

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
OCTOBER 6, 2010 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
 - A. September 1, 2010 Regular Meeting
4. COMMITTEE / COMMISSION REPORTS
 - A. Development Review Committee (DRC)
 - B. Other Committee / Commission Reports
5. PUBLIC HEARING CASES
 - A. Z-0002-2009 / MP-0002-2009 Governor's Grove Section III Proffer and Master Plan Amendment – Deferral requested by applicant until December 1, 2010
 - B. Zoning Ordinance Amendment Section 24-666
 - C. AFD-2-86-2-2010 Hankins Property Croaker AFD Addition
 - D. AFD-5-86-2-2010 Racefield Property Barnes Swamp AFD Addition
 - E. SUP-0020-2010 Diamond Healthcare Special Use Permit Amendment
 - F. SUP-0022-2010 Charlie's Antiques
 - G. SUP-0023-2010 Cranston's Mill Pond Dam
6. PLANNING DIRECTOR'S REPORT
7. COMMISSION DISCUSSIONS AND REQUESTS
8. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF SEPTEMBER, 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
Jack Fraley
Mike Maddocks
Rich Krapf
Al Woods
Tim O'Connor

Staff Present:

Allen Murphy, Director of Planning/
Assistant Development Manager
Adam Kinsman, Deputy County Attorney
Ellen Cook, Senior Planner II
Kate Sipes, Senior Planner
Jason Purse, Senior Planner
Sarah Propst, Planner
Brian Elmore, Development Management Asst

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

2. MINUTES

A. August 4, 2010 Regular Meeting

Mr. Rich Krapf moved for approval of the minutes.

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

Mr. Joe Poole stated he was surprised by the differences in the Autumn West and Courthouse Commons cases that had been acted upon while he was on vacation. He stated that although there was compromise on the Autumn West case, regarding Courthouse Commons, he could not remember another circumstance where a case moved so rapidly through the Commission, Board, and then back to the Commission with substantial changes, including a clear-cutting plan. He stated he was disappointed with the approval of both cases.

Mr. Jack Fraley stated that one-and-a-quarter acres of trees on the Courthouse Commons property would be preserved and that three acres of the property were previously developed.

Mr. Poole stated that although he expected the site to be developed in the future, he was surprised by the extent of the tree clearing despite the County's inventory of vacant commercial sites.

3. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Krapf stated that the August meeting of the Development Review Committee was held on August 25th. First, the DRC reviewed conceptual plan C-0028-2010 AAA Member Services Center. The applicant sought a determination if consistency with the Lightfoot Mixed Use Area master plan to allow construction of the AAA Member Services Center on a site previously approved for the Noland Building. The Center will include office space for travel services and a fully enclosed auto service facility. The DRC found the proposal consistent with the master plan by a 3-0 vote. The DRC also reviewed subdivision plan S-0023-2010 Colonial Heritage, Phase 4, Section 1. The DRC focused on the layout of street trees. Staff had expressed concern that the placement of trees was more like yard trees than street trees. The applicant felt that constraints associated with driveway and sidewalk placement and utility access, there was limited flexibility in placing street trees. The Committee recommended preliminary approval by a 3-0 vote with the condition that the applicant and staff have further discussions on creative tree layouts. The Committee also reviewed site plan SP-0064-2010 Anderson's Corner Animal Hospital Exercise Area SP Amendment. The Committee discussed the consistency of the fenced dog exercise area and infiltration basin with the area shown on the Anderson's Corner Animal Hospital master plan. The Committee recommended site plan approval in a 3-0 vote.

Mr. Al Woods moved for approval of the report.

In a unanimous voice vote, the report was approved.

B. Policy Committee

There was no Policy Committee meeting.

C. Other Committee/Commission Reports

There were no additional reports.

4. PUBLIC COMMENT

Mr. Peck opened the public comment period.

Ms. Dorothy Piper, 501 Spring Trace, stated that the County did not notify Spring Trace homeowners of the revised Autumn West case. She stated homeowners had no opportunity to review or refute the new proposal. Lack of walkout basement details, lack of fill removal details, using the tot lot space for tree preservation, density based on developable versus total area, proximity to Autumn West Road and other properties, and absences from the Commission when the vote was taken were all concerns.

Mr. Jack Fowler, 109 Wilderness Lane, stated there were unkept properties near the County's reservoir and streams. He stated many new developments do not consider stormwater's impact to the environment and the taxpayers. Stormwater runoff should not be ignored until it requires drastic action, like the upcoming stormwater bond referendum.

Mr. Peck closed the public comment period.

5. PUBLIC HEARING CASES

A. Z-0002-2009/MP-0002-2009 – Governor’s Grove Section III Proffer & Master Plan Amendment

Mr. Peck stated the applicant has requested deferral and asked if staff had any objections to the request.

Mr. Allen Murphy stated staff had no objections to the deferral.

Mr. Poole asked how long the deferral was expected to continue.

Mr. Murphy stated staff had discussed submitting more clearly defined plans with the applicant. He stated he believed a more defined plan was pending.

Mr. Peck opened the public hearing. Seeing no one, Mr. Peck continued the public hearing until October 6, 2010.

B. AFD-02-86-2-2010 Hankins Property Croaker AFD Addition

Mr. Peck stated the applicant has requested deferral and asked if staff had any objections to the request.

Mr. Murphy stated staff had no objections to the deferral.

Mr. Peck opened the public hearing. Seeing no one, Mr. Peck continued the public hearing until October 6, 2010.

C. AFD-05-86-2-2010 Racefield Property Barnes Swamp AFD Addition

Mr. Peck stated staff has requested deferral.

Mr. Peck opened the public hearing.

Mr. Bob Spencer, 9123 Three Bushel Drive, stated that adjacent property owners came to the meeting based on notification letters received from the County only to find the applications deferred. He asked how citizens can learn whether cases are being deferred in advance of the meeting.

Mr. Murphy stated that cases are deferred to specific dates. He stated citizens can contact the Planning office regarding the status of any advertised public hearing case.

Mr. Peck continued the public hearing until October 6, 2010.

D. Zoning Ordinance Amendment – Section 24-666

Mr. Adam Kinsman stated the recent revisions to the Code of Virginia's Board of Zoning Appeals (BZA) section were influenced by the Kingsmill tower lawsuit. He stated that the Kingsmill case created confusion regarding how BZA appeals are labeled, who is liable for any BZA suit, how costs are paid, who is a party to the suit and how those parties are served. Working with Ms. Abbitt at the General Assembly, the County Attorney's office clarified State Code. Judicial appeals have replaced the recourse of suing the BZA or its members. The revisions to Section 24-666 will align it with new State Code provisions. Staff recommends approval of the amendment.

Mr. Peck opened the public hearing. Seeing no one, Mr. Peck closed the public hearing.

Mr. Poole moved to recommend approval of the amendment.

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

E. SO-0002-2010 Subdivision Ordinance Amendment – Sewage Treatment Systems Pump Out

Ms. Ellen Cook stated the amendment revises Section 19-29 of the Subdivision Ordinance. She stated that Section 19-29 includes items now required to be listed on a subdivision plat, including a note mentioning the required five-year septic tank pump out and a reference to Section 23-9-6b of the Chesapeake Bay Ordinance. On subdivision plats, under resource protection for development areas, a note will reference Item G to Chesapeake Bay Section Ordinance Section 23-7. Both notes reference existing regulations. The Department of Conservation and Recreation identified the changes during the recent Chesapeake Bay Act compliance assessment. Due to compliance schedules determined by the state, these changes precede the remainder of the Zoning Ordinance updates. Staff recommends approval of the amendments to the Subdivision Ordinance.

Mr. Peck opened the public hearing. Seeing no one, Mr. Peck closed the public hearing.

Mr. Poole moved to recommend approval of the amendments.

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

F. SUP-0018-2010 American Heritage RV Park Expansion

Ms. Kate Sipes stated that Vernon Geddy has applied on behalf of Mr. and Mrs. William Rhodes to expand the American Heritage RV Park from 95 to 327 camping sites. The parcel is zoned R-8, Rural Residential, and designated Economic Opportunity on the 2009 Comprehensive Plan. The campground, a legally non-conforming use, operates on a Conditional Use Permit from 1973. Any expansion would require a Special Use Permit (SUP). Staff finds the campground a transitional land use until larger economic forces drive development of the Economic Opportunity area. The parcel is inside the Primary Service Area (PSA). Ms. Sipes

noted one correction to the staff report. Due to revised comments received from JCSA, the site will be required to connect to public water and sewer. Ms. Sipes indicated the applicant had been made aware of the change. Staff recommends approval with the understanding that the applicant be required to connect to public water and amending the conditions to remove Conditions 12 and 13 referencing well and septic systems. Residences on Maxton Lane are not connected to public water or sewer. JCSA discovered the campground would be required to connect to the PSA just prior to the Commission meeting. Ms. Sipes explained the extension of public water and sewer outside the PSA would require an additional SUP, which had not been advertised and would have to be presented to the Commission at a future date.

Mr. Mike Maddocks asked if there had been any citizen concerns from Mirror Lakes.

Ms. Sipes stated there were none.

Mr. Peck opened the public hearing.

Mr. Vernon Geddy, representing the applicant, stated the campground intends a phased expansion over the next five to seven years, increasing the number of campsites to 327, as well as additional recreational, storage, and office areas. He stated he agrees with staff recommendations and proposed conditions. The campground use fits the Economic Opportunity area well, allowing transient visitors and tourists to support local businesses and attractions. The transient population will put relatively few burdens on County services. Few permanent structures will be built, easing any future Economic Opportunity redevelopment. The applicant learned of the need to connect to public water the morning of the Commission meeting. The connection is required due to a small piece of the property, fronting Maxton Lane, coming within 1,000 feet of existing JCSA facilities on Croaker Road. The portion fronting Maxton Lane is not involved in the park's operation and is currently used as a driveway for two residences. The applicant seeks to agree on a boundary line adjustment with the two owners to avoid the connection requirement.

Mr. Fraley asked if avoiding JCSA connections would mean reinstating the well and septic conditions.

Mr. Kinsman suggested adding the language "If the property is not required to be connected to public utilities" at the beginning of Conditions 12 and 13 to cover any possible changes made by the Commission or Board.

Mr. Geddy stated he agreed with that SUP language.

Mr. Poole asked if the two residences shared a driveway easement.

Mr. Geddy stated there was no driveway easement of which he was aware, but as this issue had just arisen, more research was needed.

Mr. Maddocks asked about the status of the RV industry.

Mr. William Rhodes stated that the RV park was doing very good business in spite of the economy. He stated the campground caters to RV operators who want a comfortable experience.

Mr. Bart Montesano, 126 Maxton Lane, stated that Maxton Lane should be widened due to the difficulty RVs have sharing the effectively one-lane road. He stated the 25 mile-per-hour posted speed is also too high for RVs to handle the turns.

Mr. Jack Fowler, 109 Wilderness Lane, stated he was concerned with people in RVs using the campgrounds as their primary home.

Mr. Peck closed the public hearing.

Mr. Poole asked Ms. Sipes to address neighbors' concerns.

Ms. Sipes stated the SUP allows only RVs and cabins on the site, with a condition stating campers are limited to a 30-day stay within a 60-day period. She stated the Zoning Ordinance also limits camping to 30 days in a 60 day period. The condition was added as a reminder to the applicant. Any enforcement would be complaint driven. The Virginia Department of Transportation stated the proposal would not trigger any road improvements, and that Maxton Lane meets design requirements for the local street designation.

Mr. Poole stated the proposal was a good fit for both the parcel and the surrounding Economic Opportunity area.

Mr. Poole moved to recommend approval with amended conditions 12 and 13.

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

G. SUP-0019-2010 Harmonious Hardscapes

Mr. Krapf stated that his wife has a limited business association with the applicant. He stated he and the County Attorney both agree he can objectively review the case.

Ms. Sarah Propst stated that Mr. David Barglof has applied for a SUP for the construction of a retail landscaping store with landscape material storage as an accessory use. The parcel is zoned A-1, General Agriculture, and designated General Industry on the Comprehensive Plan. The eastern neighboring property, owned by Dr. English, will have mature pines and fencing as sight and noise buffers, as stated in Condition 2. The site fronts on Richmond Road but will be accessed on Industrial Boulevard. Enhanced landscaping in Condition 6 provides compliance with the Comp Plan recommended Community Character Corridor buffer. A vacant, deteriorating home and driveway on site will be removed, while mature trees are intended to be preserved. The property is located inside the PSA. Staff recommends approval of the proposal with conditions.

Mr. Fraley stated that although the applicant intends to preserve trees, there are no conditions related to tree preservation.

Ms. Propst stated that the applicant would like to preserve mature trees but that the existing home would be used for fire training purposes and nearby trees may be impacted. She stated several dying/diseased trees would be removed and the applicant would like the larger, healthier trees to remain, although he was unsure which trees would remain.

Mr. Fraley stated that enhanced language in the landscaping plan could discuss tree preservation. He stated he would like the landscaping plan to address which trees would be saved.

Mr. Murphy stated staff and the applicant would work together regarding tree preservation.

Mr. David Barglof, the applicant, stated he wanted to maintain specific trees for aesthetic appeal. The trees are intended to compliment the shopping experience.

Mr. Fraley asked about the vertical slats for the proposal's chain link fence.

Ms. Propst stated vertical slats were vinyl inserts that provided privacy between fence links.

Mr. Peck opened the public hearing.

Mr. Barglof stated the slats were woven between fence links.

Mr. Fraley stated that vinyl fencing does not weather particularly well and wears unevenly, creating a mismatched appearance. Enviroscreen, a knitted polyester, is a better alternative. Condition 2 should be amended to include language on Enviroscreen as an alternative fence material, which would let the business review its use without commitment to use the materials.

Mr. Barglof stated he did not object to the language.

Mr. Peck closed the public hearing.

Mr. Fraley moved to recommend approval with amended Condition 2.

Mr. Poole stated the proposal was a substantial improvement to the existing lot. He stated he would support the proposal.

