lake area are zoned A-1, General Agricultural.

## **Proffers**

The existing proffers for the Colonial Heritage Mixed-Use zoned property remains unchanged and would extend to the newly proposed Mixed-Use land. The previously proposed 50-lot rural cluster was subject to both the proffers and to SUP conditions (SUP-0021-2004). In parenthesis, next to the proffers for this new case, staff has identified which proffers were present under the existing proffers or conditions for Colonial Heritage or whether they are new to this application.

- Existing proffers for Colonial Heritage remain unchanged and extend to the new Mixed-Use area
- Water Conservation standards to be approved by the JCSA (**existing**)
- Additional 90 acres of conservation open space to be dedicated (**new**)
- Adherence to the Yarmouth Creek Watershed Plan goals and priorities (**new**)
- Implementation of the County Streetscape guidelines (**new**)
- Neighborhood Recreation Facility and adherence to the Parks and Recreation proffer guidelines (**new**)
- Archeology and Natural Resource Inventory studies (**existing**)
- Owners Association (**new**)
- JCSA cash contributions (**new**)
- Private streets, including maintenance fund establishment (**new**)

- 40% of cluster property permanently preserved as open space (**new, but a minimum of 30% open space is required by the cluster ordinance**)
- 35 foot buffer for structures from steep slopes and 10 foot buffer for clearing from steep slopes (**existing, but the new setbacks are less restrictive than the previously approved SUP conditions**)
- 150 foot buffer along Jolly Pond Road (**existing**)

## **PUBLIC IMPACTS**

### **1. Environmental Impacts**

**Watershed:** Yarmouth Creek

#### **Proffers:**

- 35 foot buffer for structures from steep slopes and 10 foot buffer for clearing from steep slopes
- 90 acres of additional conservation area/open space along Deer Lake
- Adherence to the Yarmouth Creek Watershed Plan goals and priorities

**Environmental Staff Conclusions:** The Environmental Division has reviewed the application and does not believe the amended Master Plan, Community Impact Statement and proffers offer added benefit over what is already been approved for the site and offers the following analysis. Additionally, more detailed plan review will occur when development plans are submitted.

Environmental staff evaluated the proposed residential cluster against the previously approved rural cluster and offers the following pros and cons for the new proposal:

#### **Pros:**

- The new residential cluster would be subject to County Special Stormwater Criteria.
- The new development would also be subject to the Board of Supervisors resolution for Resource Management Area (RMA) buffers for legislative cases. This would require a 50 ft. buffer on intermittent streams and non-Resource Protection Area (RPA) wetlands as well as a 200 ft. buffer beyond the 100' RPA buffer on the non-tidal mainstem of Yarmouth Creek. The 200 ft. buffer on the mainstem would be already contained in the 90 acre conservation area. The rural cluster would not be subject to the BOS resolution as the SUP was approved before the resolution and the plan has sufficient lot and road level detail to grandfather it under the old requirements.
- Public sewer service would be provided, thus eliminating the need for septic drainfield systems, which if not properly designed and maintained, could be a source of nonpoint source pollution in the watershed.
- The new residential cluster plan would also be more consistent with priority conservation area recommendations from the Yarmouth Creek Watershed Management Plan (Priority Area C-4). Area C-4 is a very large area proposed in the watershed plan, basically stretching from Deer Lake to Cranstons Mill Pond Road. However, it should be noted that 282 acres is already being dedicated in this area, regardless of the approval of this new rezoning proposal to meet watershed management plan priority conservation area requirements.

#### **Cons:**

- The proposed steep slope buffers proposed with this new development (35' from structures and 10' from clearing) are less than what is required with the already approved rural cluster plan (35' from structures and 20' from clearing).

- It is anticipated that total impervious cover between the two development scenarios would be equal. However, while the rural cluster would spread out the impervious cover over 219 acres, the residential cluster impervious area would be squeezed into the R-2 land bay areas in a higher density format. This would result in a loss of a “distributed” impact approach for impacts associated with impervious cover (stormwater water quality and quantity-volume). The residential cluster would concentrate impact to one stream/wetland segment and cause accelerated impact to the natural receiving stream/wetland system on the east inflow stream to Deer Lake. The rural cluster would distribute it more evenly across the entire site.
- The overall open space design for the proposed rezoning consists of greater density at the south and east sides of the tract but with a large tract of open space in the north and is not consistent with Better Site Design/Natural Open Space layout practice for a site with these characteristics. Normally natural open spaces are integrated throughout the entire development and blend the manmade-to-natural landscape and are located in areas that conserve features worthy of protection such as natural streams, wetlands, lakes, etc.
- Based on topography and the requested density, it is expected that the R-2 and MU tracts would need to be mass cleared and graded, during development. This is near certain as the already completed sections of Colonial Heritage have required mass clearing and grading already. Mass clearing and grading generally go against two primary performance standards of the County’s Chesapeake Bay ordinance including: limit land disturbing to the area necessary and preserve existing vegetation to the maximum extent practicable. This is a major difference between the two development scenarios. No mass clearing and grading is expected of lot development areas in the rural cluster. Infrastructure and lot development would strive to honor existing topography. It should be noted that if clearing and grading are required to balance the overall site layout, the Chesapeake Bay Preservation ordinance allows this as a means of consideration.
- Mass clearing and grading in the residential cluster scenario could conflict with the RMA buffer resolution, especially the 50’ intermittent stream buffers. This conflict could result in a reduction of the number of proposed lots or the need to issue waivers to the Policy.
- The approved rural cluster would be spread across 221 acres on both the east and west sides of Deer Lake. The proposed overall density would be no greater than .226 dwelling units an acre. With the proposed rezoning, 66.4 acres to the east of Deer Lake would be rezoned to Mixed-Use and would be developed at a density of up to 4.6 dwelling units an acre. This sizable density increase adjacent to Deer Lake could threaten sensitive environmental features more than the rural cluster option.
- Chesapeake Bay Ordinance exceptions would be needed for utility crossings. Sewer crossings are not administratively approvable, and would require the Chesapeake Bay Board to grant waivers through the exception process. This would not be expected for the rural cluster.

Staff would note that both developments (the previously approved rural cluster and newly proposed R-2 residential cluster) show an equal amount of environmental benefits. Therefore, the proposed rezoning, based on the availability of information, cannot show distinct environmental benefit compared to the rural cluster from an Environmental analysis.

## 2. Utilities

The site is located outside the Primary Service Area, and the 50-lot rural cluster would be served by a central well and septic fields. The application proposes water and sewer service be extended from the existing lines that serve the Colonial Heritage Development and from existing service along Jolly Pond Road. The 50-lot rural cluster would have been served by a central well, which from a financial standpoint, costs the County money once it is taken over by the JCSA. Recommendations to increase the cost from developers to the JCSA upon acceptance were recommended in the 2009 Comprehensive Plan to help off-set this shortfall, but have not been implemented to this point. However, the Board of Supervisors had approved a resolution to proceed with

consideration of this matter at their second Board meeting in June.

**Proffers:**

- Water Conservation standards to be reviewed and approved by the JCSA.
- JCSA cash contributions per unit
- All units shall be connected to gravity sewer

**JSCA Staff Conclusions:** The James City Service Authority has reviewed the proposal and concurs with the Master Plan and proffers as proposed. During the development plan phase, the applicant will be required to confirm the water/sewer capacity of the existing service in the area to ensure it is capable of supporting the additional development.

**3. Traffic**

The unit cap for the development is not changing under this proposal. The total number of units for the Colonial Heritage Master Plan remains at 2,000. The traffic study conducted by the applicant in 2004 is still valid. An update from the traffic consultant noted that there has been an average growth rate of less than 2% at the Centerville/Jolly Pond Road intersection since the original study in 2004, which is well within the anticipated range. Even taking into account the new schools being constructed further down Jolly Pond Road, the existing improvements that Colonial Heritage are required to make will help alleviate any traffic generated by this development.

The proposed 50 single-family lots have the potential to generate 480 daily, 38 AM peak hour, and 51 PM peak hour trips on the roadway network based on ITE trip generation rates. The trip generation appears to be consistent with the existing approved use of the site.

**2006 Annual Average Daily Traffic Volume (per VDOT) (Jolly Pond Road):** From Centerville Road to the Cranston's Mill Pond Road there were 1,300 trips. James City County's 2007 traffic count data did not include any segments of Jolly Pond Road; however, on Centerville Road from Route 60 to Jolly Pond Road there were 10,174 trips. From Jolly Pond Road to Longhill Road there were 11,507 trips.

