

AGENDA  
JAMES CITY COUNTY PLANNING COMMISSION  
July 2, 2014 – 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. CONSENT AGENDA
  - A. Minutes from the May 27, 2014 Joint Work Session
  - B. Minutes from the June 4, 2014 Regular Meeting
  - C. Development Review Committee
    - i. S-0028-2014, Windmill Meadows Section 5 Perimeter Buffer Reduction (DRC Recommendation: Approved 5-0 )
    - ii. C-0037-2014, Ford's Colony Westport Stormwater Modifications (DRC Recommendation: Approved 5-0 )
    - iii. C-0013-2014, St. Bede Catholic Church Additions and Alterations (DRC Recommendation: Approved 4-0, as recommended in the Staff Report; Mr. Basic being absent)
4. REPORTS OF THE COMMISSION
  - A. Policy Committee
  - B. Regional Issues Committee/Other Commission Reports
5. PUBLIC HEARINGS
  - A. Case No. SUP-0007-2014, 131 Winston Drive Tourist Home
6. PLANNING COMMISSION CONSIDERATIONS
  - A. Case No. Z-0004-2015, Gatehouse Farms Proffer Amendment
7. PLANNING DIRECTOR'S REPORT
8. COMMISSION DISCUSSIONS AND REQUESTS
9. ADJOURNMENT

AT A JOINT WORK SESSION OF THE BOARD OF SUPERVISORS AND THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF MAY 2014, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. CALL TO ORDER**

**ADOPTED**

**B. ROLL CALL**

**JUN 10 2014**

Board of Supervisors:

Mary K. Jones, Chairman, Berkeley District  
Michael J. Hipple, Vice Chairman, Powhatan District  
James G. Kennedy, Stonehouse District  
Kevin D. Onizuk, Jamestown District  
John J. McGlennon, Roberts District

**Board of Supervisors  
James City County, VA**

M. Douglas Powell, Acting County Administrator

Planning Commission:

Richard Krapf, Chairman, Powhatan District  
Robin B. Bledsoe, Vice Chairman, Jamestown District  
George Drummond, Roberts District  
Christopher Basic, Berkeley District  
Heath Richardson, Stonehouse District  
Timothy O'Connor, At-Large Representative  
John Wright, III, At-Large Representative

Paul D. Holt, III, Director of Planning, Secretary to the Planning Commission

**C. BOARD DISCUSSIONS**

**1. Joint Meeting with the Planning Commission**

**a. Comprehensive Plan Update**

Mr. Richard Krapf addressed the Joint Session regarding the Comprehensive Plan Review, the Longhill Corridor Study, and the Mooretown Road Corridor Study.

Ms. Tammy Rosario, Principal Planner, introduced Dr. Susan Willis from the Virginia Tech Center of Survey Research.

Dr. Willis addressed the Joint Session regarding the results of the Citizen Survey.

Mr. McGlennon asked if the information contained in the slide in regards to what citizens would most like to see in the future was based on a summation of responses or different individual responses.

Dr. Willis stated that the results were a summation.

Mr. John Wright stated he was surprised that jobs were not a theme in the results.

Dr. Willis stated that it was not a theme in responses received; however, in other areas such as Roanoke, jobs are a major theme.

Mr. McGlennon asked about the attitudes about services provided by James City County in comparison to attitudes about services in other areas.

Dr. Willis stated that there was definite support for the services provided by James City County and that around 40 percent of respondents were willing to pay additional fees for services.

Mr. George Drummond asked about the ratios of citizens willing to take the survey in James City County versus other jurisdictions.

Dr. Willis stated that there are normally more women than men in the respondent demographics and the only surprising factor was that there was a significant older population that responded to the survey.

Mr. McGlennon asked about the rate of non-respondents.

Dr. Willis stated that the non-respondents included people that never answered the phone, could not take the time to answer the survey, did not wish to participate, or were non-residents.

Mr. Kennedy asked if the information was broken down to list results between retirees and currently working citizens.

Dr. Willis stated that the results had not been broken down that way, but that they could be.

Mr. Heath Richardson asked if the number of respondents was within normal ranges for this type of survey.

Dr. Willis stated that the number of respondents was well within normal range.

Ms. Jones stated she was glad to see that citizens feel safe in the community.

Ms. Rosario addressed the Joint Session about developments coming from the Community Participation Team (CPT).

b. Longhill Road Corridor Study Update

Mr. Carol Collins, with Kimberly Horn and Associates, addressed the Joint Session regarding the Longhill Road Corridor Study.

Mr. Drummond asked about the analysis on the number of accidents on the Longhill Corridor.

Mr. Collins stated that at certain points in the corridor there are some visibility issues and that has been calculated into the study.

Mr. Onizuk gave his compliments on the study and stated that his only concern was the Lafayette High School and Season's Trace area.

Mr. McGlennon asked about relocating a portion of the road in the future.

Mr. Collins stated that the plan actually helps define what space is necessary for roadways in the future.

Mr. Jones asked if the local residents had been informed of the plan.

Mr. Collins stated that any local residents who would be affected have been informed.

c. Mooretown Road Corridor Study Update

Mr. Jason Purse, Zoning Administrator, addressed the Joint Session regarding the Mooretown Road Corridor Study.

Mr. Drummond asked about the section of Mooretown Road from Sentara Williamsburg Regional Medical Center to Airport Road.

Mr. Purse stated that particular section of Mooretown Road was not included in the study.

**D ADJOURNMENT OF PLANNING COMMISSION**

Mr. Krapf thanked the Board of Supervisors for hosting the Joint Session and adjourned the Planning Commission until 7 p.m. on June 5, 2014, for its regular commission meeting.

**E. CLOSED SESSION**

Prior to entering into Closed Session, Mr. McGlennon made a motion to appoint Ms. Barbara Watson to the Community Services Coalition Board of Directors.

On a roll call vote, the vote was: AYE: Mr. Kennedy, Mr. Hipple, Mr. McGlennon, Mr. Onizuk, Ms. Jones (5). NAY: (0).

Mr. McGlennon made a motion to enter Closed Session pursuant to the Code Section listed on the Agenda.

On a roll call vote, the vote was: AYE: Mr. Kennedy, Mr. Hipple, Mr. McGlennon, Mr. Onizuk, Ms. Jones (5). NAY: (0).

At 5:36 p.m., the Board entered Closed Session.

1. Consideration of acquisition/disposition of a parcel/parcels of property for public use, pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia

At 6:31 p.m., the Board reentered Open Session.

Mr. McGlennon made a motion to certify the Closed Session.

On a roll call vote, the vote was: AYE: Mr. Kennedy, Mr. Hipple, Mr. McGlennon, Mr. Onizuk, Ms. Jones (5). NAY: (0).

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) Section 2.2-3711(A)(3), to consider the acquisition/disposition of a parcel/parcels of property for public use.

**F. RECESS** – until Regular Meeting at 7 p.m.

At 6:32 p.m., Ms. Jones recessed the Board until the Regular Meeting at 7 p.m.



M. Douglas Powell  
Clerk to the Board

052714bosws-min

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF JUNE, TWO-THOUSAND AND FOURTEEN, 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:**

Rich Krapf  
Tim O'Connor  
Chris Basic  
Robin Bledsoe  
George Drummond  
John Wright, III  
Heath Richardson

**Staff Present:**

Paul Holt, Planning Director  
Jose Ribeiro, Senior Planner II  
Leanne Pollock, Senior Planner II  
Jennifer VanDyke, Planner  
Luke Vinciguerra, Planner  
Ellen Cook, Senior Planner II  
Leo Rogers, County Attorney

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

2. **PUBLIC COMMENT**

Mr. Krapf opened the public comment.

There being none, Mr. Krapf closed the public comment.

3. **CONSENT AGENDA**

**A. Minutes from April 2, 2014, Planning Commission meeting.**

Mr. Chris Basic noted that one line in the minutes were attributed to him, when they should be attributed to Mr. Tim O'Connor.

**B. Development Review Committee**

i. **Case No. C-0029-2014, 1584 Harbor Road, Ron & Gail Gilden Conservation Easement Encroachment**

Mr. Krapf inquired if the Commissioners had any comments.

Mr. Basic moved to approve the Consent Agenda, with the recommended revisions to the minutes.

In a unanimous vote, the Commission approved the Consent Agenda 7-0.

4. **REPORTS TO THE COMMISSION**

**A. Policy Committee**

Mr. Tim O'Connor reported that the Policy Committee met on May 15, 2014 in preparation of the May 27, 2014 Joint Worksession with the Board of Supervisors. Topics for discussion included the results of the 2014 Citizens Survey, an update on the 2035 Comprehensive Plan, and updates on the Longhill Road and Mooretown Road Corridor Studies.

**B. Regional Issues Committee**

Ms. Robin Bledsoe stated that the Regional Issues Committee met in May.

**5. PUBLIC HEARING CASES**

**A. Case Nos. Z-0002-2014/MP-0002-2014, Kingsmill Rezoning and Master Plan Amendment, Land Bay Areas 1, 2, 6 and 7**

Mr. O'Conner recused himself from consideration of the case.

Mr. Jose Ribeiro, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Krapf inquired if the Commissioners have any disclosures they wished to note.

Ms. Bledsoe, Mr. George Drummond, and Mr. John Wright noted that they have recently spoken with Mr. Vernon Geddy regarding the case.

Mr. Krapf opened the public hearing.

Mr. Geddy, of Geddy, Harris, Franck and Hickman LLP, addressed the Planning Commission, giving an overview of the proposal.

Mr. Heath Richardson asked for a description of the proposed Country Road trail.

Mr. Geddy gave a description of the changes being made to the Country Road.

Mr. Richardson asked if there will be a 150 foot buffer between the trail and Busch Corporate Center.

Mr. Geddy stated that there is a proffered 75 foot buffer to the property line.

Mr. Richardson asked how wide the trail will be.

Mr. Geddy replied that it will be the width of the existing road, with the exception of the area that is being moved, which will be approximately eight feet wide.

Mr. Wright asked which portions of the Country Road would not be conveyed to the Kingsmill Community Services Association (KCSA).

Mr. Geddy indicated on the map which portions are not a part of the proposal.

Mr. Wright asked for a description of the proposed buffers.

Mr. Geddy gave an overview of each of the proposed buffers.

Mr. Wright asked if they will be comprised of the existing trees or vegetation.

Mr. Geddy confirmed.

Mr. Wright noted that the declarations indemnify the brewery and Xanterra, but does not indemnify the residents.

Mr. Geddy replied that the purpose is to make clear to buyers the potential impacts of living beside a brewery or amusement park as well as protect the brewery and Busch Gardens from complaints from residents. Mr. Geddy noted that the residents were not included because there is no situation in which they could be held liable for anything.

Mr. Wright inquired about language from a previous Master Plan agreement.

Mr. Geddy stated that it does apply to this case because it deals with land not shown on the Kingsmill Master Plan.

Ms. Bledsoe noted that the Country Road is important to the Kingsmill residents and inquired as to when the Country Road would be repaired.

Mr. Geddy stated that it will be repaired concurrently with any development.