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

H. AFD-1-89, AFD-2-86, AFD-3-86, AFD-5-86, AFD-6-86, AFD-7-86, AFD-9-86, AFD-10-86,

AFD-11-86, AFD-12-86, AFD-1-93, AFD-1-02 Agricultural and Forestal District Renewals

Mr. Krapf requested that AFD-7-86 Mill Creek be voted on separately from the remainder. He stated his property was a part of the Mill Creek Agricultural and Forestal District (AFD) and he recused himself from reviewing that case.

Mr. Poole stated he may have a conflict due to his employer, Colonial Williamsburg, partially owning AFD-1-02 Carter's Grove.

Mr. Kinsman stated there was no conflict according to state and local laws. He stated the application could be voted separately in the interest of extreme prudence.

Mr. Poole requested that AFD-1-02 Carter's Grove be voted on separately from the remainder. He stated his employer was a part owner of the AFD. He recused himself from reviewing that case. Mr. Krapf indicated he was also employed by Colonial Williamsburg and would recuse himself from reviewing AFD-1-02 as well.

Mr. Jason Purse stated that 12 of the County's 14 AFDs are currently going through the renewal process. The Armistead, Carter's Grove, Barnes Swamp, Christenson's Corner, Cranston's Pond, Croaker, Gordon Creek, Gospel Spreading Church Farm, Hill Pleasant Farm, Mill Creek, Williamsburg Farms, and Yarmouth Island AFDs all have 4-year terms expiring between September and November 2010. Wright's Island was renewed by the Board in July 2010 for 8 years. Pate's Neck 6 year term expires in 2012. AFD renewal, additions, and withdrawals require public hearings. Out of all the renewals, only one withdrawal was requested – a 3 acre parcel from the Gordon Creek AFD. AFDs are consistent with surrounding land uses and the Comprehensive Plan. Staff recommends renewal of the AFDs with expiration set for October 2014 and subject to proposed conditions. The AFD Advisory Committee unanimously recommended renewal of all AFDs.

Mr. Peck opened the public hearing. Seeing no one, Mr. Peck closed the public hearing.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a unanimous roll call vote, the Commission recommended approval of ten AFD renewal cases presented with the exception of AFD-7-86 and AFD-1-02, and with amended conditions (7-0).

I. AFD-7-86 Mill Creek

Mr. Krapf left the dias.

Mr. Peck opened the public comment period. Seeing no one, Mr. Peck closed the public comment period.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a roll call vote, the Commission recommended renewal with amended conditions (6-0; Abstain: Krapf).

J. AFD-1-02 Carter's Grove

Mr. Peck opened the public comment period. Seeing no one, Mr. Peck closed the public comment period.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a roll call vote, the Commission recommended renewal with amended conditions (5-0; Abstain: Krapf, Poole).

K. AFD-09-86-1-2010 3889 News Road Gordon's Creek AFD Addition

Mr. Purse stated the applicant has withdrawn the additional request due to its efforts to continue marketing the continuing care retirement community approved there. He stated the Commission did not have to act on the case.

Mr. Peck opened the public hearing.

Mr. Peck closed the public hearing.

8. PLANNING DIRECTOR'S REPORT

Mr. Murphy stated he had no additional comments.

9. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Fraley stated the Policy Committee had reviewed open public comment procedures. He stated the open comment period has been amended to include a three-minute time limit to all speakers, comments are to be limited to direct Commission, planning, and land use matters. New rules of decorum allow the chair to rule a speaker out of order if violating the new procedures. The chair has clear rules for controlling the open comment period. The open public comment period should continue under the amended rules. Alternatively, the open comment period could be eliminated or moved to the end of meetings.

Mr. Krapf stated he was comfortable maintaining the current open comment period with the new procedures.

Mr. Peck stated the public comment rules should be printed on the rear of Commission agendas in lieu of reading them prior to opening the public comment period.

Mr. Poole stated in his previous tenure on the Commission, there was no open public comment, only comment related to land use cases. Although the Commission wants to hear maximum public comment, many open public comment speakers address issues outside the

Commission's purview. Issues both outside the Commission's purview and unrelated to land use are best presented to the Board. The chair's current need to interrupt overtime speakers and provide direction to other ones distracts from the meeting. The open public comment should be eliminated, since the Commission's advisory-only role provides a poor platform for larger policy issues.

Mr. Maddocks stated that open comments often have little to do with the Commission's agenda. He stated comments unrelated to the Commission's proceedings should be taken up before elected officials. The open public comment period should be eliminated.

Mr. Woods asked how open comments related to previous Commission actions would be administered.

Mr. Poole stated the citizens concerned about past Commission actions should contact the chair for an opportunity to address the Commission. He stated the chair should always have the latitude to allow appropriate speakers.

Mr. Peck stated he is concerned about the personal attacks during the public comment period. He stated that personal attacks would be rebroadcast on cable without rebuttal. The open comment can be managed and should be retained with the recently amended policies.

Mr. Fraley stated that limiting public comment to public hearing cases would not allow for comment on past Commission decisions, committee reports, or activist group presentations. The new procedures address the current issues with open comment.

Mr. Poole stated he would still be receptive to any emails, calls, and other communications with citizens outside of the meeting, but public speakers at the meetings should focus on the cases presented. He stated he would support open comment if the procedures were strictly enforced. The recent distractions during open comment create difficulties for objectively reviewing cases.

Mr. Tim O'Connor stated that placing open comment after the public hearings on the agenda would help defuse disruptive speakers.

Mr. Poole stated he would be more supportive of a deferred open comment.

Mr. Fraley stated that speakers may not be able to stay throughout the meeting for various reasons. He stated he did not want people to have to sit through a potentially lengthy meeting in order to speak.

Mr. Krapf stated moving open comment to the end of meetings would effectively shut it down. He stated that open comment is infrequently used by the public now, which would make it easier to retain. Open comment should remain, with recent amendments, at the beginning of meetings.

Mr. Peck stated that moving comments to the end of meetings would greatly reduce

comments. He stated one of the functions of open comment is to serve as a sounding board for community issues outside of the agenda. There are also problems with the Commission's review of DRC reports. Cases with substantial consequences, such as Autumn West, lack a public hearing. He stated he would like the Policy Committee to review how the Commission reviews DRC reports.

Mr. Fraley stated that DRC cases are not legislative and therefore not subject to full public hearing.

Mr. Peck asked if the Zoning Ordinance requires the entire Commission to adopt a DRC report.

Mr. Kinsman stated that the Commission votes to validate the recommendations of a DRC report.

Mr. Peck asked if the ordinance required public notification for DRC cases.

Mr. Kinsman stated there was no requirement. He stated that DRC cases are indirectly advertised through their discussion at the advertised Commission meetings. The ordinance requires the DRC meeting to be advertised, but not its agenda.

Mr. Krapf stated that the DRC exists to streamline the Commission's workload. He stated if the DRC reviewed a controversial case, the DRC could decide to bring the entire Commission to the process.

Mr. Fraley stated the DRC meeting was not a public hearing.

Mr. Woods asked whether the ordinance required the Commission to ratify or adopt DRC reports.

Mr. Kinsman stated he would have to review the language.

Mr. Woods stated if the Commission was required to adopt reports, they would need access to all DRC materials.

Mr. Fraley stated the Commission specifically accepts the DRC report.

Mr. Murphy stated that not accepting the report would give the Commission jurisdiction over the DRC report. He stated the DRC report is by practice ratified. On the rare occasion of controversial DRC cases, the DRC chair may forward case materials to the entire Commission with additional public comment at the DRC meeting.

Mr. Woods asked if applicants had clear expectations after DRC approval.

Mr. Fraley stated the Commission can only grant preliminary approval.

Mr. Murphy stated cases are reviewed administratively after preliminary approval.

Mr. Poole asked how the current open comment was added to the meetings.

Mr. Fraley stated open comment was written into the bylaws.

Mr. Fraley moved to continue the open public comment period as revised.

In a unanimous voice vote, the Commission approved continuing the open public comment period as revised (7-0).

Mr. Peck stated that the Commission has no procedure for reviewing potentially controversial or significant DRC cases. He stated it appears arbitrary to pick and choose which cases get full Commission review. There should be clear standards for when the full Commission holds a public hearing for a DRC case. Applicants should know when they are entitled to public debate of an otherwise administrative decision. Revised DRC review could be considered during the zoning ordinance update process.

Mr. Maddocks asked what would be the first action of revised DRC procedures.

Mr. Peck stated staff could review DRC procedures as a part of ordinance updates.

Mr. Fraley stated the DRC's purview and role as appeals board derive from the zoning ordinance. He stated he hopes the DRC takes a greater role through the recently approved enhanced conceptual plan review.

Mr. Krapf stated that the full Commission's review of Autumn West was a logical decision resulting from that case's many complicating factors. He stated the DRC allows applicants to gain important feedback before committing time and money into engineered site plans. The DRC also functions as a de facto architectural review board.

Mr. Peck stated the Commission is subject to charges of being arbitrary and capricious without established procedures for giving a DRC case a public hearing.

Mr. Murphy stated the Commission has not refused additional public input or quasi-public hearings for controversial cases in his recollection.

Mr. Woods asked if there was a downside to having improved procedural definitions.

Mr. Krapf stated the ordinance already accounts for DRC purview.

Mr. Peck stated he would like staff to review the DRC ordinances to provide additional clarity.

Mr. Fraley stated the chairs of the DRC or Commission can pull cases from the DRC report to allow additional review of DRC cases.

10. ADJOURNMENT

Mr. Peck continued the public meeting until September 27, 2010 at 6:30 p.m.

Reese Peck, Chairman

Allen J. Murphy, Secretary

**REZONING-0002-2009 / MP-0002-2009: Governor's Grove Section III: Proffer and Master Plan Amendment
Staff Report for the October 6, 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

Building F Board Room; County Government Complex

Planning Commission:

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)
May 5, 2010	(applicant deferral)
June 2, 2010	(applicant deferral)
July 7, 2010	(applicant deferral)
August 4, 2010	(applicant deferral)
September 1, 2010	(applicant deferral)
October 6, 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 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 December 1, 2010. 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

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VERNON M. GEDDY, JR. (1926-2005)

STEPHEN D. HARRIS

SHELDON M. FRANCK

VERNON M. GEDDY, III

SUSANNA B. HICKMAN

RICHARD H. RIZK

ANDREW M. FRANCK

September 27, 2010

vgeddy@ghfhlaw.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 December meeting.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VMG/

cc: Mr. James Jard

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VIII, APPEALS, DIVISION 3, REGULATIONS GOVERNING APPEALS, SECTION 24-666, PETITION FOR CERTIORARI TO REVIEW DECISION OF BOARD.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-666, Petition for certiorari to review decision of board.

Chapter 24. Zoning

Article VIII. Appeals

Division 3. Regulations Governing Appeals

Section 24-666. Petition for certiorari to review decision of board.

(a) *Petition to circuit court.* Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals or any taxpayer or any officer, department, board or bureau of the county may present to the Circuit Court of James City County a petition *that shall be styled “In Re: [date] Decision of the Board of Zoning Appeals of James City County,”* specifying the grounds on which aggrieved within 30 days after the final decision of the board. A “final decision” is the decision that resolves the merits of the action pending before the board or effects a dismissal of the case with prejudice.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this article. The board of supervisors, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

(b) *Allowance of writ of certiorari.* Upon the presentation of such petition, the court will allow a writ of certiorari to review the decision of the board of zoning appeals and will prescribe therein the time within which a return thereto must be made and served upon the ~~petitioner's attorney,~~ *secretary of the board of zoning appeals, or if no secretary exists, the chair of the board of zoning appeals,* which will not be less than ten days and may be extended by the court. The allowances of the writ will not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(e) *Costs.* Costs shall not be allowed against the ~~board~~ *county* unless it shall appear to the court that it acted in bad faith or with malice ~~in making the decision appealed from.~~ In the event the decision of the board is affirmed, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of October, 2010.

ZO24-666_ord2

Agricultural and Forestal District 2-86-2-2010. Hankins Property, Croaker AFD Addition Staff Report for October 6, 2010 Planning Commission meeting

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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

AFD Advisory:	September 23, 2010	4:00 p.m.
Planning Commission:	October 6, 2010	7:00 p.m.
Board of Supervisors:	November 9, 2010	7:00 p.m. (tentative)

Building F Board Room; County Government Complex

SUMMARY FACTS

Applicant:	George Hankins
Land Owner:	Hankins Land Trust 1, 2, 3
Location:	8196 and 8220 Croaker
Tax Map/Parcel No.:	1430100039 and 1430100040
Primary Service Area:	Inside
Parcel Size:	234.6 acres are proposed for enrollment out of a total acreage of 264.769
Existing Zoning:	M-1, Limited Business/Industrial and A-1, General Agricultural
Comprehensive Plan:	Mixed-Use (Croaker Interchange, southeast quadrant)
Surrounding AFD Land:	The core of the Croaker AFD is located directly to the east of the subject parcels
Staff Contact:	Jason Purse, Senior Planner - Phone: 253-6685

STAFF RECOMMENDATION:

Since the property received approval of Rezoning and Master Plan applications in December 1991 (case number Z-0012-1990, Old Dominion French Winery), development could occur under certain circumstances. With the constraints and control imposed on the property by the master plan there is no apparent general public interest for putting the properties into an AFD. Properties inside the Primary Service Area can benefit the County if they are enrolled in an AFD as they temporarily hold key tracts of land while development plans are created, thus maximizing the beneficial use of the property. In this instance, the development plan for the property has already been established. Staff recommends that the Planning Commission recommend denial of the addition to the Croaker AFD to the Board of Supervisors. However, if the Commission wishes to recommend approval of this application, staff recommends the parcel be included in the Croaker AFD subject to the attached conditions.

On September 23, 2010, the Agricultural and Forestal District Advisory Committee voted 7-0 to recommend denial of this application.