**2035 Daily Traffic Volume Projected:** Jolly Pond Road was not included in 2035 projections. For Centerville Road, from Route 60 to Jolly Pond Road there is the projection of 18,784 trips. Centerville Road from Jolly Pond Road to Longhill Road is projected for 21,629 trips. Both segments are in the "recommended for improvement" category.

**Proffers:**

- Entrance turn lane warrant analyses for the residential cluster will be required prior to site plan approval for the proposed entrance onto Jolly Pond Road that takes into account traffic generated by the new schools to the west on Jolly Pond Road.

**VDOT Conclusions:** VDOT reviewed the Master Plan and concurs that the proposal will not generate any additional vehicle trips over what is currently approved under the existing Colonial Heritage Master Plan.

**PRIVATE STREETS:**

Section 24-528 (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 #12) maintenance of the private streets through the Home Owners Association.

#### 4. Fiscal Impact

A Fiscal Impact Study prepared for this development by the Wessex Group, and revised in March 2010, (attached to this report) was provided along with the rezoning application for County review. It should be noted that the approved rural cluster was not to be a part of the Colonial Heritage development (age-restricted) and was to be sold at market rate. At one point, during the Comprehensive plan Land Use Map Designation change request process, the applicant had considered developing these units as workforce housing, but the units will continue to be sold at market rate regardless of whether this rezoning be approved. The Fiscal Impact Study continues to evaluate all three proposals (market rate separate from Colonial Heritage, market rate as a part of Colonial Heritage, and workforce housing separate from Colonial Heritage), but the applicant is proposing the 50-lot cluster to be market rate units separate from Colonial Heritage.

**Staff Comments:** Neither the previously approved rural cluster, nor the proposed residential cluster provide a positive fiscal impact to the County, but the Colonial Heritage development, as a whole, remains fiscally positive. The Board of Supervisors evaluated the 50-lot rural cluster as a part of the rezoning approved in 2004, and this proposed rezoning does not request any additional units to what is already approved. The only significant change to the study would be the inclusion of the discussion about a 50-lot workforce housing development. Workforce housing has a more negative impact on the County, as opposed to the other market rate proposals. However, workforce housing was targeted in the 2009 Comprehensive Plan as a needed unit type in the County.

#### 5. Public Facilities

##### Proffers:

- A cash contribution of \$ 17,115.00 per each single-family detached dwelling unit has been proffered to the County to mitigate the impacts from physical development and operation of the property [Proffer No. 10(b)].

**Staff Comments:** This project is located within the DJ Montague Elementary, Toano Middle, and Warhill High Schools districts. Under the proposed Master Plan, 50 non-age restricted residential units are proposed. With respect to the student generation and the current school capacities and enrollments for 2009, the following information is provided:

##### *Student Projections:*

- Single-Family Detached:  $0.41 \text{ (generator)} \times 50 \text{ (residential type)}$  generates **20.5 new students**

A total of 21 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 2 below illustrates the expected number of students being generated by the residential cluster and overall student capacity for DJ Montague Elementary School, Toano Middle School and Warhill High School.

**Table 2-Student Enrollment and School Capacity for JCC-Williamsburg Schools 2009**

School	Effective Capacity <sup>1</sup>	Current 2009 Enrollment	Projected Students Generated	Enrollment+Projected Students
DJ Montague Elementary School	590	581	9	590
Toano Middle School	822	859	5	864
Warhill High School	1,441	1,132	7	1139
Total	2,853	2572	21	2593

Based on this analysis, the twenty-one students projected to be generated from the new development would not cause the enrollment levels for DJ Montague Elementary or 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, based on Effective capacity. As it is noted that a new Middle School (Lois S. Hornsby Middle) is funded and is scheduled to open in 2010, staff believes that this proposal would still meet the APF Policy Guidelines.

## 6. Parks and Recreation

### Proffers:

- A contribution in the amount of Four-Hundred Seventy-Seven and 58/100 Dollars (\$477.58) shall be made to the County for each Residential Unit developed on the Cluster Property in accordance with the County Comprehensive Parks and Recreation Plan proffer guidelines. The Master Plan also calls for a minimum of a .3 acre park with at least a 2,500 SF playground.

**Staff Comments:** Staff finds that the proffers meet the requirements established by the Parks and Recreation proffer guidelines.

## Comprehensive Plan

### Land Use

Designation	<p><i>Low-Density Residential and Rural Lands (Page 152 and 153):</i></p> <p>Rural Lands are areas containing farms, forests, and scattered houses exclusively outside of the Primary Service Area (PSA), where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Recommended uses for areas designated Rural Lands are agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.</p> <p>Recommended uses for Low-Density Residential include, very limited commercial establishments, churches, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits.</p> <p><b>Staff Comment: All of the existing Colonial Heritage master planned development is currently located inside the Primary Service Area on land designated Low-Density Residential or Mixed-Use, with the exception of the 50-lot rural cluster, which is consistent with its' Rural Lands designation.</b></p> <p><b>The new proposed development is all located on lands designated Rural Lands and proposes extension of public water and sewer outside the Primary Service Area to serve a suburban residential development design. The Rural Lands description notes that lands are exclusively outside the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for the future. None of the proposed development, including the R-2 cluster, is consistent with the Rural Lands Comprehensive Plan designation, and the development would be located in areas where utilities and services were not planned for.</b></p> <p><b>Furthermore, the plan is a violation of the PSA growth management policy and sets a precedent for expansion of private development outside the PSA. The type and intensity of development already approved is consistent with the affirmation of the PSA boundary by the Board of Supervisors in November 2009 and consistent with</b></p>
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	<p><b>the Rural Lands description in the Comprehensive Plan. Approved development in the rural cluster outside the PSA is very low density and consists of 50 lots on 221 acres or .226 units an acre.</b></p> <p><b>The proposed density for the new area in Land Bay 8 of the Colonial Heritage Master Plan on this acreage would be 4.6 dwelling units an acre. Regardless of any positive impact created by the proposed residential cluster, 66 acres of land would be developed at this proposed density of 4.6 dwelling units an acre compared to a .33 dwelling unit an acre recommendation for lands designated Rural Lands and located outside the PSA. Again, the by-right development potential for this area is .226 dwelling units an acre. Many of the proposed units would not be realized on this new land if not rezoned.</b></p>
Density	<p><i>Recommended Rural Lands Density-Page 152:</i> In terms of the desired scale of rural land developments, very low density development, significantly lower than currently permitted, or rural clusters on a small scale which meet the design guidelines of the Rural Lands Development Standards are encouraged while large concentrations of residential development are strongly discouraged as such subdivisions interrupt rural qualities and significantly increase the demand for urban services and transportation facilities.</p> <p><b>Staff Comment: The current density of rural lands is one dwelling unit per three acres. The Comprehensive Plan recommends development be significantly lower than this, however, the proposed Master Plan would have a density of 4.4 dwelling units an acre for the Mixed-Use acreage and a density of almost one dwelling unit an acre for the residential cluster. The language in this section also <i>strongly discourages</i> concentrations of residential development as such subdivisions interrupt rural qualities and significantly increase demand for urban services and transportation facilities.</b></p>
Development Standards	<p><i>1. Use and Character Compatibility (a)- Page 152:</i> Uses in Rural Lands should preserve the natural, wooded, and rural character of the County. Particular attention should be given to the following: (i) locating structures and uses outside of sensitive areas, (ii) maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and between uses, (vii) minimizing the number of street and driveway intersections along the main road by providing common driveways and interconnection of development.</p> <p><i>2. Residential Rural Clusters-Page 152:</i></p> <p><b>a)</b> Minimize the impact of residential development by preserving a substantial amount (at least two-thirds) of the site in large undivided blocks of land for permanent open space.</p> <p><b>b)</b> Appropriate goals for open space and lot layout include preservation of farmland, open fields, scenic vistas, woodland, meadows, wildlife habitats, and vegetation; protection of environmentally sensitive land including wetlands, stream corridors, and steep slopes; roadway buffers; and preservation of scenic views.</p> <p><b>c)</b> The goals of the open space and lot layout should be shown on a conceptual plan, and the design should support these goals. For instance, if preservation of agriculture is one of the main goals of the open space, the open space should encompass that land which is most suitable for farming (topography, soils). Blocks of land large enough to support a farm should be set aside in the open space. In addition, potential conflicts between the uses should be minimized by designing buffers between the farmland and the residential development. Similar design considerations would be expected to support other open space goals as well.</p> <p><b>d)</b> The open space should be placed in a conservation easement or the equivalent to ensure that the land will remain undeveloped.</p> <p><b>e)</b> The visibility of the development from the main road should be minimized. It is</p>

