

AGENDA  
JAMES CITY COUNTY PLANNING COMMISSION  
November 5, 2014 – 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. CONSENT AGENDA
  - A. Minutes from the October 1, 2014 Regular Meeting
  - B. Development Review Committee
    1. C-0062-2014, Overhead Utility Waiver – 2307 Bush Neck Rd., Ryepatch Farm (Approval; 5-0)
    2. C-0063-2014, The Settlement at Powhatan Creek Ph. 3 Utility Crossing (Approval; 5-0)
    3. C-0073-2014, Five Forks Water Treatment LP4/LP5 Well Facility (Approval; 5-0)
    4. SP-0082-2014, White Hall Sec. 1 Trail SP Amend (Approval; 5-0)
    5. C-0064-2014, New Town Shared Parking
      - a. Accept report (Approval; 5-0)
      - b. Modify handicapped parking (Approval; 5-0)
      - c. Timed parking (Deferral; 5-0)
    6. SP-0083-2014, New Town Sec. 3&6 Block 21 Assisted Living Facility (Deferral; 5-0)
4. REPORTS OF THE COMMISSION
  - A. Policy Committee
  - B. Regional Issues Committee
  - C. Other Commission Reports
5. PUBLIC HEARINGS
  - A. Case Nos. SUP-0008-2014, Gilley Enterprises Equipment Storage
  - B. Case No. SUP-0013-2014, 104 Howard Drive, Grove Barber Shop
  - C. Case No. Z-0006-2014/SUP-0015-2014, 3116 Ironbound Road, Branscome Building
  - D. Case Nos. Z-0003-2014/MP-0003-2014, The Promenade at John Tyler Rezoning and Master Plan Amendment
6. PLANNING DIRECTOR'S REPORT

7. COMMISSION DISCUSSIONS AND REQUESTS

8. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF OCTOBER, 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

**Staff Present:**

Paul Holt, Planning Director  
José Ribeiro, Senior Planner II  
Leanne Pollock, Senior Planner II  
Maxwell Hlavin, Assistant County Attorney

**Absent:**

Heath Richardson

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

Mr. Krapf acknowledged and welcomed the new County Administrator Bryan J. Hill who was in attendance.

2. **PUBLIC COMMENT**

Mr. Krapf opened the public comment.

As no one wished to speak, Mr. Krapf closed the public comment.

3. **CONSENT AGENDA**

**A. Minutes from the September 3, 2014, Planning Commission meeting**

Mr. Tim O'Connor moved to approve the Consent Agenda.

In a unanimous vote, the Commission approved the Consent Agenda 6-0.

4. **REPORTS TO THE COMMISSION**

**A. Development Review Committee**

Mr. Basic stated that the Development Review Committee (DRC) met on Wednesday, September 24, 2014 with all five members present. Mr. Basic noted that the DRC did not review any cases for action; however, three cases were reviewed for discussion:

i. C-0028-2013, New Town Shared Parking

Mr. Basic stated that the last New Town Shared Parking update was reviewed on January 29, 2014. An update on the time-limited parking was anticipated for the September DRC meeting; however, since the time-limited parking was implemented slightly later than planned, the applicant requested, and the DRC granted, a one month deferral until the October 29, 2014, DRC meeting to allow for additional data collection.

ii. C-0060-2014, Williamsburg Unitarian Universalist Expansion

Mr. Basic stated that a proposal was submitted for a multi-phase expansion of the existing Williamsburg Unitarian Universalist building. Mr. Basic stated that the addition would include additional worship space, classrooms for education, a nursery, administrative offices, a memorial garden, an event tent and an outdoor worship and program space. Mr. Basic noted that the proposal also includes expansion of the parking area with a possible second entrance on Ironbound Road. Mr. Basic stated that the DRC provided feedback on the proposal and was generally supportive of the plan.

iii. C-0044-2014, Grove Barber Shop

Mr. Basic stated that a proposal had been submitted to renovate and restore the existing Grove Community Barber Shop located at 104 Howard Drive. Mr. Basic stated that the renovations would restore the building to its original condition and would not expand or alter the footprint. Mr. Basic noted that the location does not have on-site parking and the renovation would require five parking spaces. The DRC encouraged the applicant to seek a shared parking agreement with the neighboring Capital Lodge. Mr. Basic stated that the DRC was generally supportive of the application moving forward.