Project Description

Mr. George Hankins, representing Hankins Land Trust 1, 2, 3, wishes to enroll portions of two properties into the Croaker AFD. These properties total approximately 264.769 acres of land fronting on and near Croaker Road. However, because there are currently non-qualifying non-agricultural uses on these sites, only 234.6 acres is being proposed for enrollment. Before the 1430100040 property was subdivided it was enrolled in the original Croaker AFD in 1986. In 1989, as a part of the master planned development for the Old Dominion French Winery property, 421.773 acres was removed from the AFD. The Kiskiack Golf Club has been developed on portions of that property, and a majority of the property has been rezoned to M-1, Limited Business/Industrial and R-5, Multi-family residential, but has yet to be fully developed. The applicant wishes to re-enroll the remainder of the undeveloped property into the Croaker AFD.

Parcel 1430100039 is partially agricultural, partially wooded and RPA, and also contains an active borrow pit under state permit and a soil stockpile area on the rear quarter of the property. Parcel 1430100040 consists of an agricultural area along the frontage of Croaker Road, in front of the existing Kiskiack Golf Clubhouse. The rear of the property contains multiple wooded areas, agricultural areas, as well as areas for staging of commercial equipment, concrete spoils areas, woody debris stockpiles, soil stockpiles, and a construction business lay-down area with piles of exposed materials and unused/broken down equipment. Because of the variety of uses on the site, not all of the property would qualify for Agricultural and Forestal District status or for Land Use taxation, and those portions of land have been excluded from the land to be enrolled in the AFD.

Surrounding Land Uses and Development

The Kiskiack Golf Course is the main feature surrounding the immediate adjacent properties. However, a number of properties to the east and south are currently enrolled in the Croaker AFD and appear to be primarily wooded in nature.

Comprehensive Plan

The Comprehensive Plan designates this parcel as Mixed-Use. The description for land in this area includes the following language:

For lands within the southeast quadrant of the Croaker Road and I-64 interchange, the principal suggested uses include light manufacturing and office. Secondary uses shall only be permitted where they do not preclude the development of the principal uses. Commercial and limited residential development that complements the principal uses may be considered as secondary uses provided they require significantly smaller portions of land area than the primary uses; are master planned and developed commensurate with an appropriate level of primary uses; are integrated with the primary uses as a interconnected mixed use community as intended in the Comprehensive Plan rather than separate developments; do not significantly diminish the ability of the primary uses to meet level of service standards, particularly for road and interchange capacity; and support the overall quality of economic development expected in this area. Commercial and limited residential development shall be located away from the immediate interchange area. In particular, residential development shall be limited to the area zoned R-5, Multifamily Residential, as of May 5, 2003, and to the portions of the site fronting Croaker Road and in the area between the existing Golf Clubhouse and along the length of the lake to the dam.

The Comprehensive Plan description proposes a much more intense development of the area than would be permitted within an Agricultural and Forestal District. A rezoning has already been approved for a majority of the parcels that would allow for both multi-family residential and industrial development.

Analysis

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD, but does not qualify for inclusion given the existing zoning and master plan for the property.

The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created and maximizing the beneficial use of the property. However, in this instance, the development plan for the property has already been established. Placing this tract of land in an AFD, with the constraints of the master plan, does not serve as a valuable tool for the County any longer.

The existing Croaker AFD contains 1,075.87 acres. If the 234.6-acre addition is approved, the District will contain 1,310.47 acres. This addition would be subject to the conditions of the existing District which are:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a.) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b.) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

RECOMMENDATION:

Since the property received approval of Rezoning and Master Plan applications in December 1991 (case number Z-0012-1990, Old Dominion French Winery), development could occur under certain circumstances. With the constraints and control imposed on the property by the master plan there is no apparent general public interest for putting the properties into an AFD. Properties inside the Primary Service Area can benefit the County if they are enrolled in an AFD as they temporarily hold key tracts of land while development plans are created, thus maximizing the beneficial use of the property. In this instance, the development plan for the property has already been established. Staff recommends that the Planning Commission recommend denial of the addition to the Croaker AFD to the Board of Supervisors. On September 23, 2010, the Agricultural and Forestal District Advisory Committee voted 7-0 to recommend denial of this application.

However, if the Commission wishes to recommend approval of this application, staff recommends the parcel be included in the Croaker AFD subject to the following conditions.

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Jason Purse, Senior Planner

Attachments:

1. Location Map
2. Unapproved minutes from the September 23, 2010 AFD Advisory Committee meeting

AFD Addition – Hankins Property Croaker AFD Addition

Mr. Purse stated that staff continues to recommend denial because the properties were rezoned and there is an approved master plan associated with it.

Mr. Hitchens stated he thought the applicant wanted to down zone the property.

Mr. Purse stated that the applicant discussed it but that they wanted to retain the zoning on the properties as there are currently commercial operations (stock piling and mining) on the site. They did have plans to have part of the property farmed, but that would not require a down zoning.

Ms. Garrett asked Mr. Purse if he met with the applicant.

Mr. Purse stated that he had met with Mr. Hankins, the applicant, and he was comfortable with the areas excluded from the addition. The applicant stated that extending water and sewer at this point would be cost prohibitive, but they wanted to retain the development rights under the existing zoning. He stated that there were stock piling and mining operations, but those areas had been excluded from the AFD addition request.

Ms. Garrett stated she was uncomfortable approving the addition with these commercial uses taking place. Even if the areas were excluded from the AFD they were still taking place on the property and the parcels did not meet the criteria of preserving agricultural and forestal land.

Mr. Abbott moved to recommend denial of the application, with a second from Mr. Hitchens. In a roll call vote the motion was approved. (7-0)

AGRICULTURAL & FORESTAL DISTRICT-5-86-2-2010. Racefield Property Barnes Swamp AFD Addition. Staff Report for the October 6, 2010 Planning Commission Meeting.

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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

	Human Services Building, Multi-purpose room
AFD Advisory Committee:	September 23, 2010 4:00 p.m.
Planning Commission:	October 6, 2010 7:00 p.m.
Board of Supervisors:	November 9, 2010 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:	Steven and Michelle Johnson	
Location:	230 and 260 Racefield Drive	
Tax Map/Parcel No.:	0340800003 and 0340800005	
Primary Service Area:	Outside	
Parcel Size:	52.63 acres and 68.43 acres	
Existing Zoning:	A-1, General Agricultural	
Comprehensive Plan:	Rural Lands and Conservation Area	
Surrounding AFD Land:	The core of the Barnes Swamp AFD is located directly north and west of the subject parcels	
Staff Contact:	Kathryn Sipes, Senior Planner	Phone: 253-6685

STAFF RECOMMENDATION:

The parcels are consistent with the zoning, land use designations, and uses of other parcels in the Barnes Swamp AFD, and consistent with the goals of the Agricultural and Forestal District program. Staff recommends that the Planning Commission recommend approval of the addition to the Barnes Swamp AFD to the Board of Supervisors.

At its September 23, 2010 meeting, the AFD Advisory Committee voted 7-0 to recommend approval of this application.

Project Description

Mr. and Mrs. Steven Johnson have applied to enroll two properties into the Barnes Swamp AFD. These properties total approximately 121.06 acres of land at 230 and 260 Racefield Drive.

The parcel at 230 Racefield Drive is 52.63 acres; approximately 5 acres is being actively farmed and the remainder of the parcel is wooded. The parcel at 260 Racefield Drive is 68.44 acres; approximately 20 acres is being actively farmed and the remainder of the parcel is wooded. In 2008, the applicants subdivided approximately 153 acres into five lots. The subject parcels are the largest two lots created by that subdivision. The Johnsons' primary residence is located 246 Racefield Drive. The other two parcels are just over 7 acres and 3 acres respectively. Neither the primary residence nor the two smaller lots created at that time are being considered for inclusion in the District.

Surrounding Land Uses and Development

A large portion of the Barnes Swamp AFD is located to the north and west of the subject parcels. The adjacent property that is not currently enrolled in the Barnes Swamp District appears to be primarily wooded in nature. Other than the Racefield and Racefield Woods subdivisions, surrounding property consists primarily of large undeveloped parcels.

Comprehensive Plan

The Comprehensive Plan designates these parcels as Rural Lands, with some Conservation Area. Action LU6.1.1 on page 204 of the 2009 Comprehensive Plan states the County shall "support both the use value assessment and Agricultural and Forestal (AFD) programs to the maximum degree allowed by the *Code of Virginia*."

Analysis

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Barnes Swamp AFD contains 1,616.1 acres. If this addition is approved, the District will consist of 1,737.2 acres. This addition would be subject to the conditions of the existing District, which are:

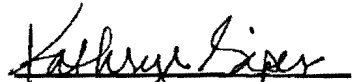
1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a.) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b.) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the . Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits

for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

RECOMMENDATION:

The parcels are consistent with the zoning, land use designations, and uses of other parcels in the Barnes Swamp AFD, and consistent with the goals of the Agricultural and Forestal District program. Staff recommends that the Planning Commission recommend approval of the addition to the Barnes Swamp AFD to the Board of Supervisors.

At its September 23, 2010 meeting, the AFD Advisory Committee voted 7-0 to recommend approval of this application.

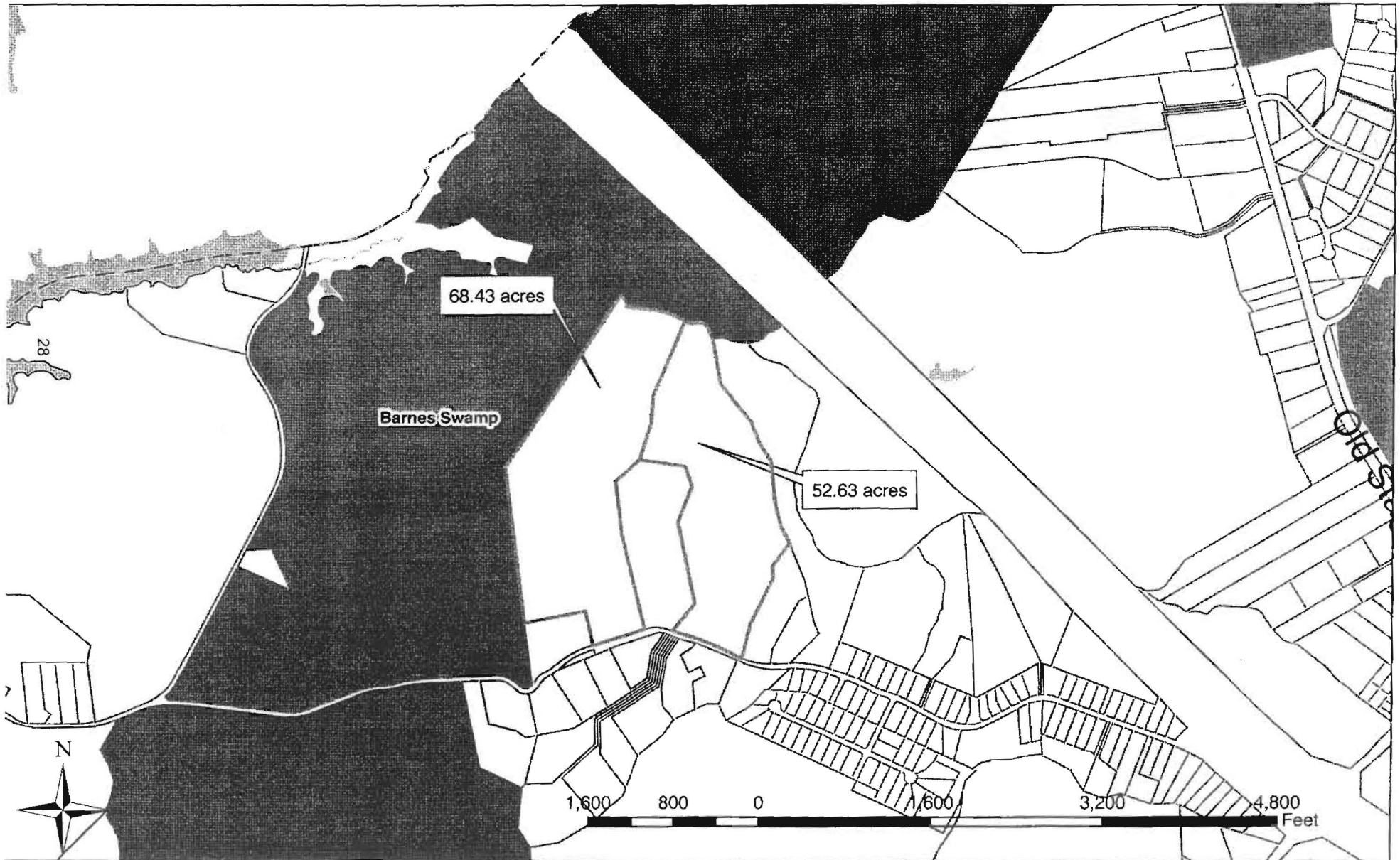

Kathryn Sipes, Senior Planner

Attachment:

1. Location Map
2. Unapproved minutes of the AFD Advisory Committee meeting

JCC-AFD-5-86-2-2010

Racefield Property Barnes Swamp Addition



UNAPPROVED MINUTES OF THE AGRICULTURAL AND FORESTAL
ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD
ON THE 23rd DAY OF SEPTEMBER, TWO THOUSAND AND TEN, AT 4:00 P.M.
AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD,
WILLIAMSBURG, VIRGINIA.

1. Roll Call:

Members Present

Mr. Harcum
Mr. Richardson
Ms. Smith
Mr. Icenhour
Mr. Abbott
Ms. Garrett
Mr. Hitchens

Also Present

Mr. Purse (Planning)
Ms. Terry Costello (Planning)

Absent

Mr. Bradshaw
Mr. Ford

2. New Business:

Approval of the August 23, 2010 Meeting Minutes

Mr. Abbott moved for approval of the minutes with a second from Mr. Hitchens.
The Committee unanimously approved.

AFD Addition – Hankins Property Croaker AFD Addition

Mr. Purse stated that staff continues to recommend denial because the properties were rezoned and there is an approved master plan associated with it.

Mr. Hitchens stated he thought the applicant wanted to down zone the property.

Mr. Purse stated that the applicant discussed it but that they wanted to retain the zoning on the properties as there are currently commercial operations (stock piling and mining) on the site. They did have plans to have part of the property farmed, but that would not require a down zoning.