	<p>recommended that lots be placed along an access road rather than along the main route so that the view from the main route still appears rural in nature.</p>
	<p><b>Staff Comment: All sites in the County have different characteristics that need to be taken into account when determining site design standards for cluster development. As explained in the Environmental Impact discussion section earlier in this application, there are both positive and negative site design features for an R-2 residential cluster compared to the already approved rural cluster.</b></p> <p>Normally natural open spaces are integrated throughout the entire development and blend the manmade-to-natural landscape and are located in areas that conserve features worthy of protection such as natural streams, wetlands, lakes, etc. While the proposed 90 acre conservation open space area provides a substantial contiguous amount of land for conservation, other aspects of the design have greater environmental impacts than the rural cluster. Mass clearing and grading could impact intermittent streams and the greater density proposed for the eastern side of Deer Lake (because of the Mixed-Use area) could threaten endangered species conservation area more than the rural cluster option.</p> <p>The goals of the rural cluster description are to preserve farmland and agricultural land. It was not the intent of this description to encourage low-density residential densities on rural lands as long as portions of the property were preserved as open space. Rural Land's density standards also apply, and the density of the Mixed-Use area should be considered along with the consideration of the open space conservation area. More land is being developed than just the residential cluster area, and this land is not being developed with a rural cluster design. <b>The development proposal as a whole will have an impact on Rural Lands.</b></p>
Goals, strategies and actions	<p><i>Action 1.1.3-Page 163:</i> Use policy and ordinance tools to ensure the provision of open space. In particular, maintain or increase incentives for cluster development in exchange for additional open space that provides significant benefits to the community.</p> <p><i>Strategy #1.4- Page 164:</i> Direct growth into designated growth areas in an efficient and low-impact manner.</p> <p><i>Action 1.4.1-Page 164:</i> Enforce policies of the Comprehensive Plan to steer growth to appropriate sites in the Primary Service Area.</p> <p><i>Action 1.4.4-Page 165:</i> Restrict the extension of water and sewer utilities, and the formation of new central sewer systems in areas outside the PSA. Extend water and sewer service in the Primary Service Area according to a phased plan in accordance with the County's Comprehensive Plan and JCSA master water/sewer planning.</p> <p><b>Staff Comment: This proposal is clearly contrary to Actions 1.4.1 and 1.4.4 of the Comprehensive Plan. The Comprehensive Plan uses the Primary Service to direct growth to appropriate sites and restrict the extension of water and sewer utilities. The plan proposes an extension of public utilities outside the PSA and sets a precedent for that extension for private development.</b></p> <p>The applicant has already proffered to conserve 282 acres of the Boy Scout property under the existing Colonial Heritage Master Plan. While the additional 90 acres provides a benefit to the County, increasing the conservation area on this property by a third does not off-set the impact of violating the County's strongest growth management policy.</p>

## Economic Development

Goals, strategies and actions	<i>Action 1.2.3-Page 29:</i> Support the provision of mixed cost and affordable/workforce housing near employment centers and transportation hubs.
	<b>Staff Comment: The original proposal for the 50-lot cluster was for market rate housing. The new proposal continues to propose market rate units. The applicant had considered offering workforce housing units during the Comprehensive Plan Land Use Map designation change process, but has decided to continue to offer the units at market rate under this rezoning proposal.</b>

## Housing

Goals, strategies and actions	<i>Action 1.1.4-Page 45</i> Guide new residential development to areas that are served by public utilities and that are convenient to public transportation and major thoroughfares, employment centers, schools, recreation facilities, and shopping facilities.
	<i>Strategy 1.3-Page 47:</i> Increase the availability of affordable and workforce housing, targeting households earning 30%-120% area median income as established by HUD.
	<i>Action# 1.3.15-Page 47:</i> Promote the full integration of affordable and workforce housing units with market rate units within residential developments and throughout the Primary Service Area.
	<b>Staff Comment: The original proposal for the 50-lot cluster was for market rate housing. The new proposal continues to propose market rate units. The applicant had considered offering workforce housing units during the Comprehensive Plan Land Use Map designation change process, but has decided to continue to offer the units at market rate under this rezoning proposal.</b>

## Environment

Yarmouth Creek Watershed Management Plan	<i>Page 66:</i> Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin. The Creek drains into the Chickahominy River, which discharges into the James River. A recent natural areas inventory classified almost half of the watershed as moderate to high in terms of biodiversity present. The watershed contains extensive complexes of wooded swamp, freshwater wetland, and rare tidal freshwater marsh which support at least one heron rookery and seven globally rare or state rare species among other flora and fauna. The Board of Supervisors adopted the six goals and 14 priorities associated with the Yarmouth Creek Watershed Management Plan by resolution dated October 10, 2006.
	<b>Staff Comment: The new residential cluster would be subject to County Special Stormwater Criteria.</b>  <b>The new development would also be subject to the Board of Supervisors resolution for Resource Management Area (RMA) buffers for legislative cases because of the Yarmouth Creek Watershed Management Plan. This would require a 50 ft. buffer on intermittent streams and non-Resource Protection Area (RPA) wetlands as well as a 200 ft. buffer beyond the 100' RPA buffer on the non-tidal mainstem of Yarmouth Creek. The 200 ft. buffer on the mainstem would be contained in the 90 acre conservation area. The rural cluster would not be subject to the BOS resolution as the SUP was approved before the resolution and the plan has sufficient lot and road level detail to grandfather it under the old requirements.</b>
Goals, strategies and actions	<i>Action 1.1.3-Page 78 :</i> Through the Chesapeake Bay Preservation Ordinance, enforce Resource Protection Areas (RPAs) protecting all tidal wetlands, tidal shores, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, perennial streams and a 100-foot-wide buffer adjacent to and landward of other RPA components.

	<p><i>Action 1.3.5-Page 81:</i> Continue to develop and enforce zoning regulations and other County ordinances that ensure the preservation to the maximum extent possible of rare, and threatened and endangered species, wetlands, flood plains, shorelines, wildlife habitats, natural areas, perennial streams, groundwater resources, and other environmentally sensitive areas.</p>
	<p><b>Staff Comment:</b> Both the existing approved rural cluster and the newly proposed residential cluster both provide for the 100' buffer adjacent to RPA. Both developments meet the Chesapeake Bay Preservation Ordinance goals of protecting tidal wetlands, tidal shores, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, as described in Action 1.1.3.</p> <p>The existing Master Plan for Colonial Heritage has identified a number of rare or endangered species in the existing Land Bay 7&amp;8 areas as shown on the Master Plan. These areas are set aside for conservation purposes. However, given the additional proposed land being added to Land Bay 8, this sizable density increase adjacent to Deer Lake could threaten sensitive environmental features more than the rural cluster option.</p>

### Community Character

Goals, strategies and actions	<p><i>Action #1.3.5- Page 99:</i> Expect all currently approved and new development to blend carefully with the topography and surrounding vegetation, to preserve unique formations, greenery, and scenic views, and to use sustainable plantings and building techniques.</p>
	<p><b>Staff Comment:</b> As previously discussed in the Environmental Impact section, cluster developments need to be evaluated for their environmental benefits on a case-by-case basis. This parcel contains a number of sensitive environmental features. Cluster development for this parcel would most likely mean mass clearing and grading which may adversely affect the surrounding character of the area. While land is preserved around the northwest portion of Deer Lake, the entire expanse of the eastern side of the lake will be exposed to much more intense development because of the added Mixed-Use zoned land proposed by the applicant. While the approved rural cluster proposes units in this area it is at a much less intense density (.226 dwelling units an acre). Since mass clearing and grading is not anticipated for this approved rural cluster, staff believes that this development would better blend with the topography and surrounding vegetation, to preserve the unique character of this area, more so than the proposed development.</p>

### Transportation

	<p><i>Action#1.1.2-Page186:</i> Ensure that new developments do not compromise planned transportation enhancements. New development should minimize the impact on the roadway system by:</p> <p>(a) Limiting driveway and other access points and providing shared entrances, side street access and frontage roads;</p> <p>(b) Providing a high degree of interconnectivity within new developments, adjoining new developments, and existing developments using streets, trails, sidewalks, bikeways, and multipurpose trails;</p> <p>(e) Implementing strategies that encourage shorter automobile trips and accommodate walking, bicycling, and use of public transit.</p>
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	<p><b>Staff Comment: The new rezoning proposal by the applicant does not increase the total number of units in the Colonial Heritage development or the 50-lot cluster options. There will not be a significant number of new trips generated because of this proposal. Both the approved rural cluster and the proposed residential cluster are proposing the same number of entrances onto Jolly Pond Road (one entrance, with the ability of the Planning Commission to approve an additional entrance if requested by the applicant), so both developments should minimize the impact on the roadway system.</b></p> <p><b>VDOT requested that the applicant provide a turn lane warrant analysis for the Jolly Pond Road entrance to this property prior to site plan approval for the development and the applicant has included that provision in their proffers.</b></p>
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### **Comprehensive Plan Staff Comments**

Staff finds the proposal to be clearly contrary to the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The expansion of public utilities outside the Primary Service Area, and the development of suburban residential densities on Rural Lands is strongly discouraged by many sections of the Comprehensive Plan. While 90 acres of the rural cluster site is being proposed as open space, over 66 acres on the east side of Deer Lake, that was previously a part of the rural cluster acreage, would be rezoned to Mixed-Use and would develop at a much greater intensity than would be possible under the approved rural cluster. Much of the newly proposed acreage will be designed, not as a cluster development, but rather under the same design as the Colonial Heritage development. Even with the proposed 90 acres of conservation area, the total acreage under this application will see a much more intense development than the approved rural cluster.