**B. Policy Committee**

Mr. O'Connor stated that the Policy Committee did not meet in September and therefore, there is no report. Mr. O'Connor stated that the next Policy Committee meeting would be October 9, 2014.

**C. Regional Issues Committee**

Ms. Robin Bledsoe stated that the Regional Issues Committee did not meet in September.

**5. PUBLIC HEARING CASES**

**A. Case No. SUP-0009-2014, King's Garden Contractor's Office and Warehouse**

Mr. Krapf noted that he would recuse himself from voting on the application because his wife is owner of Heart's Ease Landscaping and Garden Design and frequently works with the applicant.



Mr. José Ribeiro, Senior Planner II, provided the Commission with a report on the proposed contractors office, warehouse and outdoor storage on a parcel of property located at 8850 Merry Oaks Lane.

Mr. Krapf opened the floor to questions from the Commissioners.

Ms. Bledsoe inquired whether any chemicals would be stored at this site.

Mr. Ribeiro stated that he would defer to the applicant on that question.

As a procedural note, Mr. Krapf stated that the applicant would be able to respond to the question later in the meeting.

Mr. Ribeiro noted that one of the SUP conditions covered spill prevention which requires the applicant to provide a narrative outlining how he would contain and clean up any chemical spill that might occur.

Mr. O'Connor inquired whether the Zoning Ordinance placed limits on the size of a business in the A-1 zoning district.

Mr. Ribeiro responded that commercial uses in A-1 are very limited. Mr. Ribeiro stated that in crafting SUP conditions staff looks for a balance that will allow flexibility for a business to expand but which also sets limits to ensure that the business does not grow so large that it is out of character with the intent of the zoning district.

Mr. O'Connor stated that he wanted a better understanding of what those limits are.

Mr. Holt stated that part of the legislative process is to determine what the impacts are and how they could be mitigated in the context of the particular property and if it is a good fit to retain the rural character. Mr. Holt stated that there was not a quantitative cut-off limit for the size of a commercial use in the Zoning Ordinance itself.

Mr. Krapf called for disclosures regarding meetings or conversations with applicants. There were none.

Mr. Krapf opened the public hearing.

Mr. Mitchell Foos, 8850 Merry Oaks Lane, stated that he is the applicant and owner of Kings Garden. Mr. Foos stated that he would be happy to answer questions.

Ms. Bledsoe requested more detail on the types of chemicals that might be stored on the property and the proposed spill plan.

Mr. Foos stated that the chemicals on site would be weed control, fertilizers, fungicides and similar products. Mr. Foos further stated that he works closely with the Office of Pesticide

Services to ensure regulations are met and that the appropriate materials are on hand to contain spills.

Mr. O'Connor inquired how the business disposed of landscape debris.

Mr. Foos stated that they do not stockpile soils, mulch, trash or debris but might store some reusable materials such as stone or brick.

Mr. Basic inquired whether the applicant is aware of the SUP conditions and if he is in agreement with them.

Mr. Foos confirmed.

Mr. Basic further inquired whether the applicant understands that if the business grows beyond the limits set in the SUP conditions, a new SUP will be required.

Mr. Foos confirmed.

As no one else wished to speak, Mr. Krapf closed the public hearing.

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

Mr. O'Connor stated that he is opposed to the SUP conditions that limits hours of operation. Mr. O'Connor further stated that he would suggest including "no stockpiling of debris" and no burning of debris" in one of the conditions.

Mr. Basic stated that he would support inclusion of language to allow for occasional off or after hours work.

Ms. Bledsoe asked Mr. Ribeiro to confirm this neighborhood differs from that of the similar case reviewed the previous month.

Mr. Ribeiro confirmed that the lot sizes are larger and density is lower.

Ms. Bledsoe stated that she could support modifying the condition restricting hours of operations.

Mr. Krapf summarized that there are two items that might modify the SUP conditions: 1) adding flexibility to condition #3 to allow for some off or after hours operations, 2) adding language to condition #7 to prohibit stockpiling of debris.

Mr. Krapf inquired whether the applicant would be agreeable to those changes to the SUP conditions.

Mr. Foos stated that the changes to the SUP conditions were agreeable.