Ms. Garrett asked Mr. Purse if he met with the applicant.

Mr. Purse stated that he had met with Mr. Hankins, the applicant, and he was comfortable with the areas excluded from the addition. The applicant stated that extending water and sewer at this point would be cost prohibitive, but they wanted to retain the development rights under the existing zoning. He stated that there were stock piling and mining operations, but those areas had been excluded from the AFD addition request.

Ms. Garrett stated she was uncomfortable approving the addition with these commercial uses taking place. Even if the areas were excluded from the AFD they were still taking place on the property and the parcels did not meet the criteria of preserving agricultural and forestal land.

Mr. Abbott moved to recommend denial of the application, with a second from Mr. Hitchens.

In a roll call vote the motion was approved. (7-0)

Racefield Property Barnes Swamp AFD Addition

Mr. Purse stated that this application is to add 121 acres with encompasses two parcels, five acres are being farmed with the rest wooded. He stated that all of the uses qualify to be added to the AFD. Staff recommends approval of this addition.

Mr. Hitchens moved to approve the application, with a second from Mr. Abbott.

In a roll call vote, the motion was approved. (7-0)

AFD Committee Organization Business – ByLaws

Ms. Garrett initiated a discussion on the original resolution that created the AFD Committee, who the Committee should be comprised of and term limits if any. It was suggested to have the County Attorney's office provide clarification as to requirements for an individual to be on the AFD Committee. It was also suggested that maybe some clarification could also be provided as to what kind of flexibility the committee has.

Mr. Hitchens suggested that one requirement might be that one or two members of the AFD Committee have land in an AFD.

Mr. Purse stated that it has been suggested that the members have six year staggered term limits.

Mr. Purse stated that staff will discuss this with the County Attorney's office.

Mr. Purse also stated that Mr. McDonald, of FMS, will be making recommendations to the AFD withdrawal policy. He will recommend that there be one withdrawal policy.

Mr. Abbott moved for adjournment, with a second from Mr. Hitchens.

The meeting was adjourned at 4:30 p.m.

Ms. Loretta Garrett, Chair

Jason Purse, Senior Planner

**USE PERMIT CASE NO. SUP-0020-2010 Diamond Healthcare SUP amendment
Staff Report for the October 6, 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:
Board of Supervisors:

Building F Board Room; County Government Complex

October 6, 2010 7:00 PM
November 9, 2010 7:00 PM (tentative)

SUMMARY FACTS

Applicant: Greg Davis, Kaufman and Canoles

Land Owner: Diamond Healthcare of Williamsburg, Inc.

Proposal: Proposed expansion to existing facility to include 17 additional beds and a parking expansion for a hospital, which requires a SUP in the M-1 district.

Location: 5477 and 5485 Mooretown Road

Tax Map/Parcel 3330100011B and 3330100011C

Parcel Size 9.14 acres with this SUP applying to 7.17 acres

Existing Zoning: M-1, Limited Business Industrial

Comprehensive Plan: Limited Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be generally consistent with the Comprehensive Plan and surrounding land uses. Staff recommends that the Planning Commission approve the parking waiver. Staff also recommends that the Planning Commission recommend approval of the special use permit application for the expansion of Williamsburg Place to the Board of Supervisors subject to the attached conditions.

Staff Contact: Jason Purse, Senior Planner Phone: 253-6685

Project Description

Mr. Greg Davis of Kaufman and Canoles has applied on behalf of Diamond Healthcare of Williamsburg, Inc. for a special use permit to allow a 17-bed psychiatric care facility expansion on the site of Williamsburg Place on a parcel zoned M-1, Limited Business/Industrial. The proposed expansion would result in a 57 bed inpatient psychiatric treatment services facility. The site is located at 5477 and 5485 Mooretown Road and can further be identified as JCC RE Tax Map Nos. 3330100011B and 3330100011C. The site is shown by the Comprehensive Plan as Limited Industry. Recommended uses include warehousing, office, service industries, and public facilities with moderate impacts on surrounding areas.

Project History

In February, 1989, the Board of Supervisors approved an SUP allowing Diamond Healthcare of Williamsburg to operate a residential alcoholic treatment center on an approximate 2.6 acre parcel located on Mooretown Road. The facility contained 40 beds, four offices, a lounge, and a dining/multipurpose room. The facility also included an additional ten custodial care beds to serve inpatients who complete the program but require additional “transitional” time before leaving. An expansion was approved in 1992 that allowed a 12-bed psychiatric unit and accessory outpatient facilities. In 2004, an additional expansion included 12 new outpatient units (housing 48 patients), and one unit for non-patient guests. Finally, in 2008, the Board of Supervisors approved an SUP amendment, allowing Diamond Healthcare of Williamsburg to operate a 40-bed psychiatric care facility onsite.

Owners of identified medical care facility projects are required to obtain a Virginia Certificate of Public Need (COPN) from the State Health Commissioner in order to demonstrate that the proposed facility will fulfill a public need in the community. This year, the Commonwealth approved a new COPN permitting the addition of a 17-bed psychiatric care facility (for a total of 57-total psychiatric beds).

The actual building expansion, a parking expansion, stormwater and utility infrastructure to support the additional 17 beds were previously approved by the Development Review Committee to be in general conformance with the previously approved master plan, but the actual increase in occupancy cannot occur without amending the special use permit. Staff has worked with the applicant to allow the site plan for the small building expansion to continue during this special use permit process, in order to allow the site design process to continue. If the SUP application is approved, that new area would house the additional psychiatric beds.

The applicant has also requested a continued off-street parking requirement waiver in accordance with Section 24-58(g)(2). This is discussed in further detail in the transportation section below.

Surrounding Zoning and Development

The parcel is zoned M-1, Limited Business Industrial and designated as Limited Industry on the 2009 Comprehensive Plan Land Use Map. As noted above, the facility is already in operation at this location.

The site is bordered by the CSX railroad tracks and Richmond Road to the west. Other M-1 zoned properties are adjacent to the site to the north and south, including a Jehovah’s Witness congregation and mini-storage facility respectively. The James City County-York County line follows Mooretown Road to the east of the site and includes properties zoned RC, Resource Conservation and IL, Limited Industry.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Powhatan Creek; however, runoff from the site flows to a regional BMP which discharges into Waller Mill Reservoir, Queens Creek, and the York River.

Environmental Staff Conclusions: The Environmental Division has reviewed the proposal and supports the SUP with the attached conditions. Williamsburg Place and several of the surrounding properties are currently served by a Regional Stormwater Facility built in the 1980's and upgraded and improved in 2007. The facility was designed to serve the surrounding area when fully developed. The proposed master plan for this expansion also includes a bioretention facility, which is proposed to treat the new impervious area generated by this expansion. An underground cistern is proposed to capture stormwater runoff from the roof of the expansion and would be used for irrigation.

Conditions:

- There shall be no net increase from the existing quantity of stormwater runoff to the CSX railroad right-of-way. For any existing stormwater runoff draining to the CSX property that will be part of new impervious area on the Master Plan, water quality treatment in a 10-point BMP per the County BMP Guidelines shall be provided. This shall be demonstrated on the site plan for the development and shall be approved by the County's Environmental Division Director prior to final site plan approval.
- The proposed bioretention facility shall be sized to comply with the existing stormwater management master plan. At a minimum, the proposed bioretention facility will be sized for at least 1 inch per impervious acre for the net increase in impervious area developed in the currently proposed expansion as compared to the impervious area approved on JCC site plan SP-0097-2007. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final site plan approval.

2. Public Utilities

The site is located inside the Primary Service Area.

JSCA Staff Conclusions: The James City County Service Authority has reviewed the proposal and has requested that the existing water conservation guidelines for the development be updated to include the new facility as a condition if approved. Additionally, they have noted that any utility upgrades or extensions shall be the responsibility of the applicant if they are determined to be necessary during review of development plans.

Conditions:

- The applicant shall be responsible for updating the existing water conservation standards for Williamsburg Place. The updated standards shall 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 irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures to promote water conservation and minimize the use of public water resources.

3. Transportation

Williamsburg Place fronts on Mooretown Road, which is located in York County. No additional entrances are proposed to the site. ITE does not have a use directly related to the proposed use in this expansion. For purposes of the Zoning Ordinance, a psychiatric facility is classified as a hospital, therefore that use code was used to project anticipated vehicle trips; however, it is important to note that the characteristics of a psychiatric facility are very different than that of a full-service hospital. Particularly, the applicant has noted that many patients at the facility are from out of town and do not drive themselves and there is not the quantity of ambulances or emergency vehicles at the facility. For a hospital, ITE projects 439 vehicles per day with 37 a.m. peak trips and 40 p.m. peak trips. This use does not generate volumes necessary to require a full traffic study. Furthermore, the traffic generation figures above represent what would be generated by the entire hospital, substantially more than is generated by the request for 17 additional beds.

2009 Traffic Counts: The County does not maintain traffic counts for Mooretown Road. VDOT's annual average daily traffic volume for this section of Mooretown Road is 8,000 vehicles.

VDOT Conclusions: VDOT has reviewed the proposal and has no objections. Given the trips generated by the existing uses as indicated by the applicant and assuming similar trip generation rates associated with the proposed expansion, traffic generated by the proposed expansion will not warrant further traffic analysis. No improvements were recommended at the existing entrances.

Regarding parking, the applicant has requested a waiver from the Planning Commission to reduce the number of required parking spaces provided on site. Section 24-59(g)(1) states that "the planning commission may grant a waiver to the minimum parking requirements if it can be shown that due to unique circumstances a particular activity would not reasonably be expected to generate parking demand sufficient to justify the parking requirement." Any waiver shall also not allow a greater building area than would have been possible had the original parking requirement been enforced.

The Planning Commission granted a waiver of the parking requirements for Williamsburg Place concurrent with approval of SUP-0026-2008, consistent with a parking calculation formula determined by the applicant. This formula required the number of spaces be equal to one space per bed plus one space per employee on the largest shift. The formula is most similar to the JCC formula for nursing homes. The applicant is requesting the same formula be used for this parking waiver as well.

For the added 17 beds, Diamond Healthcare of Williamsburg has indicated that an additional 8 employees would be required on the largest shift. As a result, 25 more parking spaces would be required for a total of 159 spaces to serve the campus. Six spaces would be set aside for handicap accessible parking in accordance with the James City County Code.

Staff supports the parking waiver request given the existing parking demands at Williamsburg Place and because a high volume of the patients that would be treated at the proposed facility do not have vehicles on site. Staff recommends the Planning Commission approve the parking waiver reduction request.

Comprehensive Plan

Land Use Map

Designation	<i>Limited Industry (Page 143):</i> Land included in this designation is within the PSA and used for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area. Sites are small to medium in size,
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	<p>should have the environmental features desirable for intense development, and should be able to be served with public water and sewer and nearby fire and police protection. Primary considerations of whether a use is acceptable include dust, noise, odor and other adverse environmental impacts.</p> <p>Staff Comment: Williamsburg Place has been an existing business within James City County since 1989. While hospitals are not directly addressed by the Limited Industry description, staff acknowledges that they have some similar characteristics and impacts to other limited industrial uses. As such, staff believes that the expansion of Williamsburg Place to include the additional 17 beds is consistent with the Limited Industry designation and with the existing and surrounding land uses.</p>
Commercial/Industrial Development Standards	<p><i>Standard #4-Page 143-144:</i></p> <p>(a) Locate proposed commercial and industrial developments adjacent to compatible uses.</p> <p>(e) For Limited Industry areas, dust noise, odor, and other adverse environmental effects (but not size) are primary considerations for determining whether land uses are acceptable in these areas.</p> <p>Staff Comment: As noted earlier, the parcels surrounding Williamsburg Place are mostly designated Limited Industry and zoned M-1, including those across the street in York County. Staff sees the expansion as compatible with adjacent uses and complimentary to the Sentara Williamsburg Regional Hospital located further north on Mooretown Road. Additionally, the use is not anticipated to generate dust, noise, odor or other adverse effects.</p>
Goals, strategies and actions	<p><i>LU4.1-Page 154:</i> Enforce policies of the Comprehensive Plan to steer growth to appropriate sites in the PSA.</p> <p><i>LU 4.7.3-Page 155:</i> Through the development process, reinforce clear and logical boundaries for commercial and industrial property within the PSA by:</p> <ol style="list-style-type: none"> Providing sufficient buffering and open space from nearby residential uses. Developing in a node pattern with a grid of internal parcels, internal streets, and judicious external connections rather than in a strip pattern with individual connections along a single street. <p><i>LU 5.2.1-Page 155:</i> Require sufficient documentation to determine the impacts of a proposed development, including but not limited to studies of traffic impact, capacity of public schools, historic and archaeological resources, water quality and quantity, other environmental considerations, and fiscal impact.</p> <p>Staff Comment: The business is within the PSA and is an existing use so will not add any additional access points from Mooretown Road. An SUP condition from SUP-0032-2004 required enhanced landscaping for 200 feet along either side of the main entrance to provide additional buffering from Mooretown Road.</p> <p>The submitted Community Impact Statement adequately addresses all of the potential impacts onsite, including those to water/sewer systems, environmental, and traffic impacts. The increase of 17 beds and approximately 5,398 square feet of building expansion will not have a significant impact on infrastructure in the area.</p>

Economic Development

Goals, strategies and actions	<i>ED 1.1- Page 24:</i> Maintain an active and effective economic development strategy, which includes existing business retention and expansion.
	Staff Comment: Permitting the expansion of Williamsburg Place would be in support of the existing business operation and would promote business retention and expansion goals of the Comprehensive Plan.

Environment

Goals, strategies and actions	<i>ENV 1.2-Page 61:</i> Promote the use of Better Site Design, Low Impact Development, and effective Best Management Practices (BMP's).
	<i>ENV 1.2.6-Page 62:</i> Continue to encourage the development of regional BMPs that address cumulative future stormwater impacts and flood control benefits.
	Staff Comment: As noted above, the expansion proposes installation of a bioretention basin and underground cistern to capture additional stormwater runoff for the roof and new impervious areas. The cistern is proposed for use in irrigating the grounds to conserve water, and the existing water conservation guidelines for Williamsburg Place will also be required to be updated to include the expansion area. The site is also served by a regional BMP facility. Finally, no wetlands, RPA areas, or areas of suitable habitat for endangered species are present on this site, making the development's impacts on the environment minimal.