### **RECOMMENDATION:**

Staff finds the proposal to be clearly contrary to the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff also finds this proposal clearly violates the Primary Service Area as a growth management tool, as it proposes an extension of suburban residential development outside the PSA. While the proposed 90 acre conservation open space area provides a substantial contiguous amount of land for conservation, on balance, this feature with other aspects of the proposed design show no distinct environmental benefit compared to the rural cluster. Regardless of any positive impact created by the proposed residential cluster, under this new proposal 66 acres of land would be rezoned Mixed-Use and developed at a proposed density of 4.6 dwelling units an acre, which is much greater than the .33 dwelling units an acre recommended for Rural Lands outside the PSA. The rural cluster development potential for this area is .226 dwelling units an acre. Many of the proposed units would not be realized on this new land if not rezoned. Any perceived benefits from the proposed residential cluster must also take into account the impact that will be created by the new Mixed-Use area as well. Staff recommends the Planning Commission recommend denial of this rezoning, master plan amendment and the special use permit applications to the Board of Supervisors. Should the Planning Commission wish to recommend approval of these applications to the Board of Supervisors, staff recommends attaching the following conditions to the utility extension SUP as well as recommending approval of the attached proffers:

1. 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 clearing, grading and excavation of trenches necessary for the water and sewer mains.
2. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections of the R-2 residential cluster and the Mixed-Use area under the Colonial Heritage Master Plan project. In addition, for each platted lot recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City as of April 7, 2010, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4" service line and 3/4" water meter.

3. No connections shall be made to the gravity sanitary sewer main which would serve any property located outside the PSA except for connections of the R-2 residential cluster and the Mixed-Use area under the Colonial Heritage Master Plan project. In addition, for each platted lot recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City as of April 7, 2010, that is vacant, outside the PSA and adjacent to the main, one connection shall be permitted with no larger than a 4-inch service line.
4. All permits and easements shall be acquired prior to the commencement of construction for the water and sewer transmission mains.
5. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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Jason Purse, Senior Planner

ATTACHMENTS:

1. Location Map
2. Master Plan dated June 21, 2002 and most recently revised February 24, 2010
3. Proffers
4. Community Impact Statement
5. Fiscal Impact Statement
6. Traffic Impact Study
7. Approved Rural Cluster Master Plan for SUP-0021-2004
8. Approved SUP conditions for Rural Cluster

**SPECIAL USE PERMIT-0028-2009 Ingram Road Pegasus Wireless Communications Facility  
Staff Report for the April 7, 2010 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:	February 3, 2010	7:00 PM (deferred)
	April 7, 2010	7:00 PM
Board of Supervisors:	May 11, 2010	7:00 PM (tentative)

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

**SUMMARY FACTS**

Applicant:	Mr. Stephen Romine, LeClaire Ryan
Land Owner:	Ingram Road LLC
Proposal:	To allow the construction of a 124 foot (120' tower with 4' lighting rod) "slick stick" Wireless Communications Facility (WCF) on the subject property.
Location:	108 Ingram Road
Tax Map/Parcel:	4710100007
Parcel Size:	6.98 acres
Existing Zoning:	B-1, General Business
Comprehensive Plan:	Mixed Use
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

Due to the proposed height of the tower, the onsite topography, and the lack of adequate tree cover, the proposed tower will be highly visible from north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. The proposed WCF will also be visible from a portion of Powhatan Crossing and multiple points within Brandon Woods, The Villas at Five Forks, and the Governors Green Shopping Center. Because of this, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities. Staff recommends that the Commission recommend denial of the application. Should the Commission recommend approval of the application, staff suggests such approval be contingent upon the conditions listed at the end of the report.

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

## **PROJECT DESCRIPTION**

Mr. Stephen Romine has applied for a Special Use Permit to allow the construction of a 124 foot wireless communication facility (WCF) to be located in the wooded front buffer of 108 Ingram Road. Tower mounted communication facilities higher than 60' in the B-1, General Business district require a Special Use Permit (SUP). The proposed WCF would be a "slick stick" with no visible external antennas. An illustration of the proposed tower is provided at the end of the report (Attachment 5).

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Mill 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**

The proposed tower site is located within the wooded buffer on the south side of the property adjacent to Route 5. The trees surrounding the site are in the 60 to 70 foot range. The proposed tower is approximately 800 feet from the closest home in Baron Woods, 1,100 feet from Brandon Woods, and 1,800 feet from Graylin Woods. The combination of topography, low tree cover, and proximity to multiple neighborhoods and primary routes would make the proposed tower highly visible from multiple locations.

Based on a publicly advertised balloon test on February 22, 2010, staff finds that the proposed tower would be highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. Due to topography on Route 5, on a westbound approach toward Ironbound Road, the proposed tower would be would become highly visible at the entrance of Graylin Woods and then disappear from view until eastern entrance of John Tyler commercial Park. The proposed WCF is also visible through the trees at multiple points within Brandon Woods and the entrance to Powhatan Crossing. The proposed tower was not visible from locations within Graylin Woods, Westray Downs, Village Green or Baron Woods. The proposed tower would be the dominating eastward view for many locations within the Villas at Five Forks. Attachment 2 illustrates documented locations where staff was able to view the balloon during the height simulation.



## COMPREHENSIVE PLAN

### Community Character

Development Standards & GSAs	<i>Five Forks</i> (pg 89) Five Forks is generally understood to encompass the area that lies within three-quarters of a mile of the intersection of John Tyler Highway and Ironbound Road ( During the 2008 Comprehensive Plan update, Five Forks became a Community Character Area (CCA).
	The Primary Principles for the Five Forks Area referenced in the Comprehensive Plan state: Building architecture, scale, materials, spacing, height and color should respect the architectural context of existing structures such as the historic schoolhouse and veterinary clinic and maintain the village character of Five Forks. New buildings should attempt to emulate distinguishing architectural elements of existing structures such as windows, roof lines and cornices.
	<i>Action 1.2.1.</i> "... Encourage developers to apply the design guidelines developed for Toano and Five Forks to projects within these areas..."
	<b>Staff Comment:</b> Staff finds the proposal inconsistent with the Primary Principles for the Five Forks Area and action 1.2.1 as the proposal is dissimilar to any historic element of the CCA and does not emulate distinguishing architectural elements of the surrounding area.
	<i>Suburban Community Character Corridor recommendation</i> (pg 84): The predominant visual character of the suburban CCC should be the built environmental and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.
	<b>Staff Comment:</b> Though the description of the Comprehensive Plan does not specifically discuss WCFs, staff finds the proposal inconsistent with the policy statement as the tower would become a predominant visual feature of Five Forks rather than the built environment and natural landscaping.
	<i>Action 1.1.1</i> Expect that development along Community Character Corridors protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.
	<i>Action 1.2.2</i> Expect that development along Community Character Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.
	<b>Staff Comment:</b> Staff finds this proposal inconsistent with Action 1.1.1 & 1.2.2 as the quality of the historic view shed would be compromised as the tower would become a dominating visual feature.