Mr. Krapf noted that when a motion is made, it should be made to recommend approval of the application with the two amendments. If the Commission is not supportive of the amendments and the motion failed, another motion could be made.

Mr. O'Connor moved to recommend approval of the application with an amendment to condition #3 to allow for occasional off hours and Sunday transportation of equipment and an amendment to condition # 7 to prohibit the stockpiling of landscaping debris.

Mr. Holt requested clarification on whether the motion included a prohibition on burning of debris.

Mr. O'Connor stated that burning of debris is permitted in the A-1 zoning district. Mr. O'Connor further noted that by prohibiting the stockpiling there would be no landscaping debris to burn.

Mr. Holt clarified that the motion on the table was to recommend approval of the SUP with proposed condition #3 reading: "Transportation of equipment to and from the property shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday with occasional off hours and Sunday transportation of equipment" and proposed condition #7 reading "No soil stockpile, as defined by Section 24-46 of the Zoning Ordinance, nor storage or stockpiling of landscaping debris shall be allowed in the Property."

On a roll call vote, the Planning Commission voted to recommend approval of SUP-0008-2014 with the conditions in the staff report by a vote of 5-0-1. Mr. Richardson being absent and Mr. Krapf recusing himself from the vote.

**B. Case No. SUP-0010-2014, Williamsburg Landing Construction Commencement Extension**

Mr. José Ribeiro, Senior Planner II, provided the Commission with a report on the proposed amendment of a previously approved SUP which would extend the construction commencement condition for an additional 36 months.

Mr. Krapf called for disclosures regarding meetings or conversations with applicants.

Ms. Bledsoe stated that she had discussed the application with the applicant, Mr. Paul Gerhardt.

Mr. O'Connor stated that he had also spoken with Mr. Gerhardt regarding the application.

Mr. Basic stated that he had spoken with Mr. Gerhardt also.

Mr. Krapf opened the public hearing.

Mr. Paul Gerhardt, 116 Alexander Place, stated that Ben Puckett, Chief Operating Officer for Williamsburg Landing was also present and they would both be happy to answer any questions.

Ms. Bledsoe stated that the current stormwater criteria are being met with the 10-Point Special Stormwater Criteria and that if any of the requirements change there is a system in place to capture that.

Mr. Gerhardt responded that there are two site plans in place now. One will expire in 2015 and the other in 2016 and would need to be renewed. Mr. Gerhardt stated that the intention is to fully comply with the new stormwater regulations with those site plan extensions.

Mr. Holt stated that based on discussion with Engineering & Resource Protection, the Master Plan is still subject to those stormwater criteria developed under the previous master Plan and would continue to be.

Mr. Gerhardt noted that the SUP conditions have been reviewed and are fully acceptable.

As no one else wished to speak, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor to discussion by the Commission.

Mr. Basic moved to recommend approval of SUP-0010-2014, Williamsburg Landing Construction Commencement Extension.

On a roll call vote, the Planning Commission voted to recommend approval of SUP-0008-2014 with the conditions in the staff report by a vote of 6-0, Mr. Richardson being absent.

**C. Case No. SUP-0011-2014, McDonalds at Lightfoot Upgrade**

Ms. Leanne Pollock, Senior Planner II, provided the Commission with a report on the proposal to demolish and rebuild the existing McDonalds fast food restaurant at 6473 Richmond Road.

Mr. Krapf called for disclosures regarding meetings or conversations with applicants.

Mr. O'Connor stated that he had spoken with Mr. William Sleeth who represents the applicant.

Mr. Basic stated that he had also spoken with Mr. Sleeth.

Mr. Krapf opened the public hearing.

Mr. William Sleeth, 5388 Discovery Park Boulevard, stated that he is an attorney with LeClair Ryan and represents the applicant. Mr. Sleeth noted that Steve Blevins from Blakeway Corporation and Gary Martelli for McDonalds were also available to answer questions.

Mr. Sleeth addressed the Commission, giving an overview of the proposal.

Mr. Krapf noted that there has been some discussion about design elements for the McDonalds in comparison to the Lightfoot Marketplace and requested to see elevations for the Lightfoot Marketplace.

Ms. Pollock provided current elevations for several of the Lightfoot Marketplace buildings. Ms. Pollock stated that the proposed building design and materials for Lightfoot Marketplace mirror those proposed for the McDonalds. Ms. Pollock noted that stone materials, which are proposed for the McDonalds, are also an approved material in the Lightfoot Marketplace Design Guidelines.