Comprehensive Plan Staff Comments

Overall, this application, as proposed, is generally in compliance with the Comprehensive Plan and surrounding land uses. The proposal creates additional economic development and employment opportunities for the County with minimal effects on the environment and character of the surrounding community.

RECOMMENDATION:

Staff finds the proposal, with the below conditions, to be generally consistent with the Comprehensive Plan and surrounding land uses. Please note that several conditions (5-10) were originally placed on SUP-0026-2008 and carry over into this SUP, and are currently being fulfilled as a part of the site plan that is currently under review. Staff recommends that the Planning Commission approve the parking waiver. Staff also recommends that the Planning Commission recommend approval of the special use permit application for the expansion of Williamsburg Place to the Board of Supervisors subject to the following conditions:

1. Use: This SUP shall allow the establishment and/or continued operation of (i) a 57 bed inpatient psychiatric treatment services facility, (ii) a 30 bed intermediate care substance abuse treatment facility and transitional domiciliary facility, (iii) and a 48 bed domiciliary outpatient unit with 4 bed residential unit for visitors. The facility shall maintain at all times a current Certificate of Public Need issued by the Commissioner of Health of the Commonwealth of Virginia.
2. Commencement of Construction: Construction on this project shall commence within twenty-four (24) months from the date of approval of this SUP or this permit shall be void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection.
3. Master Plan: As determined by the Director of Planning, the plan of development shall be in accordance with the "The Pavilion at Williamsburg Place" ("Master Plan") prepared by AES Consulting Engineers, dated August 20, 2010. Access to the two parcels shall be limited to the two entrances depicted, the shared main entrance and the service entrance.

4. Architectural Review: Prior to final site plan approval, the Director of Planning shall review and approve the final architectural design of the building. Such building shall be generally consistent, as determined by the Director of Planning, with the architectural elevations titled “Front Perspective” and “Back Perspective” for Diamond Healthcare Williamsburg Place Expansion dated August 12, 2010, and drawn by Guernsey Tingle Architects.
5. Lighting: All exterior lighting on the property shall be 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. Modifications to this requirement may be approved by the Director of Planning if it is determined that the modifications do not have any negative impact on the property or surrounding properties.
6. Runoff to CSX Property: There shall be no net increase in runoff to the CSX railroad right-of-way. No new impervious area shall drain to the CSX property without water quality treatment in a 10-point BMP per the County BMP Guidelines. This shall be demonstrated on the plan of development and shall be approved by the County’s Environmental Division Director prior to final plan of development approval.
7. Bioretention Facility: The proposed bioretention facility shall be sized to comply with the existing stormwater management master plan. At a minimum, the proposed bioretention facility will be sized for at least 1 inch per impervious acre for the net increase in impervious area developed in the currently proposed expansion as compared to the impervious area approved on JCC site plan SP-0097-2007. This shall be demonstrated on the plan of development and shall be approved by the County’s Environmental Division Director prior to final site approval.
8. Landscaping: A landscaping plan shall be approved by the Director of Planning prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping 10 feet in width along the first 200 feet along both sides of the new proposed main entrance and enhanced landscaping 10 feet in width along the first 100 feet on both sides of the service entrance to help screen service activities from Mooretown Road. Enhanced landscaping shall be defined so that the required number of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of fifty (50) percent of the trees within the landscape buffers shall be evergreen.
9. Water Conservation: The applicant shall be responsible for amending the existing 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 irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures to promote water conservation and minimize the use of public water resources.
10. Signage: Signage for the site shall be limited to one main entrance sign and “Service Only” entrance signage. The number, size and design of the “Service Only” signs will be approved by the Director of Planning prior to final site plan approval. The Director of Planning shall approve the location of all signage prior to final site plan approval that shall be in accordance with the County Zoning Ordinance.
11. Severance Clause: This special use permit is not severable. Invalidity of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

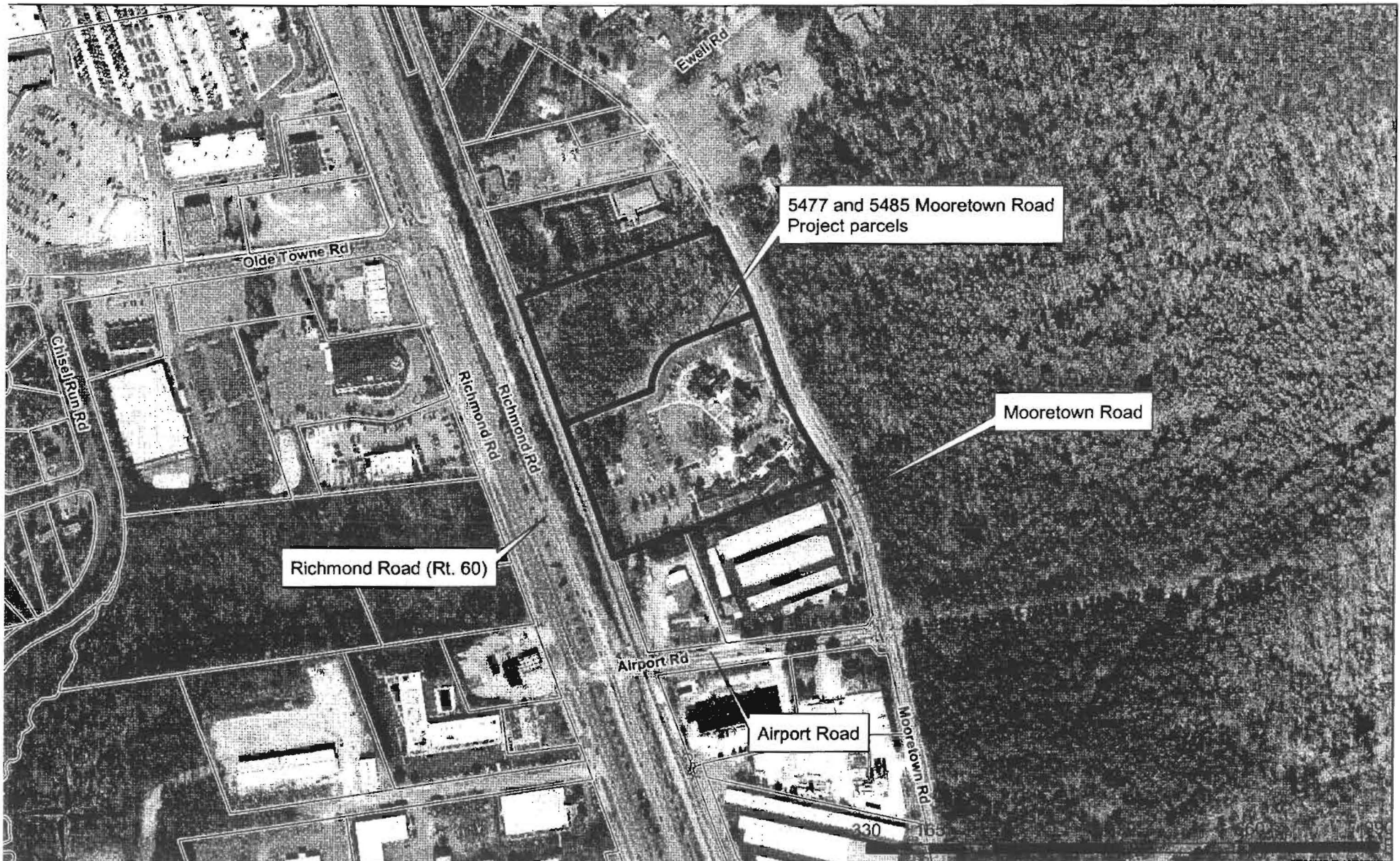
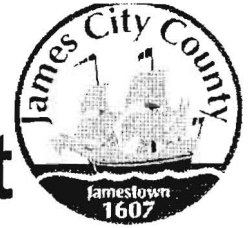
Jason Purse, Senior Planner

Attachments:

1. Location Map
2. Master Plan
3. Community Impact Statement (including parking waiver request letter and elevations)

SUP-0020-2010

Diamond Healthcare SUP amendment



SPECIAL USE PERMIT-0022-2010. Charlie's Antiques

Staff Report for the October 6, 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

October 6, 2010

7:00 p.m.

Board of Supervisors:

November 9, 2010

7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:

Mr. Charlie Crawford, Charlie's Antiques

Land Owner:

Charles and Susan Crawford

Proposal:

4,000 square foot building for retail sales of plant and garden supplies and antiques, 1,250 square foot office, and area for landscape stone storage.

Location:

7691 Richmond Road and 3645 Toano Woods Drive

Tax Map/Parcel Nos.:

1330100004 and 1330100003A

Parcel Size:

2.119 acres and 15.1 acres (total of 17.22 acres)

Zoning:

A-1, General Agricultural

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, and the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the special use permit application to the Board of Supervisors with the included conditions.

Staff Contact:

Leanne Reidenbach, Senior Planner

Phone: 253-6685

Project Description

Mr. Charlie Crawford of Charlie's Antiques has applied for a special use permit to allow for development of a retail plant, garden, and antique sales building along Richmond Road/Route 60 in Toano. Items proposed for sale include natural stone, bronze, marble, and stone statues, garden benches, antique and garden furniture, antique and reproduced fencing, conservatories and gazebos, specialty plants, and garden pots and pottery. Retail sales of plant and garden supplies, retail sales of antiques, and storage of gravel and crushed stone each require a special use permit in the A-1, General Agricultural district. There is an existing 1,250 square foot structure located on the property and it will be retained and converted into an office for the retail business. A 4,000 square foot building and approximately 2 acre stone storage area would be added for the retail component of the project. Warehousing and storage of extra materials will occur off-site. The proposal also includes the use of a portion of the 2.25 acre garden/display area located on the parcel immediately to the west of the retail building (tax map 1330100003B) which was included in a previous rezoning/master plan application. The relationship of this special use permit application with a previous rezoning on the parcel to the west is explained below in the Project Background section.

Charlie's Antiques currently operates across the street at 7762 Richmond Road and the applicant's intention is to relocate

the business to this new location and downsize. Sufficient parking is provided on-site, Community Character Corridor buffers and landscaping around outdoor storage areas are included as conditions, and the existing entrance to this property is proposed to be relocated to align with an existing median break on Richmond Road/Route 60.

Project History

The proposed location and part of the adjacent property (7.6 acres) currently serve as the location of Pumpkinville, a seasonal attraction that offers a pumpkin patch, hayrides, the sale of yard and home decorations, and other activities to celebrate Halloween and autumn. In 2007, Mr. Crawford rezoned the adjacent 7.6 acre property from A-1, General Agricultural, to B-1, General Business through Z-0006-2006/MP-0008-2006. The purpose of the rezoning was to allow Charlie's Antiques to be relocated to the 7.6 acre parcel. Per the approved master plan (which is shown as the grayed area on the master plan for this SUP) a total of 6,000 square feet of retail, 9,000 square feet of warehousing, associated parking area, driveways, a new entrance, stone storage area, a BMP, and 2.25 acres of garden/display area are currently permitted on that property. As noted above, Mr. Crawford plans to use the 2.25 acre garden/display area in accordance with MP-0008-2006 as part of his current proposal so no amendment to the master plan is necessary. The area will function for display of some of the larger items for sale and general open space. This portion of the project will still be subject to the previously approved master plan and proffers and is not included as part of the special use permit application.

A rezoning from A-1 to B-1 was necessary for the 2006 proposal on the 7.6 acre parcel due to the presence of the warehouse building, which is neither permitted nor specially permitted in A-1. For economic reasons, the partners involved in the original proposal do not wish to pursue the approved project at this time.

Surrounding Zoning and Development

The parcel is zoned A-1, General Agricultural and designated as Low Density Residential on the 2009 Comprehensive Plan Land Use Map. As noted above, the 7.6 acre parcel to the west is zoned B-1, General Business, owned by Mr. Crawford, and currently master planned for retail garden and plant supply sales, warehousing, and storage. The project is bordered to the east by an existing contractor's office on land zoned A-1. Two residences, both zoned A-1, are across Route 60, which at this point has a wide median. There are also parcels zoned M-1, Limited Business Industrial, and M-2, General Industry, immediately behind these houses that are used for heavy equipment and material storage. The Toano Woods residential neighborhood is located to the south of the proposed project and is zoned R-1, Limited Residential. The closest residence to the proposed landscape stone storage area is about 250 feet away.

The properties that are on the same side of Route 60 as the proposed project are all designated Low Density Residential on the 2009 Comprehensive Plan. The properties that are on the opposite side of Route 60 are designated Mixed Use and General Industry.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Yarmouth Creek

Environmental Staff Conclusions: The Environmental Division has reviewed the proposal and concurs with the master plan and conditions as proposed. The property will be subject to the Special Stormwater Criteria adopted in the Yarmouth Creek Watershed Management Plan, as detailed in condition #5. The BMP has also been located in a way that facilitates natural water flow without requiring the need for drainage easements across adjacent properties downstream and the capacity could be expanded in the event that additional development occurs on the property to the west. Additional review will occur when development plans are submitted.

2. Utilities

The site is located inside the Primary Service Area and will be served by public water and sewer.

JSCA Staff Conclusions: The James City County Service Authority has reviewed the master plan and a condition requiring water conservation guidelines is included upon their request. Additional review and

information will be required to be submitted during the development plan phase of the project and any necessary upgrades to the existing system will be the responsibility of the applicant. Otherwise, JCSA concurred with the master plan and conditions as proposed.