Mr. Krapf asked for more information on the methodology of the sound study.

Mr. Geddy replied that it was most likely modeled based on the topography.

Mr. Michael McGurk, 177 Jefferson's Hundred, addressed the Planning Commission in opposition to the application.

Ms. RubyJean Gould, 309 Archer's Mead, addressed the Planning Commission in opposition to the piecemeal approach for Xanterra's proposals.

Mr. Andrew Lloyd-Williams, 120 Captaine Graves, addressed the Planning Commission in opposition to the application.

Mr. Robert Cetola, 120 Roffingham's Way, addressed the Planning Commission in opposition to the application.



Mr. Lenny Berl, 105 William Richmond, addressed the Planning Commission in opposition to the application.

Mr. Howard Ware, 46 Whittaker's Mill Road, addressed the Planning Commission in opposition to the application.

Mr. Wade Swink, 11 Whittaker's Mill Road, addressed the Planning Commission in opposition to the application.

Mr. Edward Fang, 108 Edward Grindon, addressed the Planning Commission in support of the application.

Mr. Earl White, 113 John Wickham, addressed the Planning Commission in opposition to the application.

Mr. Jim Zinn, of KCSA, addressed the Planning Commission in support of the application and responded to several concerns raised by previous speakers.

There being no one else wishing to speak, Mr. Krapf closed the public hearing.

Mr. Krapf asked Mr. Leo Rogers, County Attorney to address the comments regarding the legality of the application.

Mr. Rogers stated that the County Attorney's office has reviewed the case and determined that Xanterra is within their legal rights to pursue the application. Mr. Rogers noted that there is a private legal dispute that may have to be resolved in the future.

Mr. Krapf opened the floor for discussion by the Planning Commissioners.

Mr. Richardson inquired if there are any missing documents regarding the Master Plan that the Commission is not aware of.

Mr. Ribeiro replied that he is not aware of any.

Mr. Richardson inquired if the application will be abiding by the Housing Opportunities Policy by providing 12 affordable housing units.

Mr. Geddy confirmed.

Mr. Richardson inquired regarding the point at which those units will be provided.

Mr. Geddy replied that it is written in to the proffers and noted that half of the units must be provided when 50 Certificates of Occupancy have been issued, and the other half when 100 Certificates of Occupancy have been issued.

Mr. Richardson noted that the Commission has heard concerns regarding traffic, and inquired if any traffic considerations have been made.

Mr. Geddy replied that a traffic study has been done, showing that no improvements were needed.

Mr. Wright asked if there have been any discussion with In-Bev or Busch Gardens regarding the possibility of building sound barriers or decreasing the decibel of the train whistle.

Mr. Geddy replied that he is not aware of any such conversation.

Mr. Wright noted that he believes an agreement could be reached between the two parties to help make it a more hospitable place to live.

Ms. Bledsoe noted that Mr. Geddy indicated during their conversation that the affordable housing units would be provided in the condominium area.

Mr. Geddy confirmed.

Mr. Richardson stated that he believes the applicant should consider the issues brought forth by the Kingsmill residents, and an exchanging of ideas should take place in the future between the various parties.

Mr. Krapf noted that this is a very difficult case because many aspects are outside of the realm of the Commission. Mr. Krapf stated that the Commission must consider the application based solely on Land Use, and thus he must support the application. Mr. Krapf also noted that the ultimate authority comes from the Board of Supervisors.

Mr. George Drummond stated that although the Commission's decision is based on Land Use, he understands the concerns raised by the Kingsmill residents. Mr. Drummond stated that if the Commission recommends approval, he hopes the developer will be a good steward to the residents, and that both parties will be able to reach an agreement.

Mr. Wright stated that the two parties must work together to resolve their issues, or it will be a losing situation for everyone. Mr. Wright stated that due to the language of the original Master Plan referencing the home owners, he is unable to support the application without the buy-in of the home owners.

Ms. Bledsoe stated that she commends the citizens for effectively gaining the attention of a powerful entity such as Xanterra, as well as that of the County. Ms. Bledsoe stated that although the Planning Commission is charged with determining if an applicant has met all of the County's Land Use requirements, it is very difficult to hear citizens so opposed to changes in their community that they do not want. Ms. Bledsoe noted that the citizens have made a significant difference in Xanterra's proposal.

Mr. Basic noted that significant changes have been made from Xanterra's original proposal, and this application provides a good compromise. Mr. Basic stated that he believes an applicant should not walk away from a proposal due to existing conditions, such as the brewery and amusement park. Mr. Basic also requested that Board reevaluate the Housing and School Proffer Policies in regards to this case, because it is difficult to apply modern policies to a previously existing community. Mr. Basic further stated that he believes applying full weight of those policies to this case is inappropriate.

Mr. Richardson moved to approve the application.

On a roll call vote, the motion to recommend approval of the application neither carried nor failed, with a tie vote of 3-3-1; Mr. Wright, Mr. Drummond, and Ms. Bledsoe voting Nay and Mr. O'Connor abstaining.

B. Case No. SUP-0004-2014, WindsorMeade Marketplace Wendy's (New Town Sec. 11)

Ms. Leanne Pollock, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Wright stated that he is concerned with traffic exiting the proposed establishment and trying to turn left on Monticello Avenue.

Mr. Richardson asked if there is an image the Commission could view.

Ms. Pollock displayed an aerial drawing and noted the area with which Mr. Wright is concerned. Ms. Pollock noted that there is only one lane of traffic that must be crossed.

Mr. Wright stated that he wanted to ensure that traffic would not be forced to turn right on Monticello and then make a U-turn.

Ms. Pollock stated that the road layout was chosen as part of the Master Plan for New Town Section 11, and noted that it is a legislative case because of the fast-food use.

Mr. Basic noted that the DRC discussed the illegal turns taking place at that intersection, and asked what efforts are being made by all involved parties to keep the situation from becoming worse.

Ms. Pollock gave an overview of the proposed signage and striping improvements.

Ms. Bledsoe noted that the traffic issues associated with the access road are not a result of the Wendy's but were preexisting.

Ms. Pollock confirmed.

Mr. O'Connor inquired if the adopted Master Plan specified a use for the parcel.

Ms. Pollock stated that it is shown as non-residential, and any use requiring a Special Use Permit (SUP) in the Mixed Use District that is not specifically called out on the Master Plan must go through the legislative process.

Mr. O'Connor asked for more information regarding the condition for an external pedestrian accommodation listed in the staff report.

Ms. Pollock stated that this would be a crosswalk stretching across Old News Road from the Wendy's to the Ruby Tuesday's parcel, and noted that additional studies are still required.

Mr. O'Connor asked what the traffic speed is on Old News Road.

Ms. Pollock stated that she believes the speed limit is 35 MPH.

Mr. Krapf inquired if the Commissioners have any disclosures they wished to note.

Mr. Wright and Ms. Bledsoe stated that he had a conversation with Mr. Paul Gerhardt.

Mr. Krapf opened the public hearing.

Mr. Gerhardt, of Kaufman and Canoles, addressed the Planning Commission giving an overview of the proposal.

Mr. H. Donald Nelson, 4312 Southbury Square, addressed the Commission in support of the application.

There being no one else wishing to speak, Mr. Krapf closed the public hearing.

Mr. Basic moved to approve the application.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-1; Mr. O'Connor voting Nay.

C. Case No. SUP-0005-2014, Creative Kids Child Development Center

Ms. Jennifer VanDyke, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Drummond inquired if the applicant has already received a permit to increase the size of the dwelling to accommodate the additional children.

Ms. VanDyke stated that at this time, she is allowed to have up to twelve children, and that permit is set to expire.

Mr. Krapf inquired if she already has the building permit for the addition to her home.

Ms. VanDyke confirmed that she has received a building permit.

Mr. Drummond asked if the permit is in order to accommodate more children.

Ms. VanDyke stated that the building permit was reviewed solely by the Building Safety and Permits division and is a separate issue from the SUP.

Mr. Richardson inquired if the covenants have officially been revised to allow a daycare in James Terrace.

Ms. VanDyke confirmed that the covenants have been changed to allow child care at 701 Mosby Drive.

Mr. Richardson inquired if the recommendation to only approve up to 12 children, versus 20, is due to the size of the lot and nature of the neighborhood.

Ms. VanDyke confirmed that staff has determined that an operation for 20 children would be out of scale for the neighborhood.

Mr. Krapf inquired if the Commissioners have any disclosures they wished to note.

There being none, Mr. Krapf opened the public hearing.

Ms. Tracey Williams, 701 Mosby Drive, addressed the Planning Commission giving an overview of the proposal and requesting approval for up to 20 children.

Ms. Bledsoe inquired if Ms. Williams is still providing service to many families in her neighborhood, including overnight care for children.

Ms. Williams confirmed.

Mr. Drummond inquired if Ms. Williams has already met all of the requirements set forth by the Department of Social Services in order to increase to 20 children.

Ms. Williams responded that Social Services must visit her home to determine the number of children allowed. Ms. Williams noted that she has begun making improvements to her home in order to evidence what she would like to accomplish.

Mr. O'Connor inquired if all of the fire safety and handicap accessibility requirements have already been met or if those improvements are dependent on receiving approval for up to 20 children.

Ms. Williams responded that those changes will come with approval for up to 20 children.

Mr. O'Connor asked how many employees Ms. Williams has.

Ms. Williams stated that she has two employees and one floater.

Mr. O'Connor inquired if she will have a catering truck deliver food if she has 20 children.

Ms. Williams stated that she will have catering and parents will have the option of packing food.

Mr. O'Connor inquired if the 20 children receiving care would be spread throughout the day and how many children she could be caring for at any given time.

Ms. Williams stated that the children would be spread throughout the day.

Mr. Wright asked where the closest fire station is located.

Ms. Williams responded that the closest station is behind Magruder Elementary School.

Mr. Krapf noted that 12 children is the tipping point for many additional requirements, including fire suppression and parking. Mr. Krapf also noted that Ms. Williams' husband is operating a moving business from the same location and inquired if the property is capable of accommodating the number of parking spaces needed.

Ms. Williams responded that her property allows parking for up to nine vehicles, with two additional spots on a side street. Ms. Williams also stated that her husband's business is handled over the telephone, and no workers park their vehicles at the house.

Mr. Krapf inquired how many children would be on the premises at any given point.

Ms. Williams stated that the children are generally spread out throughout the day, and are only in her care when the parents are at work. Ms. Williams noted that she would like the number of allowed children to be increased for occasional circumstances, such as school holidays, where more of her enrolled children will need care at one time. Ms. Williams further noted that many parents have multiple children, thus decreasing the number of cars travelling to the location.

Mr. Krapf asked if Ms. Williams still plans to remain living in the home.

Ms. Williams confirmed.

Mr. Richardson inquired licenses are required for her two staff members in order for them to care for the children in her absence.

Ms. Williams stated that she is the director and will be there all of the time because she resides there.

Mr. Wright inquired if all of the care takers are required to receive first aid training.

Ms. Williams stated that they are all trained in first aid and CPR.

Mr. Wright inquired if some of the children she keeps reside on her cul-de-sac.

Ms. Williams confirmed.