### Comprehensive Plan

Staff finds this application, as proposed, is not in compliance with the Comprehensive Plan. Given the proposed height of the tower, the onsite topography, and the lack of adequate tree cover, there is no way to provide additional screening for the adjacent neighborhoods and Community Character Corridors. While the proposed tower will provide greater coverage for up to three carriers, the tower will have a negative visual impact on the surrounding area. Areas of visual impact include homes in Brandon Woods and Villas at Five Forks and along the Community Character Corridors of Route 5 and Ironbound Road.

### PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (Attachment #1). 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 an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted an SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. The applicant has provided documentation in the written narrative of the application that discusses failed collocation attempts and offers justification for the proposed location.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regards to demonstrating the necessity for the tower, the applicant submitted propagation maps showing coverage of the area as unreliable. The applicant has explored alternative locations but claims this site is the most viable option.

Standard A3 recommends that the site be able to contain at least two towers on site to minimize the need for additional towers elsewhere. Though it appears structurally possible to locate an additional tower on site, a second tower on the site would make the WCF even more noticeable to adjacent property owners.

Standard A4 regarding allowance of future service providers to co-locate on the tower extension is addressed at the site plan stage through requirements in Section 24-128(3) of the Zoning Ordinance.

B. Location and Design

Performance Standard B1 states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses. The proposed tower is highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary school to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance to the Brandon Woods subdivision. Additionally, the proposed WCF is also visible within Brandon Woods and the Villas at Five Forks. As the proposed tower would be significantly taller than any surrounding structure, staff finds this performance standard has not been met.

Performance Standard B2(a) states that towers should be located in a manner that 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. The proposed tower is not a camouflaged tower, as it is visible above the tree line from off-site properties. The base of the tower, along with any utility structures housed at ground level, will be visible from Route 5 as there are few understory plantings or shrubbery on site. As noted above, the tower has a significant impact on adjacent residential areas and a Community Character Corridor. Therefore it does not meet this performance standard.

Performance Standard B3 states that towers should be less than 200 feet to avoid lighting. This application meets this standard.

Performance Standard B4 states that towers should be freestanding and not supported by guy wires. This application meets this standard.

C. **Buffering**

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot wide wooded buffer around the base of the tower, and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

The tower site is situated among a small area of trees roughly 200 feet back from Route 5 adjacent to the front parking area within an office/warehouse development. These mature trees may partially screen the proposed tower from a distance; however, there are few understory plantings that would screen the base of the proposed tower from view at close proximity. As the proposed tower is highly visible from multiple surrounding developments and likely be visible from the immediate vicinity, staff finds the site inadequate to buffer the proposed tower from view along Route 5 and from within nearby residential neighborhoods. The performance standard has not been met.

## **RECOMMENDATION**

Due to the proposed height of the tower, the onsite topography, and the lack of mature tree cover, the proposed tower will be highly visible from north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. The proposed WCF will also be visible from a portion of Powhatan Crossing and multiple points within Brandon Woods, The Villas at Five Forks, and the Governors Green Shopping Center. Because of this, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities. Staff recommends that the Commission recommend denial of the application. Should the Commission recommend approval of the application, staff suggests such approval be contingent upon the conditions listed below.

**1. Term of Validity:** This SUP shall be valid for a total of one wireless communications facility at a total height of 124' including all appurtenances on the property as depicted on Sheet A-2 of the *Special Use Permit application site plan titled "Pegasustower A New 120' Stealth Pole in a New Tower Compound"* prepared by Christopher D. Morin dated of February, 11, 2010.

**2. Time Limit:** A final Certificate of Occupancy shall be obtained from the James City County Codes Compliance Division within two (2) years of approval of this special use permit, or the permit shall become void.

**3. Structural and Safety Requirements:** 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.

**4. Tower Color:** The tower color shall be gray. Any alternative color used shall be approved by the Planning Director, or his designee, prior to final site plan approval.

**5. Advertisements:** No advertising material or signs shall be placed on the tower.

**6. Additional User Accommodations:** 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.

**7. Guy Wires:** The tower shall be freestanding and shall not use guy wires for support.

**8. Enclosure:** The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.

**9. Tree Buffer:** A minimum buffer of 100 feet in width of existing mature trees shall be maintained between the tower and Ingram Road/John Tyler Highway. This buffer shall remain undisturbed except for the access drive and necessary utilities that accompany the operation of the tower.

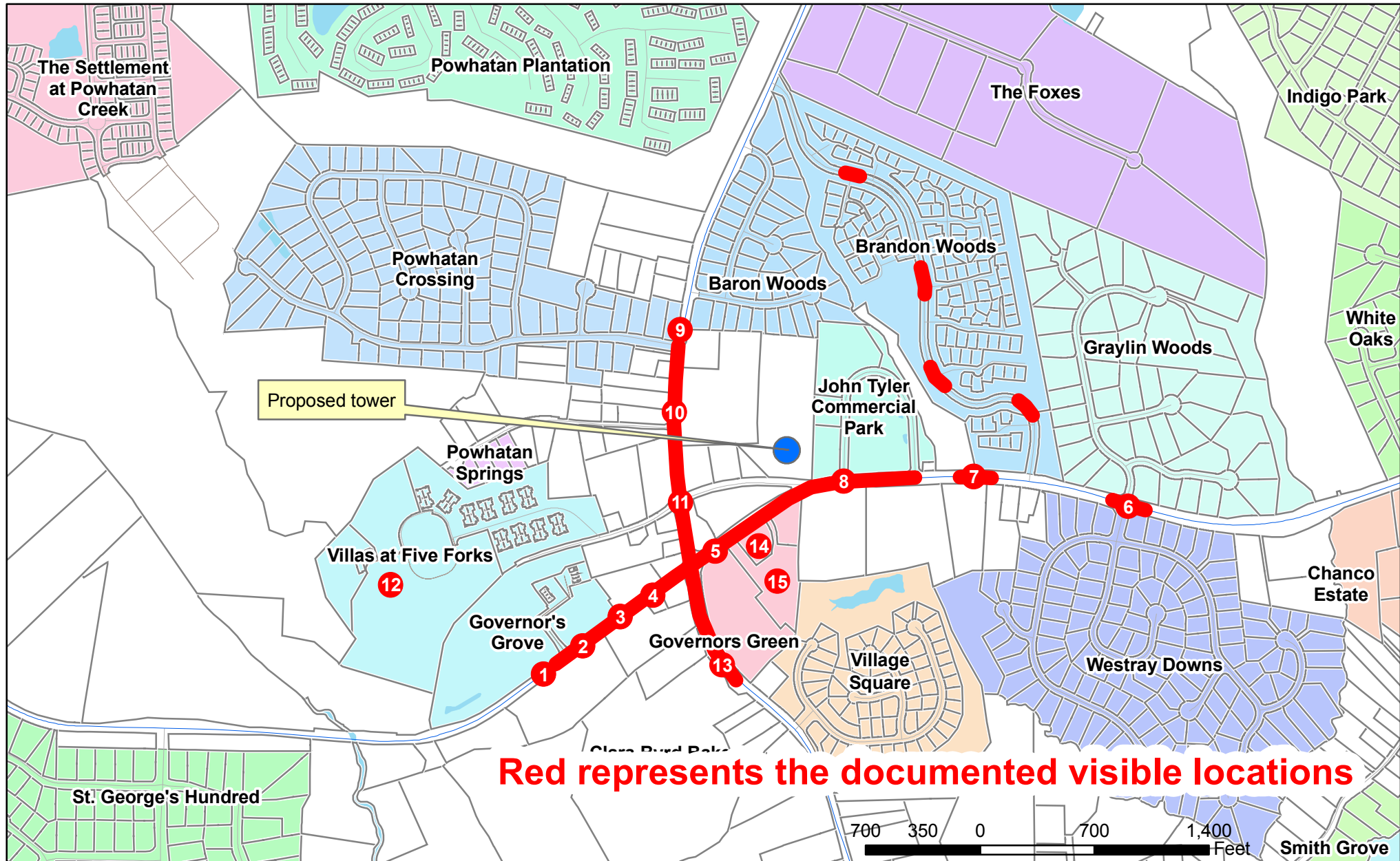
10. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

**ATTACHMENTS:**

1. Performance Standards for WCFs Policy
2. Location map and balloon test results
3. Binder application
4. Photos from the February 22, 2010 balloon test
5. Illustration of proposed tower

# SUP-0028-2009

## Ingram Road Pegasus Wireless Communication Facility



**REZONING-0003-2009/SPECIAL USE PERMIT-0017-2009 Freedom Market  
Staff Report for the April 7, 2010 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:	April 7, 2010	7:00 PM
Board of Supervisors:	May 11, 2010	7:00 PM (tentative)

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

**SUMMARY FACTS**

Applicant:	Mr. Philip Richardson, Whitfield Bacon LLC
Land Owner:	Whitfield Bacon LLC
Proposal:	To allow for the operation of a convenience store with fuel sales on the subject property.
Location:	5534 Centerville Road
Tax Map/Parcel:	3130100011
Parcel Size:	1.15 acres
Existing Zoning:	LB, Limited Business
Proposed Zoning:	B-1, General Business with proffers
Comprehensive Plan:	Neighborhood Commercial
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

Staff recommends the Commission recommend approval of the application and acceptance of the voluntary proffers to the Board of Supervisors. Staff finds that, with the attached conditions and proffers, the proposed convenience store with fueling stations are generally consistent with the Comprehensive Plan and compatible with the surrounding zoning and development.