3. Traffic

The proposed use did not trigger the requirement for a traffic study. Based on VDOT's review, the proposal is classified as ITE Traffic Generation Code 817, "Nursery / Garden Center" and is anticipated to generate 89 daily trips, with 9 AM peak hour trips and 10 PM peak hour trips. This classification is consistent with the categorization of the project during the rezoning of the adjacent property to the west of the currently proposed location, which was estimated to generate 34 PM peak hour trips. Route 60 is adequately sized to accommodate the additional trip generation.

2007 Annual Average Daily Traffic Volume (Richmond Road/Route 60): From Forge Road to Croaker Road there were 17,201 eastbound trips and 8,255 westbound trips.

2035 Volume Projected: From Rochambeau Road to Croaker Road there is the projection of 17,201 AADT. This portion of Richmond Road is listed in the "OK" category.

VDOT Conclusions: VDOT reviewed the proposed use and master plan and determined that the potential trip generation does not warrant roadway improvements at this time. VDOT has recommended that the applicant consider sharing an entrance with this adjacent property (currently operated as a contractor's business) to avoid the need to apply for an exception to Access Management regulations. The adjacent property owner has agreed to share the proposed entrance with Charlie's Antiques and eliminate his existing entrance. This shared entrance is shown with this special use permit. VDOT has also recommended signage and striping for the main entrance and the median crossover, which can all be incorporated into the future site development plan.

Comprehensive Plan

Land Use Map

Designation	<p>Low Density Residential (Page 141): Low Density Residential areas are located in the Primary Service Area (PSA) and have natural characteristics such as terrain and soils that are suitable for residential development. Recommended uses in this designation are categorized into 3 groups. Group 1 includes single-family homes, duplexes, accessory units, cluster housing, and recreation. Group 2 includes schools, churches, very limited commercial, and community-oriented facilities. Group 3 includes timeshares, retirement and care facilities and communities.</p> <p>Staff Comment: The development of a small retail use on this property is consistent with the Group 2 category of uses recommended in Low Density Residential areas. A seasonal commercial operation, Pumpkinville, currently operates from this location.</p>
Development Standards	<p><i>Residential Development Standard #4d- Page 141:</i> Uses in Groups 2 and 3 above should only be approved in these designations when the following standards are met</p> <ul style="list-style-type: none"> i. Complement the residential character of the area; ii. Have traffic, noise, lighting, and other impacts similar to surrounding residential uses; iii. Generally be located on collector or arterial roads at intersections; iv. Provide adequate screening and buffering to protect the character of nearby residential areas; and v. Generally intended to support the residential community in which they are located (for Group 2 uses only). <p><i>Residential Development Standard #6m- Page 142:</i> Protect designated Community Character Corridors (CCCs).</p> <p><i>Residential Development Standard #7a- Page 142:</i> Adhere to the County's adopted watershed master plans, and/or providing for Special Stormwater Criteria.</p> <p><i>Residential Development Standard #7e- Page 142:</i> Provide for water conservation measures.</p> <p><i>Residential Development Standard #8d- Page 142:</i> Provide for safe, convenient, inviting bicycle, pedestrian, and greenway connections to adjacent properties and developments, with a special focus on providing adequate access between residential and non residential activity centers and among residential neighborhoods.</p>

	<p>Staff Comment: This proposal meets the first four out of the five standards outlined for Group 2 uses. The location of the store relative to adjoining residential uses provides more than 250 feet between the stone storage area and the nearest residence. Even with this distance, the applicant has proposed a buffer of landscaping and/or fencing to further screen the area from Toano Woods. The use is also located along Route 60 and no access points through residential areas are proposed. Conditions related to limiting glare from site lighting and requiring that deliveries/pick-ups occur during normal operating hours (7 a.m. to 7 p.m.) further mitigates any negative impacts the use would potential have on the adjacent neighborhood.</p> <p>Conditions also require adherence to the Yarmouth Creek Watershed Management Plan and the development of water conservation guidelines. The master plan also includes provision of a sidewalk along the Route 60 frontage.</p>
Goals, strategies and actions	<p><i>Action LU 1.1- Page 153:</i> Craft regulations and policies such that development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.</p> <p><i>Action LU 4.7.3(a)-Page 155:</i> Through the development process, reinforcing clear and logical boundaries for commercial and industrial property within the PSA by providing sufficient buffering and open space from nearby residential uses.</p> <p>Staff Comment: The proposed facility is within the PSA and provides adequate buffering with adjacent residential areas so as to reduce potential adverse impacts.</p>

Economic Development

Goals, strategies and actions	<p><i>Action ED 1.2-Page 24:</i> Encourage the creation of new and retention of existing small businesses.</p> <p><i>Action ED 5.2-Page 25:</i> Encourage new development and redevelopment of non-residential uses to occur mainly in areas where public utilities are either available or accessible within the Primary Service Area (PSA) and infrastructure is supportive.</p> <p>Staff Comment: Charlie's Antiques is an existing business operating within James City County. In order to remain economically viable, it is necessary for the business to downsize. Accommodating the growth and contraction of existing businesses in appropriate areas is important to being able to retain these businesses within the County. Additionally, infrastructure, particularly for transportation and utilities, is already in place in this area and the proposed development is within the PSA.</p>
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Environment

Goals, strategies and actions	<p><i>Strategy ENV 1- Page 61:</i> Protect and improve the quality of County watersheds, wetlands, and waterways including water bodies that discharge into the Chesapeake Bay.</p> <p><i>Action ENV 1.2.8-Page 62:</i> Continue to promote the protection of tress.</p> <p>Staff Comment: The proposed project is located in areas without environmentally sensitive RPA or wetland areas. A small area of the site is proposed to be cleared to accommodate the BMP and landscape stone storage area, but existing trees will be retained to the extent possible to provide a natural buffer between the storage area and Toano Woods. The project will also be subject to Special Stormwater Criteria measures as denoted by the Yarmouth Creek Watershed Management Plan.</p>
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Community Character

Goals, strategies and actions	<p><i>Action CC 1.1- Page 79:</i> Expect that development along Community Character Corridors (CCCs) protects the natural views of the area; promotes the historic, rural, or unique character of the area; maintains the greenbelt network; and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Action CC 3.1-Page 80:</i> Encourage vistas and other scenic resources to be protected and encourage building, site, and road designs that enhance the natural landscape and preserve valued vistas. These designs should also minimize any potential negative impacts with regard to noise and light pollution and other quality of life concerns.</p> <p>Staff Comment: The proposed location for Charlie's Antiques is located along Route 60, which is a Community Character Corridor. The master plan provides for a 50 foot CCC buffer along the front of the property and the conditions specify plantings or fencing within this buffer area.</p>
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	<p>The site will retain much of its original appearance because the existing house on the property will be converted to an office. The additional building will be located behind this house and set back about 440 feet from Route 60 so visibility is minimized. Planted buffers around the landscape stone storage area, the presence of more than 200 feet to the nearest residence, and conditions limiting glare produced by site lighting and hours for deliveries all minimize the views and impacts of the development from properties to the south.</p>
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Comprehensive Plan Staff Comments

While the relocation of Charlie's Antiques is proposed in an area designated Low Density Residential on the 2009 Comprehensive Plan, it is still consistent with the Group 2 development standards outlined in that designation for commercial uses. Given the location of the property along a major arterial road (Route 60), its current seasonal commercial use, surrounding commercial uses, buffering and lighting conditions, and retention of open field areas to the south, south-west, and west of the development, staff finds the proposal to be consistent with the Comprehensive Plan and the Land Use Map and believes that any potential negative impacts on nearby residential properties has been mitigated.

RECOMMENDATION:

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, and the Comprehensive Plan. Staff recommends the Planning Commission recommend approval of the special use permit application to the Board of Supervisors with the following conditions:

1. Master Plan. This Special Use Permit (the "SUP") shall be valid for the construction of an approximately 4,000 square foot retail building for the sale of plant and garden supplies and antiques. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Special Use Permit Exhibit for Charlie's Antiques", prepared by LandTech Resources, Inc. and dated July 15, 2010 with revisions dated September 22, 2010 (the "Master Plan") with such minor changes as the Director of Planning determines does not change the basic concept or character of the development.
2. Water Conservation Guidelines. The applicant shall be responsible for developing 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 irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures to promote water conservation and minimize the use of public water resources.
3. Landscape Buffer. A landscape plan ("Landscape Plan") designed to enhance the visual buffer from adjacent properties and development on the Property shall be prepared by a landscape architect licensed in the Commonwealth of Virginia and submitted to the Director of Planning for review and approval with any site plan for development on the Property. The Landscape Plan shall include a thirty (30) foot landscape buffer around the "gravel landscape stone storage area" as shown as "30' MINIMUM LANDSCAPE BUFFER" on the Master Plan. The buffer shall be comprised of (i) a minimum of fifty percent (50%) native, evergreen trees and shrubs with all plantings exceeding existing ordinance size requirements by a minimum of twenty-five percent (25%) or (ii) a combination of landscaping and fencing that achieves the same or greater effect.
4. Community Character Corridor Buffer. The Landscape Plan shall also include a fifty (50) foot Community Character Corridor Buffer in area shown as "50' COMMUNITY CHARACTER CORRIDOR LANDSCAPE BUFFER" on the Master Plan comprised of (i) landscaping that consists of predominately native trees and shrubs and that exceeds existing ordinance size requirements by twenty-five percent (25%) or (ii) a combination of landscaping and fencing and/or stone walls that achieves the same or greater effect.
5. Special Stormwater Criteria. Special Stormwater Criteria (SSC) as adopted by the County in the Yarmouth Creek watershed shall apply to this project. The owner shall demonstrate the application of SSC on development plans to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval.
6. Lighting. All exterior lighting on the property shall be 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.

Glare, defined as light intensity measured at 0.1 foot-candle or higher at a property line or any direct view of the lighting source from adjacent residential properties, shall be prohibited from extending beyond any property line external to the retail operation.

7. Hours of Operation and Deliveries. The receipt of any commercial shipments of goods to the Property shall occur during the normal hours of operation of any business located on the Property and shall be between the hours of 7:00 a.m. and 7:00 p.m.
8. Commencement of Construction. Construction on this project shall commence within twenty-four (24) months from the date of approval of this SUP or this permit shall be void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection for the 4,000 square foot retail building.
9. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

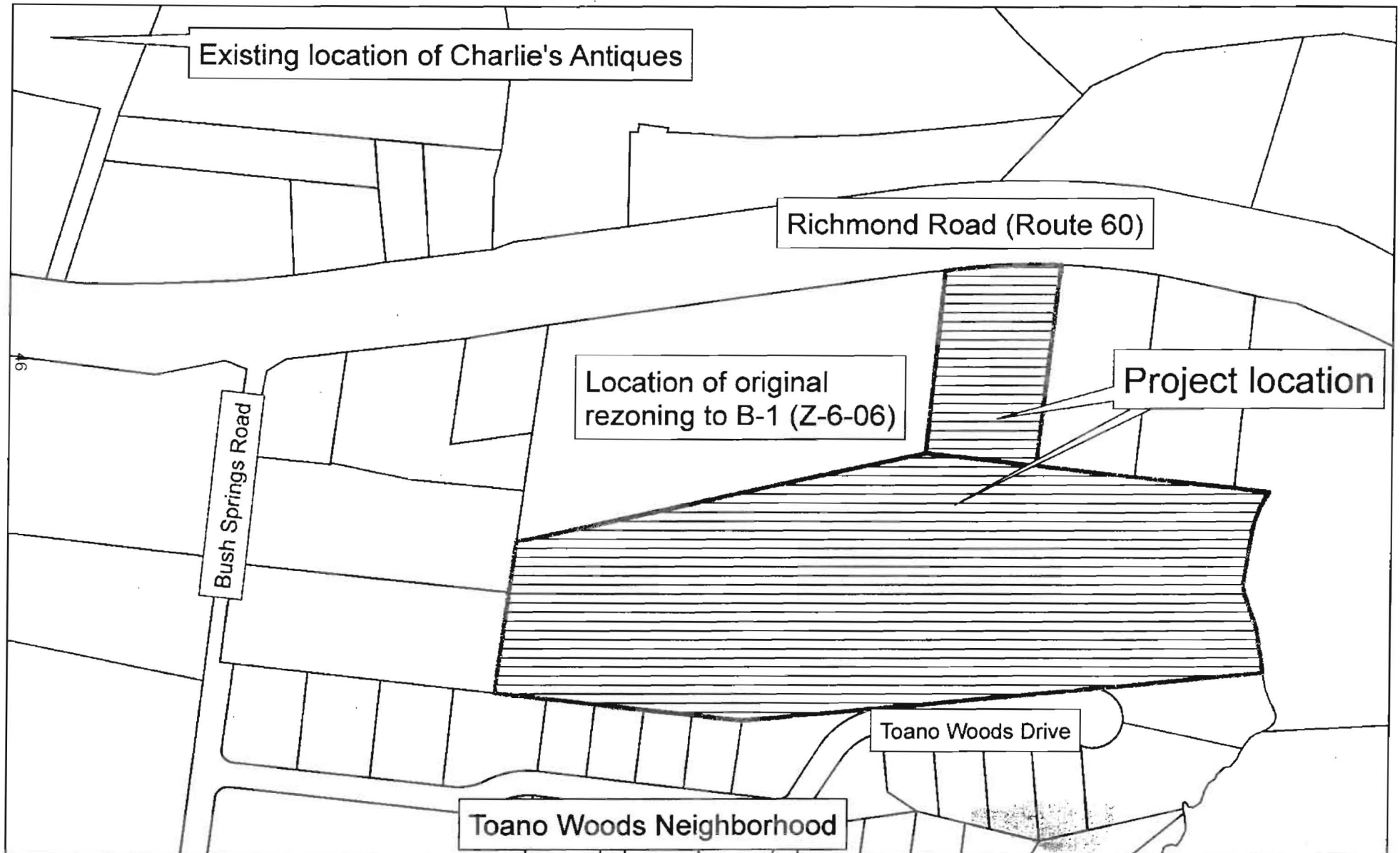
Leanne Reidenbach, Senior Planner

ATTACHMENTS:

1. Location map
2. Master Plan dated July 15, 2010 with revisions dated September 22, 2010 (Under Separate Cover)

JCC-SUP-0022-2010

Charlie's Antiques



**SPECIAL USE PERMIT-0023-2010, Cranston's Mill Pond Dam Repair
Staff Report for the October 6, 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:
Board of Supervisors:

Building F Board Room; County Government Complex

October 6, 2010 7:00 p.m.
November 9, 2010 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Brent L. Fults of Cranston Mill Pond, LLC c/o Earthsource Solutions, INC

Land Owner: Toano Fish and Hunt Club and Ms. Naomi R. Thomas

Proposal: To allow the restoration of a water impoundment in excess of 20 acres

Location: 6616 and 6750 Cranston's Mill Pond Road

Tax Map/Parcel: 2230100044 and 2230100042

Parcel Size: 153 acres and 9 acres

Existing Zoning: A-1, General Agricultural District

Comprehensive Plan: Conservation Area and Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

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

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

PROJECT DESCRIPTION

Mr. Brent Fults has applied for a special use permit (SUP) to allow for the restoration of a water impoundment in excess of 20 acres located in an area known as Cranston's Mill Pond. This application proposes to repair the existing dam currently located across two parcels along Cranston's Mill Pond Road. Both properties are zoned General Agricultural, A-1, and designated Conservation Area and Rural Lands by the 2009 Comprehensive Plan. An SUP is required for water impoundments, new or expansion, of 20 acres or more or with dam heights of 15 feet or more.