Mr. Basic inquired regarding the number of children on the premises at a given time that would trigger additional safety requirements.

Ms. Williams stated that she would only need a monitored fire alarm, not a sprinkler system.

Mr. Paul Holt stated that additional changes to the structure would occur with any SUP approval for above 12 children.

Mr. Basic stated that those modifications make him hesitant to approve more than 12 children. Mr. Basic explained that he is supportive of the service Ms. Williams is providing the community, but believes it may best fit another location.

Ms. Bledsoe asked if Ms. Williams is prepared to make changes to her structure if the Commission recommends permitting 20 children.

Ms. Williams confirmed and noted that she has already begun making renovations.

Mr. Holt noted that the plans would have to be amended if more than 12 children are permitted.

Ms. Bledsoe asked if Ms. Williams understands that.

Ms. Williams stated that she received a recommendation for approval with twenty children last year from the Commission, but did not receive approval from the Board of Supervisors.

Mr. Holt stated that the SUP approved by the Board last year was for 12 children.

Mr. Richardson asked where the legal requirements for the additions come from.

Mr. Holt stated that the requirements come from Building Code.

Mr. Rogers stated that the Department of Social Services also has requirements for the number of square feet required per child.

Mr. Richardson noted that the Department of Social Services had given approval for up to 24 children and inquired if this was based on the square footage after the renovations are complete.

Ms. Williams stated that that recommendation was based on her moving out of the residence.

Mr. Wright inquired if the SUP would still apply to the property if Ms. Williams moves to another location.

Mr. Holt stated that the SUP is for the property, but there is a 3-year expiration clause for the permit.

Mr. O'Connor inquired if Ms. Williams will be required to come back every 3 years to renew her permit.

Mr. Holt confirmed.

Mr. Krapf noted that the Department of Social Services determined that the playground on the property has a capacity for 290 children and stated that it does not make sense for the physical structure to only accommodate 24.

Mr. Holt stated that he is not informed on their standards.

Mr. Rogers stated that the capacity for the playground is most likely determined based on use throughout the course of the day.

Mr. Drummond inquired if all requirements have been met for the Department of Social Services.

Ms. Williams confirmed.

Mr. Drummond inquired if she has met all requirements set forth by the County.

Ms. Williams confirmed that she has met all requirements in regards to the covenants.

Mr. Drummond inquired if the Department of Social Services has given permission for up to 24 children.

Ms. Williams stated that that determination was based on her moving out of the home, and that is why she has done a renovation.

Mr. Holt noted that that is a preliminary assessment.

Mr. Eric Williams, 701 Mosby Drive, stated that the square footage of the addition is the same square footage taken away from the assessment for residential living space.

Mr. Drummond asked when addition will be complete.

Ms. Williams stated that it should be complete by July or August.

Mr. Krapf inquired if the improvements would have to be inspected by County staff before Ms. Williams would be able to begin keeping more than 12 children, if approved.

Mr. Holt confirmed.



Mr. Drummond inquired if final approval would have to come from the Department of Social Services.

Ms. Williams confirmed.

Mr. Wright inquired regarding the demographics of the residents on Ms. Williams' street.

Ms. Williams stated that there is a mix of residents.

Mr. O'Connor inquired regarding the definition of "significant impacts" according to County policy.

Ms. VanDyke stated that it would include a combination of traffic and noise. Ms. VanDyke noted that staff does not find the impacts of this case compatible with an internal neighborhood location.

Mr. Richardson inquired if the County has received any complaints.

Ms. VanDyke stated that she is not aware of any.

Ms. Bledsoe inquired if Ms. Williams will be providing most of the transportation.

Ms. Williams stated that she will be doing transportation for her evening clients, and the catering truck will be coming during the day when most people are at work. Ms. Williams also stated that many of the children live on her street and walk to her home.

Mr. Holt stated that staff has also taken into consideration the changes to the exterior of the building resulting in the home appearing more like a commercial structure.

Mr. Drummond asked what the current square footage of the home is.

Mr. Holt replied that that staff report indicates the current square footage is 1,248.

Mr. Drummond stated that he believes an additional 300 square feet on the back of the home will not have a big impact. Mr. Drummond also noted that he has driven by the home and did not see any additional traffic.

Mr. Basic stated that he does not feel that the property is the best location for the childcare operation, and noted that he does not want to set a precedence of permitting similar uses in residential areas.

Ms. Bledsoe stated that she believes this is a unique case because Ms. Williams has the support of her neighbors and if another applicant did not, she would not support it.

Mr. Basic stated that both situations would be in conflict with the ordinance.

Ms. Bledsoe stated that Ms. Williams is not in conflict because she had the covenants changed.

Mr. Basic stated that he is referring to the handicap parking space, additional methods of egress, and deliver truck coming to her come.

Mr. Krapf stated that the issue of whether child care is permitted was resolved by the covenant change, and the issue now is the additional requirements triggered by increasing from 12 to 20 children.

Mr. Holt stated that the covenants do not state a limit on the number of children.

Ms. Williams stated that she was approved for 12 children in order to give her time to address any issues associated with approving 20 children. Ms. Williams also stated that she would not like her case to be considered based on any hypothetical applications that could be submitted in the future.

Mr. Krapf asked if any other members of the audience would like to speak.

There being none, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor for discussion by the Commissioners.

Mr. Drummond stated that Ms. Williams has met all requirements, and he would support approval for 20 children based on the approval from the Department of Social Services.

Mr. Richardson inquired whether a condition could be added to ensure that any renovations are made within a specified period of time if Ms. Williams receives approval for 20 children.

Mr. Krapf stated that she will not be permitted to bring in additional children until the changes have been made. Mr. Krapf also stated that the major issue being raised by the Commission is whether or not an operation with 20 children will still fit the character of a residential neighborhood.

Ms. Williams stated that the food truck is an option, and parents could alternatively provide meals themselves.

Ms. VanDyke stated that, based on her understanding of the Health Department's requirements, Ms. Williams would have to either build a second kitchen or have a food truck deliver on a daily basis.

Mr. Drummond inquired regarding the size of the catering truck.

Ms. Williams stated that she does not need to have a second kitchen.

Mr. Krapf stated that he understands that installing a second kitchen is not a requirement, but he believes the food truck is.

Mr. Holt stated that the letter Ms. Williams provided states the conditions allowed if a food truck is provided, but does not state what the requirements are if a food truck is not provided. Mr. Holt stated that it is staff's understanding that she must either utilize a food truck or build a second kitchen.

Ms. VanDyke stated that the Department of Social Services requires that prepared food be served when caring for more than 12 children. Ms. VanDyke stated that the Department of Health typically requires a second kitchen, but had determined that the food truck would be an acceptable alternative. Ms. VanDyke also noted that she can follow up with the Department of Social Services for more clarity.

Mr. Krapf stated that this is an issue that will be resolved before the case goes to the Board of Supervisors, even if the Commission recommends approval.

Ms. Williams stated that food could be brought in from restaurants as well.

Mr. Drummond made a motion to approve the application with the conditions listed in the staff report, with the exception of increasing the number of children from 12 to 20.

Mr. Basic stated that he is more supportive of permitting 12 versus 20 children in a residential area.

Mr. Wright stated that he is favorable of the application based on the applicant's work to get the covenants changed, as well as providing a service to the community. Mr. Wright also stated that if the applicant were to come back wanting an increase above 20 children, she should consider another location.

Mr. Richardson stated that he believes Ms. Williams is providing a service to the community, and the approval of the neighborhood is an important consideration.

Mr. O'Connor stated he does not believe a residential neighborhood is the correct location for a business operating until midnight, seven days a week. Mr. O'Connor stated that he could support 12 children, but not 20, based on the additional requirements.

Mr. Richardson asked if there is a County ordinance limiting the number of children being cared for in a residential area.

Mr. Holt stated that ordinance requires a SUP to care for more than five children in a residential area.

Mr. Basic stated that the Commission must determine if this will still be considered a residential use.

Mr. Drummond stated that there are a number of business in residential areas who have begun with a SUP.

Ms. Williams stated that there are several businesses operating in her area.

Mr. Krapf stated that it is unclear whether those are licensed businesses.

Mr. Holt stated that the motion on the floor is to approve the SUP with the conditions listed the staff report, with the exception that the number of children be 20, subject to final approval by the State.

On a roll call vote, the Planning Commission voted to recommend approval of the ordinance by a vote of 4-3; Mr. Basic, Mr. O'Connor and Mr. Krapf voting Nay.

D. Case No. SUP-0006-2014, John Tyler Highway Sewer Connection

Mr. Luke Vinciguerra, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Ms. Ellen Cook, Planner, addressed the Planning Commission regarding the County's Primary Service Area (PSA).

Mr. Wright asked where Chickahominy Riverfront Park gets their water from.

Mr. Rogers stated that the sewer is onsite, but he does not know where their water comes from.

Ms. Bledsoe inquired if they are being served by the County.

Mr. Rogers stated that they are not.

Mr. Drummond asked how far the connection is from the residence.

Mr. Vinciguerra stated that it is approximately 220 feet.

Mr. Holt noted that the existing sewer line is indicated in orange on the map provided.

Ms. Bledsoe inquired regarding the cost estimate.

Mr. Holt stated that the estimated distance or cost should not be a factor in the Commission's decision, as it is against County policy to extend water and sewer outside of the PSA.

Ms. Bledsoe stated that she inquired about the dollar amount because she recalled the estimate being very high.

Mr. Rogers stated that she may be referring to the James City Service Authority (JCSA) Utility Regulations.

Mr. Drummond asked how many feet are allowed by the JCSA Utility Regulations.

Mr. Rogers stated that is approximately 1,000 feet and only applies to properties inside the PSA. Mr. Rogers also noted that properties immediately abutting the line may be allowed to connect.

Mr. Wright inquired if there is a septic system already on the lot.

Mr. Vinciguerra stated that there is not, but there is approval from the Health Department for an onsite alternative sewage disposal system.

Mr. Wright inquired if the land will perc.

Mr. Vinciguerra stated that the land will most likely not perc, and this is why an alternative system is necessary.

Mr. Krapf noted that this is a vacant lot with no structures already existing.

Mr. O'Connor inquired if the property has ever been considered adjacent to the lines.

Mr. Vinciguerra stated that the property is considered adjacent to the water lines, as they extend further, but not the sewer lines.

Mr. Drummond stated that he believes it may be more environmentally friendly to allow the property to connect instead of using a sewer system.

Mr. Vinciguerra stated that any effluent would be regulated by the State regardless of the method determined.

Mr. Holt stated that the distinction between this case and other past cases that have received approval is that those cases had existing failing systems, resulting in health and environmental concerns.

Mr. Krapf inquired if the Commissioners have any disclosures they wished to note.

Mr. O'Connor stated that he has spoken with Mr. Geddy regarding the case.

Mr. Krapf opened the public hearing.

Mr. Geddy addressed the Planning Commission, giving an overview of the proposal.

Ms. Bledsoe inquired if the lot would be residential.

Mr. Geddy confirmed that is zoned A-1.

Ms. Zina Stokes, 2644 and 2638 John Tyler Highway, addressed the Commission in support of the proposal.