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

## **PROJECT DESCRIPTION**

Mr. Philip Richardson has applied for a rezoning and special use permit (SUP) to allow for the operation of a convenience store with fuel sales at 5534 Centerville Road. The current zoning of Limited Business precludes fuel sales as a by-right or specially permitted use. The proposed zoning of B-1, General Business, permits convenience stores with fuel sales with a special use permit. The applicant has offered a proffer to restrict other permitted uses on the property to those found in the Limited Business district (condition 1). Mr. Richardson proposes a 2,400 square foot convenience store and three fueling islands (six pumps). The applicant has informed staff that a stand alone convenience store without fuel sales would not be economically viable. The proposed layout of the site is shown on page 2 of the Conceptual Plan (attachment #3); elevations can be found in the front packet of the application binder.

## **HISTORY**

In October 1998, an SUP was approved by the Board of Supervisors for a similar proposal for this site. The proposal was for a 2,700 square foot convenience store with four fueling islands (eight pumps). A zoning change to B-1 was not necessary at the time because a convenience store with fuel sales was a specially permitted use in Limited Business district. The use was later removed from the Limited Business district in the 1999 Zoning Ordinance update. The SUP has expired and is no longer valid.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Powhatan Creek

**Staff Comments:** The Environmental Division offers no objection to this application as currently presented. The applicant has made an agreement with neighboring Longhill Grove Apartments to utilize an existing offsite BMP. The Longhill Grove BMP was originally designed to treat runoff from the Freedom Market parcel. The bioretention pond located in the rear of the proposed building will drain to the Longhill Grove BMP and is provided to meet the requirements of Special Stormwater Criteria (SSC).

### **Public Utilities**

**Service:** JCSA

**Staff Comments:** The site is served by public water and sewer. Any upgrades required as a result of the proposal would be the applicant's responsibility.

### **Transportation**

As the proposal would generate over 100 peak hour trips, the submission of a traffic impact study was required by Ordinance. The traffic study concludes that there is adequate capacity at the Centerville Road/Longhill Road intersection to accommodate the proposed development. The traffic study takes into account the turn lane additions and the traffic signal the County will be adding to the intersection in the coming months.

The location of the proposed entrances do not meet VDOT's access management guidelines as they are too close to the intersection of Centerville Road and Longhill Road; however, VDOT has agreed to permit both entrances to the site if certain turning movements are prohibited. The applicant is proposing signage and vehicular channelization (raised curbs or medians) to restrict prohibited turning movements (prevent left turns in from Centerville Road and left turns out on Longhill Road) as shown on page 2 of the Conceptual plan (attachment 3). VDOT has conceptually approved of the design.

## **VISUAL IMPACTS**

The site is located on a vacant parcel of wooded land along two Community Character Corridors. The existing tree line is shown on page 2 of the attached Conceptual Plan. The parcel is flat and consists mainly of second growth pine and sweet gum trees and undergrowth. There are no specimen trees on the site. As the subject property abuts residential land, a 35 foot transitional buffer is required by Ordinance between the proposed development and the neighboring property.

The applicant is proposing a bio-retention pond and swale within the transitional buffer. Documentation has not been provided on what trees would need to be removed to accommodate the proposed stormwater features; however, staff finds it likely that most, if not all of the trees within the 35' buffer would need to be removed. The existing density of the trees will prevent them from growing to their maximum potential height.

As the site is adjacent to existing three story residential buildings, staff finds mature vegetation necessary to adequately screen the apartments at Longhill Gove. Though retention of the trees would provide some immediate screening between Longhill Gove and the convenience store, new staggered evergreen plantings with varying heights and underbrush would likely be more effective. Evergreens could provide year round screening and would be spaced in a manner where they would have room to grow. With the proposed SUP conditions 4 and 6, staff finds the proposal would adequately screen Longhill Grove apartments.

Staff has also recommended condition (condition# 4) ensuring consistent architectural treatments on all four sides of the proposed convenience store, as it is likely that the rear of the structure will be in full view from portions of the Longhill Gove apartments until any new landscaping matures. The proposed 30 foot Community Character Corridor buffer (rather than the typical 50') is permitted by Ordinance by a special provision for lots under 1.5 acres. The buffer would be planted with ornamental trees and shrubbery.

## **Archaeology**

The archaeological study that was conducted for Freedom Park states that the park and the land within the vicinity of the intersections of Centerville and Longhill roads have potential for containing significant artifacts.

This area was the site of the *Battle of Spencer's Ordinary* and was also the site of the Centerville Free Black settlement. A previous Phase II study on the property recommended a Phase III Data recovery. The applicant has proffered a condition stating that prior to land disturbing, the Owner will have prepared a Phase III Data Recovery Plan and completed archaeological excavation under the supervision of the Virginia Department of Historic Resources.

## **Architecture**

Staff finds the design of the convenience store and the canopy as depicted in the attached rendering consistent with the Neighborhood Commercial Development Standards policy. It is worth noting that the policy is only applicable for property zoned Limited Business; however, staff finds it as a valuable tool to compare against for any land designated Neighborhood Commercial. Staff is proposing SUP condition #1 and #4 to ensure final elevations are consistent with this application.



## COMPREHENSIVE PLAN

### Land Use Map

Designation & Recommended Intensity	Neighborhood Commercial (page 162) :
	Neighborhood scale commercial, professional, and office uses such as individual medical offices, branch banks, small service establishments, day care centers, churches, convenience stores with limited hours of operation, small restaurants, and smaller public facilities. Examples of uses which are considered unacceptable include fast-food restaurants, 24- hour convenience stores and gas stations.
	<b>Staff Comment:</b> A convenience store with limited hours of operation is a recommended use in Neighborhood Commercial designated land. As fuel sales is a secondary use, staff would not categorize the proposed operation as a ‘gas station.’ The Zoning Ordinance differentiates automobile service stations (gas stations) and convenience stores with fuel sales. Additionally, as the proposed zoning change to B-1, General Business, is usually considered more appropriate for lands designated Community Commercial, the applicant has proffered a condition (condition #1, restricting the property to uses found in the Limited Business district (with the addition of convenience store with fuel sales).
	Neighborhood Commercial (page 162) :
	The total building area within any area designated Neighborhood Commercial should generally be no more than 40,000 square feet in order to retain a small-scale neighbor character.
	<b>Staff Comment:</b> The proposed convenience store is 2,400 square feet under the 40,000 square foot recommended maximum for this area.

### Community Character

CCC Recommendations and GSAs	Community Character Corridors and Right-of-Way Landscape Requirements (pg 92)
	When development occurs along one of the County’s Community Character Corridors or other roads, landscape buffers are required to be preserved or installed along the rights-of-way. Community Character Corridors require a 50-foot buffer for commercial projects and a 150-foot buffer for residential projects.
	<b>Staff Comment:</b> Both Longhill Road and Centerville Road are Community Character Corridors. Due to the small size of the parcel, the applicant is proposing a 30 foot buffer along both roads. An expansion to a 50 foot buffer severely restricts the developable area of the site. Staff does not believe it is the intent of the Comprehensive Plan to preclude development of smaller parcels by means of the Community Character Corridor recommendations.
	<i>Action 1.1.1.</i> ”Expect that development along Community Character Corridors protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains a greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors”.
	<b>Staff comment:</b> Staff finds the proposed structure at a scale similar to other development in the area and the gas pump canopy well designed and relatively unobtrusive. The proposal should not be visually disruptive to the character of Longhill or Centerville Roads.
	<i>Action 1.3.3.</i> ”Require illustrative drawings, including streetscapes, architecture, and perspectives as a binding component for appropriate rezoning and special use permit applications.
	<b>Staff Comment:</b> The perspectives submitted will be compared to any elevations submitted during site plan review.