Cranston's Mill Pond was created by damming Yarmouth Creek approximately 75 years ago and it has been used by its owners, mainly, as a private recreational hunting and fishing club, the Toano Hunt and Fish Club. On September of 2006, the dam was breached during a severe storm event (tropical storm Ernesto) and much of its water surface was released downstream. The current water level at the pond is below the 2006 water elevation of 9.15 feet; various beaver dams and an emergency spillway are still present at what was once the pond outlet (refer to attachment no.5 for pictures of the pond before and after the dam was breached by tropical storm Ernesto).

Cranston's Mill Pond is approximately 35 acres and it is located north of a larger tract totaling over 153 acres (refer to attachment no. 2). The property is zoned A-1, the same zoning designation as all surrounding properties. The applicant is proposing to make improvements to the dam in order to conform to current regulations set forth by Virginia's Dam Safety Act and to re-establish the pond's water level to its original normal pool elevation. All dams in Virginia, with few exceptions, are subject to the Dam Safety Act and Dam Safety Regulations, established and published by the Department of Conservation and Recreation (DCR) Soil and Water Conservation Board.

According to information provided by the applicant, proposed improvements to the dam include the construction of 100 feet of new concrete broad crested weir spillway. A spillway is a structure providing for the controlled release of flows from the impounding structure to the downstream area. The new spillway would be constructed to maintain the same water surface elevation as the existing spillway. A new 30 feet earthen emergency spillway will also be constructed. Woody vegetation on the dam embankment and within 25 feet upstream and downstream of the embankment would also be removed in accordance with state regulations. The existing embankment slopes would be regraded as required to provide a stable slope.

Staff notes that the applicant is currently under contract to purchase the pond area, and the dam which is located across two parcels; a boundary line adjustment with abutting property, where a portion of the dam is located, will be executed in order to place the dam structure inside one parcel (refer to SUP condition No.2).

Because the pond was impounded prior to the enactment of current zoning regulations governing land uses in the A-1 district, the ordinance considers the pond as a legally nonconforming use. Section 24-631 (a) of the zoning ordinance states that a nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded subject to the appropriate approvals including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval. Further, Section 24-634 of the Zoning Ordinance states that a nonconforming use damaged by casualty may be restored provided such restoration has started within 12 months of the date of casualty and is complete within 24 months of date of the casualty. Staff notes that the dam was breached in 2006 and no permits or approvals allowing the repair of the dam have been

secured with the county. Therefore, the nonconforming status of the pond has expired and in order for the use to be legally reestablished, the applicant must first receive approval of a SUP from the Board of Supervisors.

Permit Requirements:

Department of Conservation and Recreation (DCR)

The dam has been operating under a Conditional Operation and Maintenance Certificate, a document required for dams with deficiencies, issued by the Department of Conservation and Recreation (DCR) Soil and Water Conservation Board. Prior to the beginning of any construction or alteration to a dam a construction permit or an alteration permit must be secured with the Soil and Water Conservation Board. According to the applicant, an Alteration Permit application was submitted to DCR for the required modifications to the existing dam and approved on September 16, 2010.

U.S. Army Corps of Engineers (USACE)/Department of Environmental Quality (DEQ)

The U.S. Army Corps of Engineers has the authority to review any proposed activity in waters of the United States and impacts to the wetlands. According to the applicant, wetlands impacts will be less than 1/10 of an acre on the property and the U.S. Army Corps of Engineers Nationwide Permit, NWP #3, will be used in order for approval to be secured. However, according to information provided by the U.S. Army Corps of Engineers (refer to attachment No.4) a different permit, a Standard Permit, must be secured prior to alteration of the dam. A NWP #3 is a permit issued by the U.S. Army Corps of Engineers for the repair of dams; environmental impacts are considered minimal and repair must conclude within a period of 2 years. As the dam was breached 4 years ago, the statute of limitation for the repair has expired; therefore, a Standard Permit, which requires a more stringent analysis of environment impacts, is necessary. Staff has designed a condition (refer to SUP condition No.4) requiring the applicant to provide evidence to the County Environmental Director of all permits, authorizations and approvals required by local, State, and Federal agencies necessary to repair the dam.

The applicant has indicated that once repaired the pond will be used for recreational purposes or as a nutrient management bank. The concept of a stormwater nutrient management bank is based on a fixed limit of pollutants discharging into a waterbody. The main nutrient to be traded is phosphorus; however nitrogen may also be traded. These nutrients are the principal constituents determined to lead to or cause eutrophication (the process by which a body of water acquires a high concentration of nutrients resulting in an excessive growth of algae) of local and downstream water. The Virginia Department of Conservation is currently developing regulations and guidelines to set up a state-wide trading program that will be locally enacted and administrated. These regulations and guidelines have yet to be enacted by the County. Staff notes that the adoption or action of these regulations has no bearing on consideration of this matter as a SUP.

Dam Break Inundation Map:

According to the Code of Virginia and Dam Safety Impounding Structure Regulations (Dam Safety Regulations), dams are classified in one of three hazard classifications (hazards pertain to potential loss of human life or damage to the property of others downstream from the dam in event of failure or faulty operation of the dam):

- High hazard potential, where a dam failure will cause probable loss of life or serious economic damage;
- Significant hazard potential, where a dam failure may cause the loss of life or appreciable economic damage; and
- Low hazard potential; where a dam failure would result in no expect loss of life and would cause no more than minimal economic damage.

A Dam Break Inundation Map for Cranston's Mill Pond, prepared by the applicant (refer to attachment No. 3), classifies the dam as a significant hazard class. The map was included with the Alteration Permit submitted to the DCR. It will also be included as part of the Emergency Action Plan that will be prepared prior to securing a final Operational Permit. SUP condition No. 3 ensures that a copy of the Emergency Action Plan prepared by the applicant will be submitted to the James City County Director of Emergency Management for review and approval prior to submittal of any development plans for the alteration of the water impoundment.

PUBLIC IMPACTS

Archaeology:

Staff Comment: The subject property 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."

Staff Comments: Staff finds that given the nature of the site, no archaeological studies are necessary.

Public Utilities:

Staff Comments: This site is located outside the PSA. JCSA and the Virginia Department of Health have reviewed this request and recommend approval of the SUP application.

Transportation:

According to VDOT's 2009 traffic data base, the annual average daily traffic count (AADT) for Cranston's Mill Pond Road from Jolly Pond Road to Chickahominy Road is approximately 570 vehicles per day. VDOT has reviewed this SUP application and finds that no road improvements are warranted and recommends approval of the SUP application.

Staff Comments: Staff notes that according to information provided by the applicant, it is expected that a maximum of 50 vehicle trips per day will be generated during the construction period. Vehicles will park on-site in available areas. After construction is complete, access to the dam site will primarily be from the western entrance. Access to the eastern end of the dam will be used only to provide access of maintenance or other activities required on the eastern end of the dam.

Environmental Division:

Watershed: Yarmouth Creek

Staff has reviewed the special use permit application against the approved Yarmouth Creek Watershed Management Plan and finds that it is consistent with the goals, strategies, and actions of the plan. Staff notes that this application lies within the non-tidal mainstream of Yarmouth Creek and that the repair of the dam will recreate the barrier to fish migration that the watershed management plan notes. Environmental Staff has reviewed the special use permit application and has issued comments which will be addressed during the site plan review process. Approval of the SUP

application is recommended.

Staff Comments: This site is not located within a regulated floodplain area and it is outside natural resource areas as identified by the James City County Natural Resource Policy approved by the Board of Supervisors on 1999. Staff notes that the existing habitat inside the pond will be impacted once the dam is fixed but its impact will not go beyond the original water surface elevation of 9.15 feet. Further, the applicant must obtain the appropriate permit(s) with the U.S. Army Corps of Engineers in order to mitigate its impact to existing wetlands.

COMPREHENSIVE PLAN

Land Use Map

Designation	<i>Conservation Area (Page 149):</i> Conservation Areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands surrounding or adjacent to Conservation Areas can also be sensitive, and development of these lands should consider negative impacts and methods to mitigate or eliminate these impacts. Wetlands, marshes, flood hazard areas, steep slopes, critical plants and wildlife habitats, and stream banks are types of Conservation Areas. Lands designated for conservation are intended to remain in their natural state. Examples of preferred land uses include hunting and fishing clubs, fish and game preserves, parks, and other open space that complement the natural environment.
	Staff Comment: The repair of the dam will restore Cranston's Mill Pond water level to its original elevation which may increase wildlife habitat within the pond and surrounding area.

Environment

Yarmouth Creek Watershed Management Plan	<i>General-Page 53:</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.
	Staff Comment: Cranston's Mill Pond was included as part of the Yarmouth Creek Watershed Plan. Re-establishment of the pond's original water level is consistent with the plan's goals, strategies and actions.

Staff Comments

Staff finds that the proposed development compatible with adjacent uses, in accordance with the 2009 Comprehensive Plan Land Use Map and with the adopted Yarmouth Creek Watershed Management Plan. Staff finds that the proposed improvements to the dam will provide benefits to the environment by creating additional wildlife habitat. Further, the damming of the pond may alleviate or reduce the risk of flooding that could occur at Cranston's Mill Pond Road.

RECOMMENDATION:

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

1. **Master Plan:** This special use permit shall be valid for the alteration of a water impoundment in excess of 20 acres located at 6616 and 6750 Cranston's Mill Pond Road and further identified as JCC Parcel Number Nos. 2230100044 and 2230100042 (together the "Properties"). Development of the Properties shall be generally in accordance with the plan entitled "Cranston Mill Pond" prepared by Koontz-Bryant, P.C. dated August 20, 2010, and revised September 16, 2010, with such minor changes as the Planning Director or his designee determines does not change the basic concept or character of the development.
2. **Boundary Line Adjustment (BLA):** Prior to final site plan approval, a plat showing the adjustment of the common property line between the Properties must be submitted to the County Planning Director or his designee for review and approval.
3. **Emergency Action Plan ("EAP"):** Prior to submittal of any development plans for the alteration of the water impoundment, an EAP depicting potential impounding structure emergency conditions and specifying pre-planned actions to be followed to minimize loss of life and property damage shall be submitted to the County Director of Emergency Management or her designee for review and approval.
4. **Permits:** Prior to issuance of a land disturbing permit for the alteration of the water impoundment, documentation shall be provided to the County Environmental Director or his designee that all permits, authorizations and approvals required by local, State, and Federal agencies have been obtained by the applicant.
5. **Severance Clause:** This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

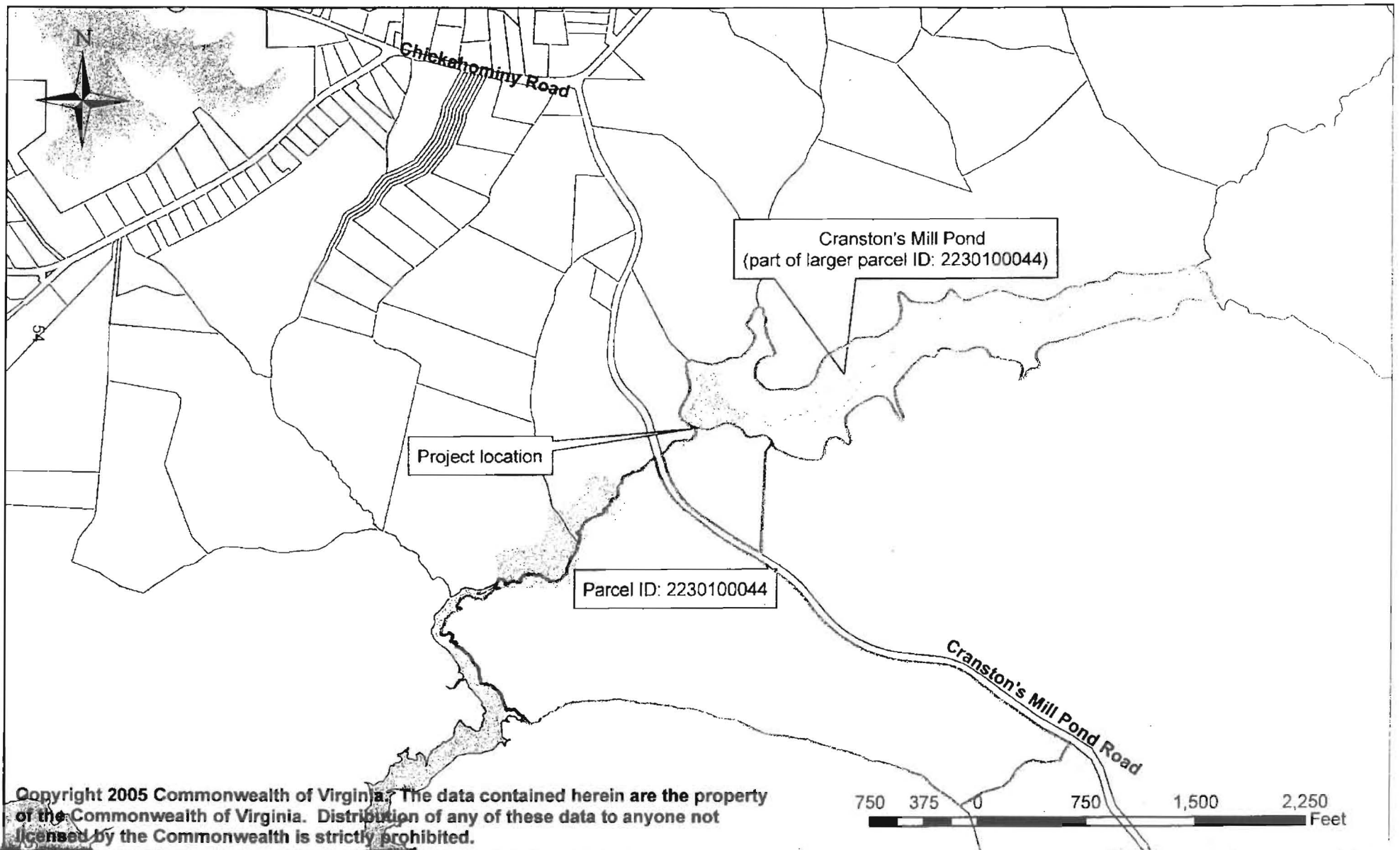
Jose Ribeiro, Senior Planner

ATTACHMENTS:

1. Master Plan
2. Location Map
3. Dam Break Inundation Map for Cranston's Mill Pond
4. Correspondence, dated September 10, 2010, with the U.S. Army Corps of Engineers
5. Photos of Cranston's Mill Pond before and after the dam was breached

JCC-SUP-0023-2010

Cranston's Mill Pond-Dam Repair



E-mail correspondence from the U.S. Army Corps of Engineers staff to County staff explaining the appropriate permit(s) for the reconstruction of Cranston's Mill Pond dam

Original Message-----

From: Kube, Peter R NAO [mailto:Peter.R.Kube@usace.army.mil]

Sent: Friday, September 10, 2010 7:07 AM

To: Floyd, Scharlene A NAO; Mike Woolson

Subject: RE: cranston's mill pond

Our regulations require us to consider not just the impacts from the direct filling of wetlands and waters (the dam footprint) but the flooding of wetlands and waters caused by the fill. Since 2006, wetlands and waters have re-established in much of the 50 acre site. Nationwide permits, including NWP #3, are issued for work that has minimal environmental impacts. The flooding of this extensive area is not a minor impact and NWP # 3 would not be applicable. Cranston Mill Pond, LLC should apply for a standard permit from the Corps if they intend to rebuild the dam.

Peter Kube

New Case info for September 2010

Case Type	Case Number	Case Title	Address	Description	Planner	District
Agricultural Forestry District	AFD-09-86-3-2010-2010	News Road - Gordon Creek Addition	3603 NEWS ROAD	This application is to add property to the Gordon Creek AFD.	Sarah Propst	Berkeley
Conceptual Plans	C-0030-2010	Herndon Jenkins Drive Subdivision	101 HERNDON-JENKINS	This application proposes to create two lots from one.	Luke Vinciguerra	Powhatan
	C-0031-2010	American Pride Automotive	5406 AIRPORT ROAD	Applicant proposes the addition of auto sales to existing business functioning as an auto repair business	Jose Ribeiro	Berkeley
	C-0032-2010	New Town Shared Parking Update	5206 MONTICELLO AVENUE	Regular update to the New Town Shared Parking Study for review by the DRC.	Leanne Reidenbach	Berkeley
	C-0033-2010	Coolsystems - Comerical & Residential	2719 IRONBOUND ROAD	This application proposes a hair studio and an energy consultation business at 2719 Ironbound with a caretakers cottage as a secondary use at 2729 Ironbound.	Sarah Propst	Jamestown
	C-0034-2010	Cox Communications New Town Medical Center Power Supply	4374 NEW TOWN AVENUE	Replacing Cox power supply unit. The unit will be set in the VDOT right-of-way in front of New Town Medical Center	Jose Ribeiro	Berkeley
	C-0035-2010	Daddyos Pizza and Panini LLC	5242 OLDE TOWNE ROAD	This plan is for a restaurant, approx 1600 sq ft with 20 seats inside and outside	Jason Purse	Powhatan
	C-0036-2010	Williamsburg Veterinary Hospital	3449 JOHN TYLER HGWAY	Adapt existing building to accommodate veterinary hospital with 1 full time doctor, 8 full time employees. Hours of operation 8a-6p, M-F; 9a-1p, Sat. Possible evening hours until 9pm. No emergency care. Expansion to include indoor doggy day care and pet	Kathryn Sipes	Jamestown

Site Plan	SP-0073-2010	Colonial Terrace Pocahontas Trail Bus Stop Shelter	7325 POCAHONTAS TR	Construction of a new bus stop & shelter along Pocahontas Trail near the Colonial Terrace subdivision	Jose Ribeiro	Roberts
	SP-0074-2010	Colonial Heritage Ph. 3 Sec. 3A SP Amend.	6799 RICHMOND ROAD	Changing 10 duplexes from the Abby/Aldrich model to the Aldrich/Aldrich model. Driveway revisions on these 10 units. Monument and tree relocation due to utility service modifications.	Sarah Propst	Stonehouse
	SP-0075-2010	Spencer's Grant, SP Amend. and BMP Modification	WILLIAM SPENCER	This site plan modifies an existing BMP design in an effort to fix ongoing maintenance issues	Luke Vinciguerra	Roberts
	SP-0076-2010	New Town Main Street Building 900 SP Amend. (American Family Fitness)	5137 MAIN STREET	The applicant proposes a 12,400 square foot addition to accomodate the new tenant American Family Fitness Center adjacent to the Opus 9 restaurant at the end of Main Street.	Leanne Reidenbach	Berkeley
	SP-0077-2010	Williamsburg Pottery	6692 RICHMOND ROAD	Redevelopment of the Williamsburg Pottery property. Proposal involves the construction of three new buildings totaling 140,472 s.f. with 10,000 s.f. of corporate office space and associate parking.	Chris Johnson	Stonehouse
	SP-0078-2010	Colonial Heritage Ph. 3 Sec. 3B Wiffet Way Stormwater Plan	4104 WIFFET WAY	Moving stormwater system monument SS33-2-13.	Sarah Propst	Stonehouse
	SP-0079-2010	Palmer Lane Flagpoles	5300 PALMER LANE	Install three flagpoles adjacent to existing County office building parking lot	Chris Johnson	Berkeley
	SP-0080-2010	2011 Attraction Ride Relocation	7851 POCAHONTAS TR	Relocation of an existing ride to New France.	Jason Purse	Roberts
	SP-0081-2010	CVS and Food Lion, Soap and Candle Factory	7521 RICHMOND ROAD	Application includes construction of a CVS pharmacy and Food Lion with associated roadway and utility improvements	Sarah Propst	Stonehouse

	SP-0082-2010	4th Middle/9th Elementary School SP Amendment - sheds	800 JOLLY POND RD	Placement of a bicycle storage shed and an athletic equipment storage shed	Terry Costello	Powhatan
	SP-0083-2010	Williamsburg Radio Station Co-Location	4338 CENTERVILLE RD	Adding 12 antennas as well as outdoor equipment cabinets on a steel platform to an existing 460' guyed tower	Kathryn Sipes	Powhatan
	SP-0084-2010	Grove Christian Outreach Center	8800 POCAHONTAS TR	This plan proposes an outreach center with accompanying parking, utilities, and stormwater management	Jose Ribeiro	Roberts
	SP-0085-2010	Weatherly at Whitehall SP Amendment	3225 OLD STAGE ROAD	This plan revises the location of the soft trail around Building 20 and connecting to Weathers	Brian Elmore	Stonehouse
Special Use Permit	SUP-0021-2010	Jolly Pond Road Hogge Family Subdivision	2677 JOLLY POND ROAD	Family subdivision resulting in lots that are less than three acres in size	Jason Purse	Powhatan
	SUP-0022-2010	Charlie's Antiques	7709 RICHMOND ROAD	Relocate Charlie's Antiques across Richmond Road to the site of Pumpkinville.	Leanne Reidenbach	Stonehouse
	SUP-0023-2010	Cranston's Mill Pond Project	6616 CRANSTON'S MILL POND RD	Bring dam in compliance with State Dam safety Act and related state regulations	Jose Ribeiro	Stonehouse
	SUP-0024-2010	Pierce Family Subdivision	3049 JOLLY POND ROAD	This application is to create two lots out of one.	Luke Vinciguerra	Powhatan
Subdivision	S-0041-2010	Massie Property BLA & Natural Space Allocation	3920 COKES LANE	This application is for a boundary line adjustment, property line extinguishment, and allocation of offsite natural open space areas.	Chris Johnson	Stonehouse
	S-0042-2010	Courthouse Commons BLA	4025 IRONBOUND ROAD	Boundary Line Adjustment	Kathryn Sipes	Berkeley
	S-0043-2010	White Hall Section 1 Phase C	3400 ROCHAMBEAU DR	Final plat for 11 lots.	Sarah Propst	Stonehouse

Subdivision	S-0044-2010	2891 & 2899 Sandy Bay Road Lot Line Extinguishment	2891 SANDY BAY ROAD	This plan is to extinguish the lot line and create one lot from two	Jason Purse	Berkeley
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PLANNING DIRECTOR'S REPORT
October 2010

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

- **New Town.** The DRB did not hold a meeting in September. Several conceptual elevations for a fuel station adjacent to WindsorMeade Way were provided for preliminary comment, but formal DRB review will occur at its October meeting.
- **Comprehensive Plan.** Bound color copies of the 2009 James City County Comprehensive Plan and large color copies of the 2009 Land Use Map are now available for purchase. Full Comprehensive Plans can be purchased for \$35 and maps can be purchased for \$10. Combination packages of a Comprehensive Plan and the Land Use Map are available for a discounted rate of \$40. A digital version of the map and the full text of Historic Past, Sustainable Future: the 2009 Comprehensive Plan, are available free of charge on the County's website. Commissioners received their copies in mid-September.
- **Agricultural and Forestal Districts (AFDs).** The AFD Advisory Committee met in September to consider two requests to add property to existing AFDs. The Committee recommended approval to add 121.06 acres to the Barnes Swamp AFD and recommended denial of the request to add 234.6 acres to the Gordon Creek AFD.
- **Ordinance Update.** A third Planning Commission Forum to hear public comments on the ordinance update was held on Monday, September 27. This was the last scheduled forum, but the public is encouraged to follow www.jccplans.org for updates and to submit comments online. A Board of Supervisors work session was held on September 28 to discuss updating the rural lands ordinances.
- **Staff Training.** Two staff members attended the Fall Symposium in Luray. Topics included tools for accommodating growth and the transfer / leasing of developmental rights.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – September 14th and 28th
 - SUP-0028-2009 – Ingram Road Pegasus Wireless Communications Tower – Adopted 5 - 0
 - Z-0001-2010 Fast Food Restaurant at 8953 Pocahontas Trail – Adopted 5 - 0
 - SUP-0019-2010 Harmonious Hardscapes – Adopted 5 - 0
 - AFD-1-89. Armistead 2010 Renewal Adopted 5-0
 - AFD-5-86. Barnes Swamp 2010 Renewal Adopted 5-0
 - AFD-1-02. Carter's Grove 2010 Renewal Adopted 5-0
 - AFD-10-86. Christenson's Corner 2010 Renewal Adopted 5-0
 - AFD-6-86. Cranston's Pond 2010 Renewal Adopted 5-0
 - AFD-2-86. Croaker 2010 Renewal Adopted 5-0
 - AFD-9-86. Gordon Creek 2010 Renewal Adopted 5-0
 - AFD-12-86. Gospel Spreading Church Farm 2010 Renewal Adopted 5-0
 - AFD-3-86. Hill Pleasant Farm 2010 Renewal Adopted 5-0
 - AFD-7-86. Mill Creek 2010 Renewal Adopted 5-0
 - AFD-1-93. Williamsburg Farms 2010 Renewal Adopted 5-0
 - AFD-11-86. Yarmouth Island 2010 Renewal Adopted 5-0

Allen J. Murphy, Jr.

**Development Review Committee Report
September 29, 2010**

C-0032-2010

New Town Shared Parking

DRC Action:

This case was before the DRC for the regular semi-annual DRC review as required by proffers associated with New Town Sections 2 and 4. The DRC recommended deferral of this review to its October 27, 2010 meeting in order to include a recent site plan submittal on Main Street to be included in the parking calculations.

SP-0077-2010

Williamsburg Pottery

DRC Action

This case required DRC review for two reasons: Section 24-147 (a) (1) of the Zoning Ordinance states that a building or group of buildings which contains a total floor area that exceeds 30,000 feet requires review by the DRC and Section 8 (b) of the adopted proffers allows the applicant to appeal the Planning Director's determination that the conceptual building elevations prepared by Guernsey-Tingle are inconsistent with the adopted design guidelines prepared by Dayton & Thompson.

Following an active discussion with the project engineers regarding minor changes made to the adopted master plan and an explanation of the requested landscape modifications, the DRC voted 4-0 to recommend preliminary approval of the preliminary site plan subject to agency review comments and incorporation of item No. 1-5, 8-9 from the applicant's letter dated September 23, 2010.

Following a detailed presentation by the project architects, the DRC voted 3-1 (No: Poole) to approve the revised building elevations and architectural perspectives included in the applicant's presentation. The DRC asked the applicant to provide staff with copies of the revised building elevations and perspectives to verify that the changes requested by DRC members have been incorporated into the elevations and drawings.

C-0037-2010

Keith Corporation – Norge Center

DRC Action:

This case was before the DRC as a consideration item. The applicant will be applying for an SUP and asked to receive feedback from the committee in advance of that submission.