There being no one else wishing to speak, Mr. Krapf closed the public hearing and opened the floor for discussion by the Commissioners.

Mr. Krapf stated that he does not believe the Commission should set a precedent for extending service outside of the PSA for reasons of convenience.

Ms. Bledsoe inquired if the applicant is looking to extend the PSA.

Mr. Geddy replied that the PSA would not be extended.

Ms. Bledsoe inquired regarding the zoning of the surrounding lots.

Mr. Geddy replied that he believes they are all zoned A-1.

Mr. Krapf stated that he believes allowing the property to connect to sewer is a de facto extension of the PSA.

Ms. Bledsoe noted that the nearby properties are all also zoned agricultural and receive sewer services.

Mr. Krapf stated that those were part of the agreement reached for Governor's Land.

Mr. Holt stated that those connections were based on the County policy that properties adjacent to the line are allowed to connect.

Mr. O'Connor inquired if there was a condition in the Governor's Land connection stating that only the properties adjacent to the line could connect.

Mr. Rogers stated that it was an amendment to the Governor's Land SUP.

Mr. O'Connor inquired regarding the use of the larger parcel behind the one in question.

Mr. Geddy stated that it is the western end of the property for the proposed cemetery.

Mr. Drummond stated that he believes the rural character of the land has already been changed by putting residential homes there.

Mr. Krapf stated that providing public utilities allows more dense development to occur, defeating the purpose of using the PSA as a growth development tool.

Mr. Drummond inquired if Governor's Land is in violation of the PSA line.

Mr. Holt stated that they are not because they received a SUP. Mr. Holt also stated that, in addition to preserving rural lands, staff indicated in their report several different reasons the PSA policy is important to uphold.

Mr. Wright noted that is difficult to weigh the responses of the Comprehensive Plan surveys, stating that growth should be managed, versus the potential environmental impacts of a septic system that could one day fail.

Mr. Richardson stated that he believes the citizens want to maintain the rural flavor of the County, and the PSA line is an important tool to utilize.

Mr. O'Connor noted that although he has seen the impacts of a failing septic system, extending sewer connections opens the door for many more properties wanting to connect.

Mr. Basic stated that he agrees with Mr. O'Connor.

Mr. Steve Clymer, 2604 John Tyler Highway, stated that each lot must be looked at on a case by case basis, and stated that the County can use zoning to control growth.

Mr. Krapf stated that he is still concerned with setting a precedent.

Ms. Bledsoe stated that, because a dwelling will be placed on the lot regardless of the outcome, the County would not be promoting growth by allowing them to connect. Ms. Bledsoe also noted that she believes it would be contrary to not allow this property to connect when his neighbors were allowed.

Mr. Krapf stated that he disagrees because those connections were a part of a previous SUP allowing connections only for those adjacent to the sewer line.

Ms. Bledsoe stated that she disagrees with the argument that not allowing the connection is a means to control growth in this case.

Mr. O'Connor stated that although zoning does control growth through density restrictions, the land itself controls growth because it does not perc and thus cannot accommodate a larger home.

Mr. Drummond stated that he agrees that it would be contrary to have allowed some lots to connect but not others now.

Mr. Krapf stated that those lots were allowed to connect based on the SUP for the Governor's Land development. Mr. Krapf also stated that this logic reinforces his argument that one approval will lead to another.

Mr. Holt stated that those lots were approved because they are directly adjacent to the existing main.

Ms. Bledsoe inquired regarding the reason for approving those lots.

Mr. Rogers stated that when Governor's Land was approved it did not include any connections to public water and sewer, and residents ended up with lots that did not perc right beside the

existing line. Mr. Rogers stated that the Board decided at that time to amend the SUP to allow connections for those adjacent to the line.

Mr. Holt noted that that exception was for lots that were in existence at the time.

Ms. Cook stated that the decision was subsequent to an examination during the Comprehensive Plan review process.

Mr. Holt stated that there are many areas where some people receive public water and sewer and others do not.

Mr. Wright noted that there are several Land Use proposals dealing with this this same issue.

Mr. Holt confirmed that there are several applications requesting extensions to the PSA.

Mr. Drummond inquired why the County would allow lots to be developed at all outside of the PSA if they are trying to use that to control growth.

Mr. Krapf explained that the PSA line is used to control the density of development.

Mr. Holt noted that these lots were subdivided out before the existence of the infrastructure.

Ms. Bledsoe inquired if the lot in question was in existence at the time the Governor's Land SUP was amended.

Mr. Rogers confirmed.

Mr. Basic stated that he believes zoning will determine the density allowed on that lot, not the connection to sewer, or lack thereof.

Mr. Holt stated that the Board made its decision so that there would not be an arbitrary cut off for where connections should end.

Mr. Krapf stated that he is not taking into account the structure that will be built on the lot, but that the connection would be violating County policy without a reason of public health or safety.

Mr. Basic stated that almost all land outside of the PSA is zoned A-1, thus high density development could not occur without a rezoning.

Mr. Holt stated that three acre lots could occur on the larger parcel behind the one in question. Mr. Holt further stated that without connecting to public utilities, a communal well would have to be installed, which would be cost prohibitive.

Mr. O'Connor stated that the adjacency argument will result in a domino effect of SUP applications.



Mr. Basic inquired regarding the trigger for a central water system.

Mr. Holt stated that after nine lots, a central water system must be installed per the County ordinance.

Mr. Krapf stated that outside of the PSA, that central water system would have to be a communal well.

Mr. O'Connor noted that this system is what is being installed on Centerville Road.

Ms. Bledsoe inquired who pays for the communal well.

Mr. Krapf stated that the developer is responsible for the expense. Mr. Krapf also noted that this could lead to a situation in which a communal well fails, and a large number of lots would want to connect to public utilities as well.

Mr. Drummond inquired if all of the lots were developed at the same time.

Mr. Krapf stated that the most important issue is not how many other lots are out there or how long they've been there, but that the Board decided to only give permission to those adjacent to the line.

Mr. Drummond stated that if the purpose of the PSA is to control growth, the County failed by allowing the development of Governor's Land outside of the PSA.

Mr. Holt stated that it was a decision made by the Board at that point in time.

Mr. Drummond stated that the Commission is in the position to make an exception.

Mr. Krapf stated that the decision should be based on sound logic, not personal convenience.

Mr. Drummond stated that he believes there is logic for approving this case.

Mr. O'Connor stated that without a public health concern or public benefit to be provided, a precedent would be set.

Mr. Geddy stated that because these lots have been in existence, this could avoid setting a precedent that would allow a whole new subdivision to come in and want to connect to public utilities.

Mr. Rogers stated that the County utility policy is designed to control growth, and every time an exception is made it becomes harder to defend the policy. Mr. Rogers stated that the subdivision of a lot is not the same as the development of a lot. Mr. Rogers also noted that the fact that these lots have been in existence for some time without being developed shows that growth has been successfully controlled.

Mr. Krapf noted that the drawings provided from the 1997 SUP amendment specifically indicates which lots will receive water and sewer, water only, or nothing.

Mr. Holt stated that just because a lot is created, there is no guarantee that public water and sewer will be available.

Mr. Krapf moved to deny the application.

Mr. Basic asked if any residential development over nine lots would require water infrastructure based on the County Subdivision Ordinance, and if without a water line, a private well would be required.

Mr. Holt confirmed.

Mr. Basic inquired if a water system would still be built if a water line was nearby and the County denied access.

Mr. Holt confirmed that it could still be built at a great expense to the developer.

Mr. Drummond inquired if there would be a tap fee for the applicant to connect to the line.

Mr. Rogers confirmed that there would be fees associated with connecting.

On a roll call vote, the Planning Commission voted to recommend denial of the ordinance by a vote of 4-3; Mr. Drummond, Mr. Basic and Ms. Bledsoe voting Nay.

**6. PLANNING COMMISSION CONSIDERATIONS**

**7. PLANNING DIRECTOR'S REPORT**

Mr. Holt gave an overview of the upcoming community outreach activities for the Comprehensive Plan update.

Mr. O'Connor inquired if the Land Use applications will be discussed at the public meetings.

Mr. Holt confirmed.

**8. COMMISSION DISCUSSION AND REQUESTS**

Mr. Krapf stated that Mr. Richardson will attending the June 10<sup>th</sup> Board meeting, and Ms. Bledsoe will be attending the June 24<sup>th</sup> meeting.

Mr. Richardson offered a reminder that the 70<sup>th</sup> Anniversary of D-Day is Saturday, June 7<sup>th</sup>.

**9. ADJOURNMENT**

Mr. O'Connor moved to adjourn the meeting.

The meeting was adjourned at approximately 11:25 p.m.

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Richard Krapf, Chairman

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Paul D. Holt, III, Secretary

**Case No. SUP-0007-2014, 131 Winston Drive Tourist Home  
Staff Report for the July 2, 2014 Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:

Board of Supervisors:

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

July 2, 2014, 7:00 p.m.

August 12, 2014, 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:

Mrs. Joanne Arnall, daughter

Land Owner:

Mrs. Viona Farnsworth

Proposal:

To operate a tourist home in an existing single family home

Location:

131 Winston Drive

Tax Map/Parcel:

4811000012

Parcel Size:

0.32 acres

Existing Zoning:

R-2, General Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

This proposal seeks to convert a single family home located at 131 Winston Drive to a tourist home to be used as a short term rental property. The applicant has indicated that the rentals are by families wishing to visit the Williamsburg area. Tourist Homes are a specially permitted use on property zoned R-2, General Residential and are defined as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transient occupants.

Based on a general complaint submitted, zoning staff was made aware that the property was being used as a tourist home in October 2013. Upon receiving notice from the Zoning staff that a tourist home would require a Special Use Permit, the applicant submitted a conceptual plan and sought review comments by staff. In response to the conceptual plan application, staff became aware of a neighborhood covenant that prohibits the use of the property for any use other than a residential home. Therefore staff could not support the application for Special Use Permit unless the covenants are amended to allow short term rentals.

Restrictive covenants for Winston Terrace state that “no lot shall be used except for residential purposes.” In a memorandum explaining the role of private covenants in zoning decisions, the County Attorney has indicated that the Board should not, as a matter of public policy, take action which conflicts with restrictive covenants and that staff should recommend denial of such applications (copy attached). Therefore staff does not support this application.

Should the Planning Commission wish to approve the application and allow short term rentals for families, staff has proposed conditions to help mitigate the expected impacts created by the proposed use and to bring the existing tourist home into compliance with the Zoning Ordinance.

Staff Contact: W. Scott Whyte, Senior Landscape Planner II Phone: 253-6685

### **PROJECT DESCRIPTION**

Mrs. Joanne Arnall has applied for a SUP to allow for the operation of a tourist home at 131 Winston drive in the Winston Terrace subdivision. Tourist homes are a specially permitted use in R-2, General Residential, zoning district.

A tourist home is currently operating from this single family dwelling. Staff informed the applicant that in order to operate a tourist home in areas zoned R-2, a SUP must be obtained. The applicant was unaware of the requirement and submitted a Conceptual Plan application in November 2013 to explore her options and gain a better understanding of the ordinance requirements.