## **Comprehensive Plan**

This proposal is generally consistent with the Comprehensive Plan. Staff finds that the conditions attached to the Special Use Permit and proffers will assure orderly development of the site and provide a development which complements the surrounding community.

## **RECOMMENDATION**

Staff recommends the Commission recommend approval of the application and acceptance of the voluntary proffers to the Board of Supervisors. Staff finds that, with the conditions listed below and proffers, the proposed convenience store with fueling stations are generally consistent with the Comprehensive Plan and compatible with the surrounding zoning and development.

1. Master Plan and Use: This Special Use Permit shall be valid for a convenience store with fuel sales at 5534 Centerville Road ("the Property") as shown on the plan titled "Conceptual Plan For Freedom Market" prepared by AES Consulting Engineers, dated June 29, 2009 and revised March 4, 2010 (the "Master Plan") with minor changes thereto as determined by the Planning Director. The Property shall not contain any vehicle wash facilities.
2. Hours of Operation: The daily hours of operation for both the convenience store and gas pumps shall be limited to the hours of 5:00a.m. to 11:00p.m. The daily hours for deliveries and solid waste pick-up shall be limited to the hours between 7:00 a.m. and 8:00p.m.
3. Intercoms: Any intercom systems designed to allow oral communication between employees and customers shall operate in such a manner that they will not be audible by adjacent property owners.
4. Architectural Review: The architecture of the convenience store and the fuel island canopy shall be substantially in accordance with the submitted rendering prepared by Paul White referenced on page 2 of the Community Impact Statement. No stucco or *Exterior Insulation & Finish System* (EIFS) material shall be used on the building or canopy. The canopy roof shall have a roof constructed of materials identical to the store's roof. The canopy shall contain architectural features and materials that complement the store. The rear and sides of the convenience store shall have windows and other treatments consistent with the front of the structure. The architectural design and materials for both the building and canopy shall be approved by the Planning Director prior to final site plan approval.
5. Fueling Stations: There shall be no more than three (3) fueling islands (six (6) vehicle fueling positions) permitted on the Property. The pumps shall be arranged in a manner generally consistent with the Master Plan. No high pressure diesel pumps for tractor trailer fueling are permitted. The maximum height of the pump island canopy shall not exceed 20 feet from current grade.
6. Lighting: Any exterior site or building lighting, including canopy lighting, shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the Property lines.

7. Signage: The freestanding sign shall be ground mounted and shall not exceed a height of 6 feet. The sign's supporting structure shall be constructed to match the building and its design shall be approved by the Planning Director prior to the issuance of a sign permit. The building face sign(s) shall not exceed a cumulative size of 16 square feet and the location, design, materials, and lighting of such sign(s) shall be approved by the Planning Director. No signs shall be allowed on the canopy.

8. Landscaping: An enhanced landscaping plan shall be provided in the buffers along Centerville Road and Longhill Road. Enhanced landscaping shall be defined as 133 percent of the minimum ordinance size requirements of planting materials. The 35' transitional buffer between the Property and Longhill Grove shall substantially screen the Property using evergreen vegetation and fencing. The transitional buffer shall be designed such that when mature, the vegetation shall substantially obscure the view of the convenience store and gas pumps from all stories of the Longhill Grove apartments. The proposed effect must be demonstrated to the Planning Director prior to final site plan approval. Dumpsters shall be completely screened on three sides and the front shall be gated.

9. Dumpster screening: The dumpster shall be completely screened on three sides with brick or an alternative material approved by the Planning Director. The front gate shall be a dark color and shall screen the view of the dumpster.

10. Trash Removal: Rubbish bins shall be available for use by customers during all operating hours and shall be emptied on a daily basis.

11. Outside Merchandise: No outside display, sale, or storage of merchandise shall be permitted except for the outside storage of propane. Merchandise shall include but not be limited to ice, soda, candy, newspaper, or snack machine(s). Outside propane storage shall be screened from view. Public telephones, automatic transfer systems (ATMs) for cash, and public restrooms shall be located inside the store.

12. Water Conservation: The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

13. Stormwater Pollution Prevention Plan: Prior to issuance of the certificate of occupancy ("CO"), a stormwater pollution prevention plan shall be submitted to the Environmental Director for review and approval.

14. Spill Prevention and Control Plan: Prior to issuance of the CO a spill containment plan that addresses the chemical handling and storage areas shall be submitted to the Environmental Director and to the Fire Chief for their review and approval.

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

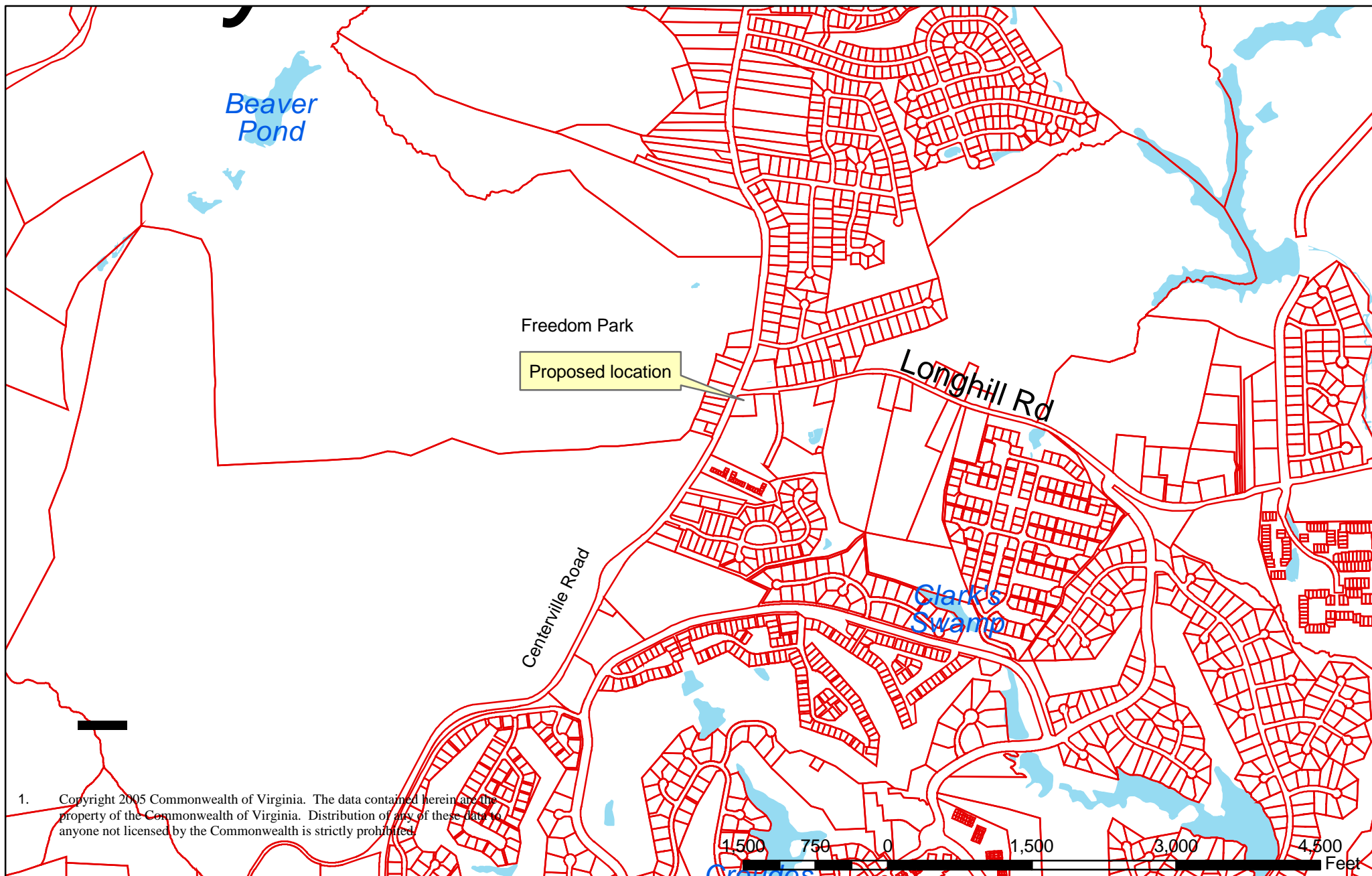
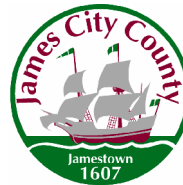
16. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTACHMENTS:

1. Location map
2. Community Impact statement
3. Conceptual Plan
4. Proffers

# Z-0003-2009/SUP-0017-2009

## Freedom Market



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PLANNING DIRECTOR'S REPORT  
April 2010