Mr. O'Connor stated that this was a one-time opportunity to make a major difference in the appearance of that intersection in a Community Character Corridor. Mr. O'Connor stated that even with the enhanced buffers and landscaping, he would prefer to see a more attractive elevation for the building side facing Richmond Road.

Mr. O'Connor inquired about the figures provided for the traffic impact study, noting that one figure showed an increase of one vehicle per hour and the other figure showed 120 fewer vehicles.

Ms. Pollock responded that the figures show two methods of calculating trip generation for fast food restaurants based on the standards in the ITE books. One method is based on the square footage and the other is based on the number of seats. Ms. Pollock stated that generally the method based on seats is slightly more accurate and that trip generation would decrease in proportion to the number of seats being removed. Ms. Pollock noted that there is variation in the figures because of the drive-thru and that the calculation based on square footage would be more likely to capture that variable. Ms. Pollock stated that if there is an increase, it would be minimal and that the likelihood would be to see a decrease.

Mr. Krapf requested that the applicant address the concerns on the building elevations.

Mr. Sleeth noted that the proposed setback for the new building is significantly larger than the existing. Mr. Sleeth noted that there was a 50-foot buffer between the parking between Richmond Road and the parking area.

Mr. Sleeth further noted that there would be landscaping which would further conceal the service doors and interrupt the longer portion of the façade.

Mr. Sleeth also stated that the applicants are also willing to install a metal awning/trellis over the service doors to provide more character to the building.

Mr. Gary Martelli stated that the design presented currently incorporates features which are intended to enhance the character of the building. Mr. Martelli stated that the trellis could be extended along the side of the building to further enhance the design. Mr. Martelli further stated the brick would be matched to the brick that would be used in the Lightfoot Marketplace buildings.

Mr. Basic stated that the elevation shown in the Community Impact Statement was more consistent with the Lightfoot Marketplace buildings. Mr. Basic noted that it was not a difference in materials but a difference in the articulation of the long empty sides of the building. Mr. Basic

also stated that there was an emphasis on four-sided architecture for Lightfoot Marketplace because of its unique location. Mr. Basic stated that the design of the McDonalds building should also be carefully considered because of its relationship to the buildings around it. Mr. Basic noted that even though the drive-thru side was not visible from a main corridor, it would be adjacent to future buildings in Lightfoot Marketplace where its current design might be in conflict with the uses of those buildings.

Mr. O'Connor stated that he would like to see a proposal that would break up the long expanse of blank wall.

Mr. Martelli stated that he would be willing to work with staff to find an acceptable mix of design and materials and that they could consider adding more stone accents to both walls.

Mr. Krapf summarized that it appeared that the applicant is willing to consider enhancements to the materials and design for both the Richmond Road and the drive-thru sides. Mr. Krapf further stated that a few more design enhancements would be beneficial to the overall impression. Mr. Krapf also noted that during review of the Lightfoot Marketplace proposal, great emphasis was placed on four-sided architecture. Mr. Krapf stated that he appreciated the applicant's willingness to consider those factors.

Mr. Basic requested the Commission weigh in on whether to trust that design improvements would be provided before the case is presented to the Board of Supervisors or to request deferral.

Mr. O'Connor stated that a consideration is whether staff is comfortable with moving forward or would want more guidance from the Commission on an acceptable design.

Mr. Holt stated that he felt the Commission had provided clear direction for staff to work with the applicant on a revised design. Mr. Holt noted that the applicant is committed to working with staff for a quick turn-around. Mr. Holt further stated that if the Commission decided to move the application forward, staff would provide whatever updates the Commission desired. Mr. Holt also stated that the Commission could bring the case back for further review if staff reached an impasse with the applicant.

Mr. Martelli noted that there was a sense of urgency to move forward with the project as the restaurant's business is seasonal and reiterated his willingness to work with staff to develop a mutually acceptable design.

Mr. Wright stated that he believes staff has a good understanding of what the Commission is looking for in terms of architectural variation and is comfortable with having staff work with the applicant on the design.

Mr. George Drummond inquired if the Commission would consider false windows as a feature to break up the long wall.