Mrs. Arnall proposes to continue to utilize the services of, “Homeaway”, a web based real estate management company to market the home to potential visitors. This service enables her to screen potential visitors and advise them of restrictions on the number of guests permitted in the home and the number of vehicles permitted on the property. She limits the number of guest to seven people for the 1,716 square foot four bedroom home, and two cars to the 45 foot long driveway and garage.

Staff informed Mrs. Arnall that amending the restrictive covenants to allow commercial uses would be necessary to gain a recommendation of approval from staff. The Winston Terrace subdivision does not have an active HOA and many of the property owners no longer reside in the subdivision. Mrs. Arnall attempted to contact each property owner to solicit their approval. Sixty-three letters were sent to property owners of the subdivision by the applicant, but only twenty-four residents responded (38%); however of the twenty -four who responded, twelve had a positive response (50%). Nine respondents neither supported nor opposed the proposal and only two respondents opposed the proposal.

### **Engineering and Resource Protection (ERP):**

**Staff Comments:** Staff has reviewed this application and has no comments at this time. Staff notes that should additional improvements result in any increase in impervious area be proposed the applicant will have to comply with any applicable storm water regulations.

### **James City Service Authority (JCSA):**

**Staff Comments:** The site is located within the Primary Service Area (PSA) and it is served by

public water and sewer. JCSA has reviewed this application and has no comments at this time.

**Virginia Department of Transportation (VDOT):**

**VDOT Comments:** VDOT had no comments with the proposed SUP. No traffic improvements were recommended or proposed by VDOT.

**Building Safety and Permits (BSP):**

**Staff Comments:** Staff has reviewed this application and has no comments at this time. Staff notes that smoke detectors are required and that if detectors are not existing, an electrical permit could be required for the installation.

**COMPREHENSIVE PLAN**

The 2009 Comprehensive Plan Land Use Map designates this parcel as Low Density Residential. Recommended uses are single family homes, duplexes, accessory units, cluster housing, and recreational areas, but schools, churches, and very limited commercial and community oriented facilities are also recommended upon meeting the Residential Development Standards listed below with staff analysis in *italics*:

- a. Complements the residential character of the area;  
*Staff finds that a tourist home for up to seven people is more appropriately located in a commercial or mixed-use zoned area; however a tourist home within a residential subdivision with a Special Use Permit could be compatible with the surrounding neighborhood if the conditions limit the number of guests and the number of vehicles allowed on the property. Based on the existing covenants in place currently, staff is concerned some residents may consider the use to be in conflict with the single family character of the neighborhood that the residents bought into when they purchased their home in the subdivision.*
- b. Have traffic, noise, lighting and other impacts similar to surrounding residential uses;  
*Staff finds that a tourist home for up to seven people has the potential to create additional vehicular traffic and noise in the neighborhood. Staff is particularly concerned that these impacts would occur during evening hours. While staff does not expect the increase in vehicular traffic to be substantial, it will likely create more traffic, and potentially more noise, than what would be generally expected in a residential neighborhood. However staff finds these concerns can be mitigated by limiting the number of guests and vehicles allowed on the property.*
- c. Generally be located on collector or arterial roads at intersections;  
*The property is not located on a major road; it is located towards the back of the subdivision and must access Jamestown Road near the intersection with Route 199.*
- d. Provide adequate screening and buffering to protect the character of nearby residential areas;  
and  
*No vegetative screening material is located on site. However the use of a tourist home retains the same visual character as nearby residents.*

- e. Generally intended to support the residential community in which they are located.  
*According to the applicant, the tourist home supports the needs of the community by providing a short term rental option for people visiting the area. Staff finds that the application does support the residential community by offering more lease options to the community.*

### **STAFF RECOMMENDATION**

This proposal seeks to convert a single family home located at 131 Winston Drive to a tourist home to be used as a short term rental property. The applicant has indicated that the rentals are by families wishing to visit the Williamsburg area. Tourist Homes are a specially permitted use on property zoned R-2, General Residential and are defined as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transient occupants.

Based on a general complaint submitted, zoning staff was made aware that the property was being used as a tourist home in October 2013. Upon receiving notice from the Zoning staff that a tourist home would require a Special Use Permit, the applicant submitted a conceptual plan and sought review comments by staff. In response to the conceptual plan application, staff became aware of a neighborhood covenant that prohibits the use of the property for any use other than a residential home. Therefore staff could not support the application for Special Use Permit unless the covenants are amended to allow short term rentals.

Restrictive covenants for Winston Terrace state that “no lot shall be used except for residential purposes.” In a memorandum explaining the role of private covenants in zoning decisions, the County Attorney has indicated that the Board should not, as a matter of public policy, take action which conflicts with restrictive covenants and that staff should recommend denial of such applications (copy attached). Therefore staff does not support this application.

Should the Planning Commission wish to approve the application and allow short term rentals for families, staff has proposed conditions to help mitigate the expected impacts created by the proposed use and to bring the existing tourist home into compliance with the Zoning Ordinance.

1. **Occupancy:** No more than seven occupants shall be allowed at any one time within the tourist home. No more than two vehicles shall be allowed at any one time on the property and no oversized vehicles such as but not limited to campers, trailers, buses and commercial trucks shall be allowed.
2. **Length of Operation:** Length of operation shall be limited to weekends and weekly. Rental agreements shall be limited to weekly or weekends. No single night rentals are allowed.
3. **Signage:** No signage shall be permitted which relates to the use of the property as a tourist home.

4. **Lighting.** No additional exterior lighting shall be permitted on the property, other than lighting typically used at a single family residence unless otherwise approved by the Planning Director in writing prior to issuance of a Certificate of Occupancy or some other trigger.
5. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the reminder.

  
W. Scott Whyte

**ATTACHMENTS:**

1. Location map
2. Memorandum from the County Attorney dated May 28, 2009
3. Restrictive Covenants for James Terrace Subdivision



# SUP-0007-2014, 131 Winston Drive Tourist Home





## MEMORANDUM

DATE: May 28, 2009  
TO: Allen J. Murphy, Planning Director  
FROM: Leo P. Rogers, County Attorney *L.P.R.*  
SUBJECT: The Role of Private Covenants in Zoning Decisions

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### ISSUE

In light of a recent conflict between a land use requested via special use permit and restrictions contained in restrictive covenants to which the subject parcel is bound, I am providing guidance as to what effect such restrictive covenants have on the pending special use permit request. Further, I will elaborate upon the County's general policy regarding restrictive covenants.

### RESTRICTIVE COVENANTS GENERALLY

Restrictive covenants are deed restrictions that apply to parcels of property, which are usually located within a neighborhood. The method by which restrictive covenants may be interpreted or enforced is usually set forth within the covenants themselves; however, in all cases the interpretation and enforcement is handled privately and not by the County. While the Board of Supervisors has acknowledged that interpretation and enforcement of covenants is indeed a private matter, historically the Board has declined to approve rezoning or special use permit requests to establish a use which is in clear violation of known restrictive covenants. This precedent is grounded in public policy concerns, as it makes no practical sense to approve a land use which violates community rules and may result in private enforcement.

In 1986, the Board declined to approve a SUP request in the Poplar Hall neighborhood, in part, because of a conflict with the applicable restrictive covenants. While deliberating on a previous request for the establishment of a child care facility in Poplar Hall, a restrictive covenant which stated that "all lots shall be used only for residential purposes" was brought to the Board's attention. After determining that the child care facility as proposed was clearly in conflict with this restrictive covenant, the Board did not approve the SUP.

Based upon a recent case decided by the Virginia Supreme Court, the Board's 1986 decision appears to have been correct. When determining that daily rental of a parcel was a "residential" use and in compliance with restrictive covenants to which the parcel was subject, the Court found that unless it was defined otherwise, restricting the property to a "residential" use or purpose basically means that use of the property is limited to living purposes only. Clearly, operation of a child care facility, which requires a special use permit, on a parcel is not limiting its use to living purposes only; consequently, such use is not "residential" and is therefore, in my opinion precluded by the restrictive covenants.

## **SUP-0004-2009**

Special use permit number SUP-0004-2009 (the "SUP") was submitted to the County on January 23, 2009. The SUP seeks to establish a child day care facility located in the Poplar Hall neighborhood. The proposed facility will handle a maximum of twelve children.<sup>1</sup> Following an analysis of the proposed expansion, staff recommended approval of the SUP. At the May 6, 2009 meeting of the Planning Commission, a resident of the neighborhood stated that the child care facility was in conflict with the restrictive covenants to which each parcel in the Poplar Hall neighborhood was bound. Neither staff nor the Planning Commission was previously aware of these private covenants.

Following the May Planning Commission meeting, a copy of the restrictive covenants was provided to staff. As previously mentioned, one of the Poplar Hall restrictive covenants states that "[a]ll lots shall be used only for residential purposes."

## **CONCLUSION**

### *General Policy*

While the interpretation and enforcement of restrictive covenants is a private matter, recommending approval of a use which is clearly contrary to an applicable restrictive covenant makes no practical sense and runs afoul of public policy. That said, staff is not responsible for researching the land records for restrictive covenants in each case. As I have previously recommended, staff should amend the rezoning and special use permit application forms to include an affirmation by the applicant that there are no restrictive covenants which preclude establishment of the proposed use and that the applicant has consulted with the homeowners association, if any. Should staff later become aware of a restrictive covenant which clearly precludes a proposed use, staff should immediately alert the applicant and offer an opportunity to cure (via withdrawal of the application or proof that the covenant is inapplicable or otherwise not relevant). Assuming the applicant does not satisfactorily cure the problem, staff should recommend denial of the application.

### *SUP-0004-2009*

There is an existing, applicable restrictive covenant limiting use of the subject parcel to "residential purposes." Based upon the recent Virginia Supreme Court case and upon the Board's previous determination, it is clear that establishment of a child day care facility is not a "residential purpose." In my opinion, this application conflicts with the restrictive covenants and the Board should not, as a matter of public policy, take action which conflicts with restrictive covenants. Accordingly, staff should recommend denial.

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<sup>1</sup> Currently, the owner of the property provides child care for five children on the property. "Child day care centers" are defined by County Code as "an establishment offering group care to six or more children away from their own home for any part of a day"; accordingly, the provision of child care services to five or fewer children does not require prior County approval. It is unclear whether the covenants could be privately enforced to require closing the current operation.

SUP-0007.2014

PLANNING DIVISION

MAY 08 2014

RECEIVED

BOOK 75 PAGE 402

EX.

Original  
mailed to  
I. W. Woltz,  
Atty., Newport  
News, Va.,  
3-11-60.

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, WINSTON CORPORATION, is the owner and proprietor of that certain tract of land in James City County, Virginia, as shown on a certain plat entitled, "Winston Terrace, Section Two", dated January 19, 1959, made by W. B. Sours, C.L.S. & C.E., recorded July 27, 1960, in Plat Book 18, page 20; and

WHEREAS, the aforementioned owner and proprietor of the above described property desires that all of said lots embraced in said tract and as shown on said plat shall be held and sold subject to certain restrictive covenants.