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

- **New Town.** The Design Review Board did not hold a meeting in March, but approved additional building materials for the TPMG building and a fenced-in patio addition with landscaping to the Short Stop Deli via e-mail. New Town, the DRB, and the County also held a meeting with merchants to discuss signage on March 12.
- **Policy Committee Meetings.** The Policy Committee held a meeting on March 17 to finalize changes to the bylaws and a set of guidelines for external communications with applicants. Both of these items are included in this month's Planning Commission packet. The Committee also discussed the methodology for the upcoming comprehensive ordinance update. No additional Policy Committee meetings are scheduled at this time.
- **Comprehensive Plan.** The 2009 Comprehensive Plan Land Use Map has been printed and is now available for \$10 at the Planning Division front desk. The full Comprehensive Plan text and Land Use Map can be downloaded by visiting [www.jccplans.org](http://www.jccplans.org) or <http://www.jccgov.com/government/administration/comp-plan.html>.
- **Ordinance Update.** In addition to the Policy Committee meeting on March 17, the draft methodology for the update process was discussed at the joint Planning Commission/Board of Supervisors work session on March 23<sup>rd</sup>. The methodology has been refined and revised as a result of the feedback provided to staff during the month of March and is a consideration item on the April Planning Commission agenda.
- **Training.** Staff is taking advantage of webinars that are available from the American Planning Association. April's topics include the American Housing Survey and Development Finance and pro Forms.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – March 9<sup>th</sup> and 23<sup>rd</sup>  
SUP-0024-2009 Hospice House WCF Tower – Deferred until June 8, 2010

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Allen J. Murphy, Jr.

Case Type	Case Number	Case Title	Address	Description	Planner	District
Conceptual Plans	C-0009-2010	The Pavilion at Williamsburg Place	5485 MOORETOWN ROAD	Construct a 40-bed psychiatric care facility.	Kate Sipes	Berkeley
Height Waivers	HW-0001-2010	Busch Gardens Griffon Theatrical Lighting	7851 Pocahontas Trail	Requests amendment to a lighting condition for Griffon coaster to permit theatrical lighting on the coaster for the Summer Nights concert series. Does not expand the coaster or increase its height.	Leanne Reidenbach	Roberts
Site Plan	SP-0013-2010	Colonial Heritage Deer Lake Public Water/Sewer Extension	499 JOLLY POND ROAD	This site plan is for a 2016 sf 4 car garage.	Jose Ribeiro	Stonehouse
	SP-0014-2010	Faith Baptist Church Storage Container SP Amend.	4107 ROCHAMBEAU DR	Construct a storage building addition.	Jason Purse	Stonehouse
	SP-0015-2010	Busch Gardens SP Amend. Wolf Show Platform	700 BLOW FLATS ROAD	Replace existing decking with composite material, add four feet to back side, modify framing to allow three levels, and add pergola structure to provide some shade.	Brian Elmore	Powhatan
	SP-0016-2010	Chickahominy Riverfront Park Crew Team Barn SP Amend.	1350 JOHN TYLER HWY	Construct a 60'x72' pole barn for the William & Mary Crew team on Gordon's Creek.	Luke Vinciguerra	Berkeley
	SP-0017-2010	D.J. Montague HVAC SP Amend.	5380 CENTERVILLE RD	Install geothermal wells within soccer field with associated piping.	Terry Costello	Roberts

	SP-0018-2010	Lumber Liquidators SP Amendment	3000 JOHN DEERE ROAD	Amends plan to allow additional pavement for truck movement and a customer service access drive.	Ellen Cook	Stonehouse
	SP-0019-2010	Mainland Farms Trail - Capital to Capital Trail Connection	4669 SIR GILBERT LOOP	This application is to connect the existing trail complex on Mainland Farms with a trail bisecting the existing agricultural field and connecting to the Capital to Capital Trail.	Sarah Propst	Berkeley
	SP-0020-2010	HRSD Treatment Plant Pressure Control Valve Replacement	300 RON SPRINGS DR	The project consists of the installation of a new pressure control valve facility near HRSD's Williamsburg treatment plant.	Kate Sipes	Powhatan
	SP-0021-2010	King of Glory Lutheran Church SP Amend.	4881 LONGHILL ROAD	Site Plan is for driveway connection from church parking lot to driveway leading to adjacent property recently purchased by the church.	Jose Ribeiro	Roberts
	SP-0022-2010	School Operations Center Parking	597 JOLLY POND ROAD	This plan is for additional employee parking and bus/trailer storage parking area at the School Operations Center on Jolly Pond Road.	Kate Sipes	Roberts
	SP-0023-2010	New Dawn Assisted Living SP Amend.	1807 JAMESTOWN ROAD	This amendment includes added generators, a flag pole, benches and lights, upgraded water system and moved grease interceptor.	Jason Purse	Berkeley



	SP-0024-2010	New Town Sec. 2 & 4, Block 6 & 7, Short Stop Patio SP Amend.	4324 NEW TOWN AVENUE # C	This application proposes a new outdoor patio with fencing and greenery.	Kate Sipes	Berkeley
	SP-0025-2010	Tiffany Restaurant Patio Addition SP Amendment	7201 RICHMOND ROAD	This is to add a concrete slab for an outdoors patio.	Terry Costello	Stonehouse
	SP-0026-2010	Villas at Five Forks Landscaping Amendment	248 INGRAM ROAD	This application is an amendment to an approved landscaping plan.	Scott Whyte	Berkeley
	SP-0027-2010	New York Deli Farmer's Market	6546 RICHMOND ROAD	This application is for a temporary food stand.	Luke Vinciguerra	Stonehouse
	SP-0028-2010	The Pavilion at Williamsburg Place	5485 MOORETOWN ROAD	40-bed psychiatric care facility on site of existing substance abuse treatment facility.	Kate Sipes	Berkeley
	SP-0029-2010	WindsorMeade Villas Screen Porch	3975 WINDSORMEADE WAY	This application is to screen in a porch, required by the ordinance.	Terry Costello	Roberts
Special Use Permit	SUP-0007-2010	Colonial Heritage Deer Lake Public Water/Sewer Extension	499 JOLLY POND ROAD	This application is to extend public water and sewer to 130.3 acres, including a 50 lot residential cluster development.	Jason Purse	Stonehouse
	SUP-0008-2010	Busch Gardens Griffon Theatrical Lighting		The application is for theatrical lighting for summer nights special events. Also see HW-0001- 2010. Application would amend existing lighting conditions for the coaster, but would not add any development	Jason Purse	Roberts
	SUP-0009-2010	Branscome Borrow Pit Renewal	700 BLOW FLATS ROAD	Continuing operation of an existing borrow pit	Kate Sipes	Powhatan

	SUP-0010-2010	Branscome Borrow Pit Renewal	750 BLOW FLATS ROAD	Continuing operation of an existing borrow pit	Jason Purse	Powhatan
	SUP-0011-2010	Colonial Heritage Cluster Overlay	499 JOLLY POND ROAD	This application is to provide a cluster overlay for an R-2 development. See Z- 0001-2009.	Jason Purse	Powhatan
	SUP-0012-2010	Camp Road, Tower Dev Corp Wireless Comm Tower		This proposal is to construct and maintain a wireless communications tower.	Jason Purse	Roberts
	SUP-0012-2010	1111	111	This proposal is to construct and maintain a wireless communications tower.	Jason Purse	Stonehouse
		Branscome Borrow Pit Renewal			Jason Purse	
Subdivision	S-0007-2010	Ironbound Square Revitalization Phase 2 A3	4364 IRONBOUND ROAD	This is the construction plans for 43 lots (out of a total of 51 lots) which are part of Phase II of Ironbound Square Revitalization Area. This project received approval from the BOS as case Z-0009-2006/MP-0010- 2006.	Jose Ribeiro	Berkeley
	S-0008-2010	BLA & BLE Arlington Island Road Lots 3 & 4	712 ARLINGTON ISLAND ROAD	This application is for a boundary line adjustment.	Luke Vinciguerra	Stonehouse
	S-0009-2010	Ford's Colony Sec.11A Lot 150-151 BLE	108 HEATHERY	Extinguish lot lines to create one new lot.	Jason Purse	Roberts
	S-0010-2010	McKown Family Subdivision	5552 RIVERVIEW ROAD	This is a family subdivision associated with SUP-0001- 2010 with lot sizes of less than 3 acres near York River State Park.	Kate Sipes	Stonehouse