NOW, THEREFORE, WINSTON CORPORATION, does declare, covenant and agree, for itself, its successors and assigns, that each and all of said lots as shown on said plat shall be hereafter held and sold subject to the following conditions and restrictions, to-wit:

(1) No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars.

(2) No dwelling shall be permitted on any lot at a cost of less than \$10,000.00 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one story open porches and garages, shall be not less than 950 square feet for a one story dwelling, nor less than 750 square feet for a dwelling of more than one story, and the second floor shall contain at least 300 square feet of finished floor space in dwellings of more than one story.

(3) No building shall be erected on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback line as shown on recorded plat. In any event, no building shall be located on any lot nearer than 30 feet to the front lot line or nearer than 20 feet to any side street line. No building shall be located nearer to any interior lot line than the minimum side yard line as required by the Subdivision and Zoning Ordinance of James City County, Virginia, but in no event shall the side yard line be less than 10 feet. However, no side yard shall be required for a garage or other permitted accessory building located 25 feet or more from the minimum building setback line.

For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

LAW OFFICES  
JONES  
GLENNMAN  
WOLTZ & KELLY  
405 NELSON BLDG.  
NEWPORT NEWS, VA

(4) No dwelling shall be erected or placed on any lot having a width of less than 60 feet at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6000 square feet.

(5) Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on recorded plat.

(6) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

(7) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

(8) No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction or sales period.

(9) No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

(10) No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers.

(11) These covenants are to run with the land and shall be binding upon all parties acquiring any of said lots from Winston Corporation, and all persons claiming under them until January 1st, 1985, at which time the said covenants shall be automatically extended for successive periods of ten (10) years, unless by a vote of the majority of the then owners of the said lots it is agreed to change the said covenants in whole or in part.

(12) All covenants, conditions, agreements and restrictions shall inure to the benefit of and be enforceable at law or in equity by the owner of any lot shown on the aforementioned plat, their respective heirs, successors and assigns, and failure by any land owner to enforce any restriction shall in no event be deemed a waiver of the right to do so thereafter as to the same breach, or to one occurring prior or subsequent thereto.

(13) Invalidity of any of these covenants by judgment, court order or legislation shall in no wise affect any of the other provisions which shall remain in full force and effect.

(14) The easements shown on said plat for streets, drainage and utilities are for the benefit of the owners of all lots as shown on said plat and may be freely used by James City County, Virginia, for the benefit of the owners of said lots and their assigns, as well as the general public, provided, however, that in any resubdivision or rearrangement of the said lots, Winston Corporation retains the right to relocate the aforesaid easements to conform to such resubdivision or rearrangement.

IN WITNESS WHEREOF, the said Winston Corporation has caused its name to be signed and its seal affixed by its proper officers in that behalf first duly authorized this 26th day of February, 1960.

LAW OFFICES  
JONES  
BLECHMAN  
WOLFE & KELLY  
308 NELSON BLDG.  
NEWPORT NEWS, VA



BOOK 75 PAGE 404

WINSTON CORPORATION

BY:

Bernard L. Lipman  
President

ATTEST:

Rose L. Epstein  
Secretary

STATE OF VIRGINIA

City of Newport News, to-wit:

I, Arthur E. Weckert, a Notary Public in and for the  
City and State aforesaid, whose commission expires on the 15th day of  
May, 1964, do hereby certify that Bernard L. Lipman and Rose  
L. Epstein, whose names are signed as President and Secretary, respectively,  
of Winston Corporation, to the foregoing writing bearing date on the 26th day  
of February, 1960, have severally acknowledged the same before me in my City  
and State aforesaid.

Given under my hand this 2nd day of July, 1960.

Arthur E. Weckert  
Notary Public

State of Virginia,

City of Williamsburg and County of James City, to-wit:

In the office of the Clerk of the Court for the City and County  
aforesaid, on the 22nd day of July, 1960, this deed restrictions  
was presented and with the certificate annexed, admitted to  
record at 11 A.M.

Teste:

Virginia Blanchard  
Clerk

PLAT RECORDED IN  
P.B. NO. 18 PAGE 20

LAW OFFICES  
JONES  
BLECHMAN  
WOLTZ & KELLY  
808 NELSON BLDG.  
NEWPORT NEWS, VA

## **M E M O R A N D U M**

DATE: July 2, 2014

TO: The Planning Commission

FROM: Christopher Johnson, Principal Planner

SUBJECT: Case No. Z-0004-2014. Gatehouse Farms Proffer Amendment

---

In July 1987, the Board of Supervisors rezoned approximately 173 acres of property located behind the Gatehouse Farms subdivision between Gatehouse Boulevard and Smoke House Lane from A-1, General Agricultural, A-2, Limited Agricultural, and R-1, Limited Residential, to R-1 and A-1, with proffers. It was anticipated that the 173 acre property would be developed in accordance with the residential zoning ordinance provisions in place at that time and the proffers accepted by the Board limited the number of dwelling units on the property to 136. Among other provisions, the proffers also set forth a commitment by the property owners to prepare a comprehensive drainage study of the property as part of the subdivision plans and incorporate the recommendations of the study in the subdivision plans and to create a recreation area of two acres in size for the benefit of the anticipated residential development.

On June 25, 2013, the Board of Supervisors approved a resolution authorizing the purchase of a conservation easement covering a total of 242.5 acres on the Gilley property between the Gatehouse Farms subdivision and Mill Creek. Approximately 68 acres are zoned R-1, Limited Residential, with the above referenced proffers, and 174 are zoned A-1, General Agricultural, with the same aforementioned proffers covering approximately 103 of those acres. The remainder of the land is located in tidal marshes along Mill Creek. The conservation agreement permits the owners to subdivide three lots estimated at  $\pm 50$  acres each. No further subdivision rights have been retained.

Because the number of dwelling units which was anticipated to be built by the 1987 rezoning of the property is now limited to three  $\pm 50$  acre lots by the recorded conservation easement, the applicant believes that the elimination of the additional dwelling units obviates the need for the comprehensive drainage study and the recreation area and has therefore requested such proffers be eliminated.

### **RECOMMENDATION**

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirement for a public hearing where such amendments do not affect conditions of use or density. The County Attorney has polled the Board of Supervisors and the Board has voiced no objection to the applicants request to consider amending these proffers as a consideration item.

Staff concurs with the applicant that the conservation easement and the subsequent elimination of additional homes obviates the need for the comprehensive drainage study and the dedication of a recreation area. Therefore, Staff recommends that the Planning Commission recommend approval of the proposed proffer amendment to eliminate Proffer Nos. 1, 2 & 4 to the Board of Supervisors.



Christopher Johnson

Attachments:

1. Letter from Gregory R. Davis dated June 5, 2014
2. Gatehouse Farms Proffers dated June 30, 1987
3. Location Map associated with Case No. Z-0027-1986
4. Location Map, 2013 Conservation Easement Acquisition – REGJAG, LLC, L. A. Gilley, Trustee
5. Location Map, Future Lots on REGJAG, LLC property



**KAUFMAN & CANOLES**  
attorneys at law

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T (757) 259.3800  
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kaufCAN.com

Gregory R. Davis  
(757) 259.3820  
grdavis@kaufcan.com

June 5, 2014

Leo P. Rogers, Jr., Esq.  
James City County Attorney's Office  
County Attorney  
101-C Mounts Bay Road  
Williamsburg, VA 23185

RE: GATEHOUSE FARMS SUBDIVISION  
OUR CLIENT: REGJAG LLC

Dear Leo:

During negotiation of the purchase of development rights by James City County from REGJAG LLC ("REGJAG") we discussed the terms of the Gatehouse Farms proffer agreement as they pertain to the REGJAG property. I write to request that James City County approve a revision to the referenced proffers eliminating the requirement for dedication of a recreation area.

Specifically, that certain proffer agreement executed June 30, 1987, made by R. E. Gilley and JoAnn H. Gilley, husband and wife, of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City in Deed Book 366, page 508 (copy enclosed) ("Proffers") sets forth a commitment on the part of the developer of the Gatehouse Farms subdivision to create a recreation area of 2 acres in size for the benefit of the residential development. Further, the Proffers require a comprehensive drainage study of the property as a part of subdivision plans.

As you know, substantially more acreage was rezoned for development of Gatehouse Farms than was actually developed with infrastructure, subdivided, and built upon. The purchase of development rights from my client eliminated future sections of the subdivision. The Deed of Easement effecting the purchase of development rights is dated April 18, 2014, of record in the aforesaid Clerk's Office as Instrument No. 140006461. During negotiation of the conservation easement terms, you indicated that the view of County staff was that the elimination of additional homes in the Gatehouse Farms development obviated the need for the recreation area and drainage study.

Accordingly, I hereby request that James City County approve amendment of the Proffers pursuant to Section 15.2-2302 of the Code of Virginia (1950), as amended, to eliminate Conditions No. 1, 2 and 4. The conditions at issue do not affect conditions of use or density, in light of the conservation easement.

---

Disclosure Required by Internal Revenue Service Circular 230: This communication is not a tax opinion. To the extent it contains tax advice, it is not intended or written by the practitioner to be used, and it cannot be used by the taxpayer, for the purpose of avoiding tax penalties that may be imposed on the taxpayer by the Internal Revenue Service.

June 5, 2014

Page 2

and thus waiver of public hearings by the County is requested. Please let me know if additional information or documentation is required in this regard. Thank you for your kind assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be "Gregory R. Davis", written over a horizontal line.

Gregory R. Davis

GRD:fmy

Enclosure

cc: REGJAG, LLC



AGREEMENT

BOOK 366 PAGE 508

WHEREAS, R.E. Gilley and JoAnn H. Gilley, (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain lot, piece or parcel of land situate in James City County, Virginia, more fully shown and described on a plat entitled "MASTER PLAN OF GATEHOUSE FARMS."

WHEREAS, the Owner has requested rezoning of 70 acres of the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1; and 100+ acres of the the Property from A-2 Limited Agriculture to A-1 General Agriculture; and

WHEREAS, the County of James City may be unwilling to rezone the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1 and the General Agriculture District A-1 because the Limited Residential District, R-1 and the General Agricultural District A-1 zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Residential District, R-1 and the General Agricultural District A-1.

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1 and the General Agricultural District A-1, and pursuant to Section 15.1-491.1 et seq of the Code of Virginia, 1950, as amended and Section 20-15 et seq of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Limited Residential District, R-1 and the General Agricultural District A-1, but subject to the current limitations set forth in the aforesaid Codes, he will meet and comply with all of the following conditions for the development of the Property.

#### CONDITIONS

1. The Owner or Developer, at his expense, shall cause to be prepared a comprehensive drainage study of the Property for review and approval by the James City County Director of Public Works prior to submittal of preliminary subdivision plans.
2. Upon approval of the drainage study, the Owner or Developer shall be obligated to incorporate the recommendations of the study in the subdivision of the Property.
3. The 70 acres to be rezoned to R-1 shall include not more than 100 lots of an area of at least 17,500 square feet on each lot.
4. A minimum of 2 acres shall be set aside exclusively for a recreational area for residents of Gatehouse Farms.
5. No structures shall be erected in the hundred year flood plain area.
6. The 100 acres now in the Agricultural and Forestal District shall stay in the Agricultural and Forestal District for a period of ten years as per agreement with the Virginia State and Federal agencies involved in the re-seeding

project of this property. There shall be no more than 36 single family dwellings developed on the 100 acres+ to be rezoned A-1 General Agriculture. Uses shall be restricted to single family residential and related uses, and agricultural uses not inconsistent with those permitted in Agricultural and Forestal Districts.

R. E. Gilley (SEAL)  
R. E. GILLEY

JoAnn H. Gilley (SEAL)  
JOANN H. GILLEY

STATE OF VIRGINIA,

COUNTY OF JAMES CITY, to-wit:

The foregoing was acknowledged before me by R.E. Gilley and JoAnn H. Gilley this 30<sup>th</sup> day of June, 1987. My commission expires June 19, 1988.

John L. Massey  
Notary Public

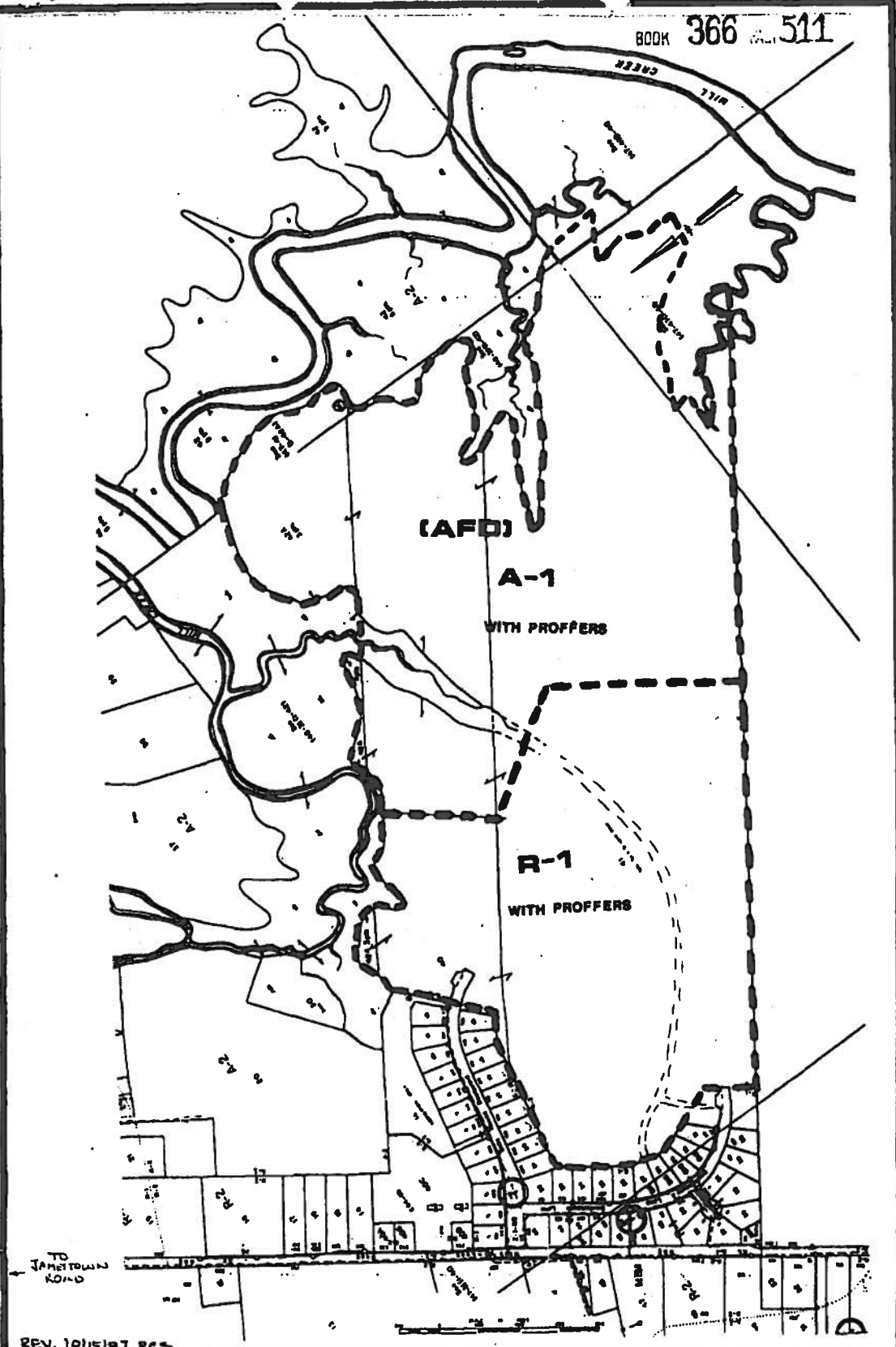
VIRGINIA: City of Williamsburg and County of James City, to wit:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City

on 19 day of Oct, 1987. This Agreement was presented with certificate annexed and admitted to record at 1:22 o'clock

Teste Melona S. Ward, Clerk  
by Deborah Ward  
Deputy Clerk

BOOK NO. 366 PAGE 511



REV. 10/15/87 P.C.S.

AES, a professional corporation engineers, surveyors, planners Williamsburg, Virginia

# MASTER PLAN OF GATEHOUSE FARMS

SHOWING PROPOSED 1987 REZONING

JAMESTOWN DISTRICT

JAMES CITY COUNTY, VIRGINIA

Scale: 1"=600'

Ref.: PB 35/111; JCC TAX MAPS

Date: SEPT, 1987

Job No. 3871



**REGJAG LLC**  
**Gilley, Leigh Ann Trustee**  
1 inch = 700 feet

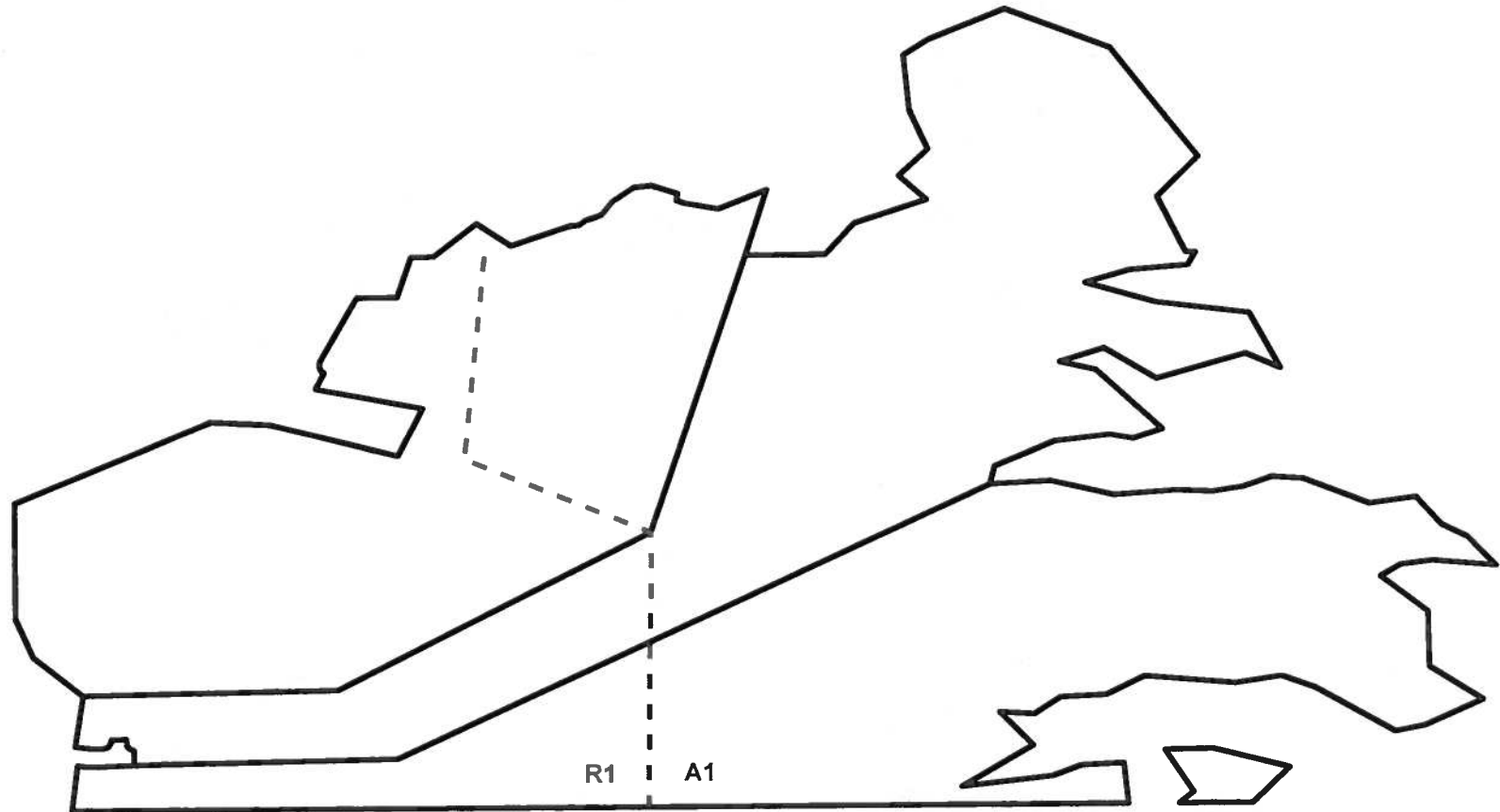




0 300 600 1,200 1,800 Feet



Copyright James City County  
This map (M:\Department\GIS\General Services\JohnGilley.mxd)  
was produced by KAM on June 8, 2013 at 02:16 PM  
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The information displayed is a compilation of records, information, and data obtained from  
various sources, and James City County is not responsible for its accuracy or how current it may be.

Neck O Land Rd



 Zoning Line  
 Property Lines



REGJAG, L.L.C. and Gilley  
Future Lots

Copyright James City County  
This map (M:\Department\General Services\JohnGilley\Conceptual\_Plan.mxd)  
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various sources, and James City County is not responsible for its accuracy or how current it may be.



## PLANNING DIRECTOR'S REPORT

July 2014

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

- **New Town.** The Design Review Board held a special meeting in June. The DRB approved playground location and equipment for Section 7, adjustments to the pedestrian trail between Section 7 and Section 8, a plat for the end of Discovery Park Blvd., elevations for Village Walk townhomes (Section 9/Settlers Market), elevations for Park Side townhomes (Section 7 Parcel C) and elevations for several single-family detached homes in Section 7. The next regular DRB meeting is scheduled for August 14.
- **Longhill Road Corridor Study.** Having concluded the public meetings, work continues on the report and recommendations document which is now tentatively scheduled to be presented to the Planning Commission in August and to the Board of Supervisors in September.
- **Mooretown Road Corridor Study.** The next public meeting is anticipated to take place in September. At that time, VHB will present the first set of alignment alternatives.
- **Rural Lands.** The Rural Economic Development Committee (REDC) and the project consultant from ERM presented results of the rural economic development strategy to the Board of Supervisors on June 24<sup>th</sup> as part of their joint work session with the Board of Supervisors. The public input survey related to the REDC's project listing will continue to be available here: <http://www.yesjamescitycountyva.com/redc/> until the final report is completed.
- **Comprehensive Plan.** The Community Participation Team hosted three Community Workshops in June to gather public input for the 2035 Comprehensive Plan. A Virtual Community Workshop is available here: [www.jamescitycountyva.gov/comprehensiveplan](http://www.jamescitycountyva.gov/comprehensiveplan) along with a survey. All surveys completed by June 30<sup>th</sup> will be included in the CPT's public input summary. The CPT is working to complete their summary by the end of July.

Staff is shifting into revising draft text and goals, strategies and actions for each section and is continuing to review and evaluate land use applications. The Planning Commission working group will begin meeting to discuss the draft text in July.

- **Historical Commission.** The Historical Commission presented three Historic Preservation Awards at the Board of Supervisors meeting on June 24. The awards are presented to individuals, groups, or for-profit or non-profit organizations that make important contributions to preserve and protect the County's rich heritage. 2014 recipients include Rich Costello for volunteering AES staff time to complete engineering and site work for the Norge Depot, Troop 103 of the Boy Scouts of America for work related to establishing and maintaining the Church on the Main site, and Preservation Virginia/the Colonial Williamsburg Foundation for efforts to stabilize and restore the Jamestown Church Tower.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached documents.
- **Board Action Results:**
  - May 27, 2014
    - No planning related public hearing cases

- June 10, 2014
  - Case No. Z-0003-2013/MP-0001-2013, Rezoning and Master Plan Amendment for Kingsmill, Land Bay 8 – Applicant requested deferral; Public Hearing opened and left open until July 8<sup>th</sup> meeting.
  - Case No. ZO-0007-2013, Chicken Keeping in Residentially Zoned Areas of the County (Approved 3-2)
  - Case No. SUP-0003-2014, Amerigas Propane Tank Installation (Approved 5-0)
  - Case No. SUP-0002-2014, HRSD Microwave Tower, 300 Ron Springs Drive (Approved 5-0)
  - Case No. ZO-0008-2014, Accessory Apartments – Board requested deferral and WorkSession discussion for this item.

New Cases for July						
Case Type	Case Number	Case Title	Address	Description	Planner	District
Conceptual	C-0032-2014	Lightfoot Marketplace, Demolition Plan, Ph.1	6401 Richmond Road	Phase 1 Demolition Plan for existing Outlet Mall. This plan only encompasses the existing building.	Ellen Cook	01-Stonehouse
	C-0033-2014	Williamsburg Distillery	7218 Merrimac Trail	Proposal for distillery operation with two employees. Case approved	Scott Whyte	05-Roberts
	C-0034-2014	Drachen Crossfit, McLaws Circle	300 McLaws Circle	Parking verification for change of use. Case approved	Scott Whyte	05-Roberts
	C-0035-2014	272 Saddletown Road, Two Lot Subdivision	158 Saddletown Road	Proposed subdivision into two lots.	Luke Vinciguerra	01-Stonehouse
	C-0036-2014	Marks Pest Control Inc., 7840 Richmond Road	7840 Richmond Road	Proposed contractor's office to occupy existing building. Proposal includes a new parking lot and handicap ramp.	Jennifer VanDyke	01-Stonehouse
	C-0037-2014	Ford's Colony, Section 35 (Westport), On-Lot Stormwater Modifications	4700 Locklomond	Proposal for the DRC to consider modifying the on lot stormwater requirement to be more inline with the upcoming State Stormwater regulations; Would effectively change the onlot treatment from 2.6 in/ac to 05. in/ac.	Jose Ribeiro	02-Powhatan
	C-0038-2014	Williamsburg Veterinary Clinic	1303 Jamestown Road	Parking Verification for small outpatient veterinary clinic located in Colony Square Shopping Center.	Jose Ribeiro	03-Berkeley
	C-0039-2014	A Season 4 U Day Camp	7191 Merrimac Trail	Sponsoring a summer day camp for 25 children between the ages of 6-12 in an existing building. Parking verification.	Leanne Pollock	05-Roberts
Subdivision	S-0035-2014	9067 Richmond Road Brittain Trust	9067 Richmond Road	Creation of new 3.112 acre lot.	Leanne Pollock	02-Powhatan
	S-0036-2014	148 & 150 Alwoodley BLA	150 Alwoodley	Requesting a boundary line adjustment.	Jose Ribeiro	02-Powhatan

New Cases for July						
Case Type	Case Number	Case Title	Address	Description	Planner	District
Site Plan	SP-0038-2014	James River E.S. Generator, SP Amendment	8901 Pocahontas Trail	Installation of emergency generator. Case approved	Scott Whyte	05-Roberts
	SP-0039-2014	Lumber Liquidators, Dust Collection System, SP Amendment	3000 Joh Deere Road	Addition of new dust collection system; system to sit on concrete foundation; being placed on existing gravel, concrete and asphalt.	Ellen Cook	01-Stonehouse
	SP-0040-2014	Verizon Mounts Bay Road Tower, SP Amendment	101 Mounts Bay Road	Antennas at 117' and 105' will be removed and replaced.	Luke Vinciguerra	05-Roberts
	SP-0041-2014	Ford's Colony Sec. 3 Drainage Improvements	117 Molesey Hurst	Drainage improvements between lots 111 and 112 on Molesy Hurst.	Luke Vinciguerra	02-Powhatan
	SP-0042-2014	Chick-fil-A, Monticello Marketplace, Drive-Thru Lane Addition	4610 Monticello Avenue	Construction of a 2nd drive-through lane and associated improvements.	Luke Vinciguerra	04-Jamestown
	SP-0043-2014	New Town Sec. 3&6 Block 20 (Discovery Park Place) SP Amend. 2	5416 Discover Park Blvd.	Site plan amendment to add water line to supply fire protection system in building.	Leanne Pollock	04-Jamestown
	SP-0044-2014	Eagles Reach Stables, LLC 105 Constance Ave.	105 Constance Avenue	Horse riding lessons and pony parties.	Scott Whyte	03-Berkeley
	SP-0045-2014	Lightfoot Marketplace	6401 Richmond Road	Proposed shopping center with 4 buildings that include Harris Teeter, Walgreens, and 2 retail shell buildings.	Ellen Cook	01-Stonehouse
	SP-0046-2014	New Town Sec. 9 (Settlers Market) Pier 1 SP Amendment	4540 Casey Blvd.	Amends SP-0013-2014 to shift the approved Pier Pne building 10 feet to the southwest to avoid existing burried utilities.	Leanne Pollock	04-Jamestown
Master Plan	MP-0003-2014	The Promenade at John Tyler (Williamsburg Crossing), Parcels 20, 25-29	5304 John Tyler Highway	Rezoning and Master Plan for 25 acres (currently Williamsburg Crossing); majority is comprised of parcels 20 and 29, also including outparcels 25 -28. Applicant proposes rezoning B-1, General Business, property to MU, Mixed Use for commerical and residential purposes. Project includes 207 residential units.	Jennifer VanDyke	03-Berkeley
Rezoning	Z-0003-2014	The Promenade at John Tyler (Williamsburg Crossing), Parcels 20, 25-29	5304 John Tyler Highway	Rezoning and Master Plan for 25 acres (currently Williamsburg Crossing); majority is comprised of parcels 20 and 29, also including outparcels 25 -28. Applicant proposes rezoning B-1, General Business, property to MU, Mixed Use for commerical and residential purposes. Project includes 207 residential units.	Jennifer VanDyke	03-Berkeley
	Z-0004-2014	Gatehouse Farms, Proffer Amendment	229 & 231 Gatehouse Blvd. and 318 & 320 Neck 'O' Land Road	Proposed Proffer Amendment to eliminate the need for a comprehensive drainage study and two-acre recreation area for the benefit of the 136 dwellings originally approved for the subject properties	Chris Johnson	05-Roberts

New Cases for July						
Case Type	Case Number	Case Title	Address	Description	Planner	District
Agricultural and Forestal District	AFD-01-02-1-2014	Carter's Grove 2014 Renewal	8797 Pocahontas Trail	Renewal of district for another four years.	Luke Vinciguerra	05-Roberts
	AFD-01-89-1-2014	Armistead 2014 Renewal	4050 Longhill Road	Renewal of district for another four years.	Luke Vinciguerra	02-Powhatan
	AFD-01-93-1-2014	Williamsburg Farms 2014 Renewal	5750 Wessex Hundred	Renewal of district for another four years.	Luke Vinciguerra	05-Roberts
	AFD-01-94-1-2014	Wright's Island 2014 Renewal	6650 Menzels Road	Renewal of district for another four years.	Luke Vinciguerra	02-Powhatan
	AFD-02-86-1-2014	Croaker 2014 Renewal	5624 Riverview Road	Renewal of district for another four years.	Luke Vinciguerra	01-Stonehouse
	AFD-03-86-1-2014	Hill Pleasants Farm 2014 Renewal	6534 Richmond Road	Renewal of district for another four years.	Luke Vinciguerra	01-Stonehouse
	AFD-05-86-1-2014	Barnes Swamp 2014 Renewal	9003 Diascund Road	Renewal of district for another four years.	Luke Vinciguerra	02-Powhatan
	AFD-06-86-1-2014	Cranston's Pond 2014 Renewal	6277 Centerville Road	Renewal of district for another four years.	Luke Vinciguerra	01-Stonehouse
	AFD-07-86-1-2014	Mill Creek 2014 Renewal	2116 Forge Road	Renewal of district for another four years.	Luke Vinciguerra	02-Powhatan
	AFD-09-86-1-2014	Gordon's Creek 2014 Renewal	2099 John Tyler Highway	Renewal of district for another four years.	Luke Vinciguerra	03-Berkeley
	AFD-10-86-2014	Christenson's Corner 2014 Renewal	7664 Newman Road	Renewal of district for another four years.	Luke Vinciguerra	01-Stonehouse
	AFD-11-86-1-2014	Yarmouth Island 2014 Renewal	2260 Bush Neck Road	Renewal of district for another four years.	Luke Vinciguerra	02-Powhatan
	AFD-12-86-1-2014	Gospel Spreading Church 2014 Renewal	1700 Treasure Island Rd.	Renewal of district for another four years.	Luke Vinciguerra	05-Roberts
	AFD-2-86-2-2014	9730 Sycamore Landing Road, Croaker Addition	9730 Sycamore Landing Rd.	Requesting property to be placed in the Croaker AFD.	Luke Vinciguerra	01-Stonehouse
	AFD-9-86-2-2014	2035 Bush Neck Rd, Gordon Creek Addition	2035 Bush Neck Road	Requesting property to be placed in the Gordon Creek AFD.	Luke Vinciguerra	02-Powhatan
	AFD-09-86-3-2014	2743 Jolly Pond Rd., Gordon Creek Addition	2743 Jolly Pond Road	Requesting that the property remain in the Gordon's Creek AFD.	Luke Vinciguerra	02-Powhatan