Mr. Krapf stated that false windows, similar to what is proposed for the rear of the building, would be an option if it is structurally feasible. Mr. Krapf stated that he has confidence in staff's ability to work with the applicant on an acceptable solution.

Mr. Holt noted that the takeaway for staff is that while additional treatments like awnings and spandrel glass will be helpful and serve as a good starting point, the Commission is looking for something more substantial in terms of articulation to screen the service doors and break up the long flat façade on the side of the building facing Richmond Road.

Mr. Basic stated that the Commission would also like to see design improvements for the drive-thru side as well.

Ms. Bledsoe requested clarification on whether the project had gone before the DRC.

Mr. Krapf stated that the project had been to the DRC twice.

Ms. Bledsoe inquired whether these comments were made clear to the applicant during the DRC review.

Mr. Krapf stated that it was an evolutionary process with revisions being brought back to the second meeting. Mr. Krapf noted that the current design incorporates suggestions from the second DRC review.

Mr. O'Connor inquired whether staff would bring the application back to the Commission if there were concerns over the design.

Mr. Holt confirmed and stated that staff would look to resolve any issues prior to advertising for the Board of Supervisors public hearing.

Mr. O'Connor inquired whether there would be any landscaping between the McDonalds property and Lightfoot Marketplace.

Mr. Sleeth stated that although it was not clear on the plan, the areas shown in brown would retain the existing trees with mulching around them. Mr. Sleeth stated that there would be substantial greenery encircling the project.

Mr. Holt stated that staff would ensure that the plan meets at least the minimum requirements of the County's landscape ordinance.

Mr. Krapf noted that the public hearing was still open and inquired if anyone wished to speak.

As no one else wished to speak, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor to discussion by the Commission.

Ms. Bledsoe stated that the application offers major improvements over the current site.

Ms. Bledsoe moved to approve SUP-0011-2014, McDonalds at Lightfoot Upgrade.

Mr. O'Connor requested clarification on whether the motion included the recommended changes to the Richmond Road and drive-thru elevations.

Ms. Bledsoe stated that the motion included the recommended changes.

Mr. O'Connor stated that he would support the application with the recommended changes.

Mr. Krapf stated that he believed this would be a beneficial change to complement the Lightfoot Marketplace development and commended the applicant for his cooperation with the requested changes.

Mr. Basic inquired whether requiring general consistency with the adjacent landscaping for the Richmond Road Community Character Corridor buffer could be achieved without amending condition #6.

Mr. Holt stated that consistency could be achieved without amending the SUP condition.

On a roll call vote, the Planning Commission voted to recommend approval of SUP-0011-2014 with the conditions in the staff report and the recommended design changes by a vote of 6-0, Mr. Richardson being absent.

## **6. PLANNING DIRECTOR'S REPORT**

Mr. Holt stated that the joint work session with the Board of Supervisors would be on October 28 at 4:00 p.m. Mr. Holt noted that the next public meeting for the Mooretown Road Corridor study would be held on October 20, 7-9 p.m. at Norge Elementary School. Mr. Holt stated that this would be an opportunity for the public to provide feedback on location alternatives and proposed typical cross section.

Mr. Basic thanked Mr. Holt for following up on questions related to Dominion Power applying herbicides along many of the Community Character Corridors which was negatively impacting those corridors.

## **8. COMMISSION DISCUSSION AND REQUESTS**

Mr. Krapf reminded the Commission that he would be the Planning Commission representative at the Board of Supervisors meetings in October.

Mr. O'Connor stated that the next Policy Committee meeting would be held on October 9 at 3:00 p.m. in preparation for the joint work session.

## **9. ADJOURNMENT**

Mr. O'Connor moved to adjourn.



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

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Richard Krapf, Chairman

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Paul D. Holt, III, Secretary

**Case No. SUP-0008-2014, Gilley Enterprises Equipment Storage  
Staff Report for the November 5, 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.*

**PUBLIC HEARINGS**

Planning Commission:	September 3, 2014, 7:00 p.m.
Planning Commission:	November 5, 2014, 7:00 p.m.
Board of Supervisors:	December 9, 2014, 7:00 p.m. (tentative)

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

**SUMMARY FACTS**

Applicant:	Mr. Gregory R. Davis of Kaufman & Canoles, P.C.
Land Owner:	Regjag, L.L.C.
Proposal:	To allow storage of heavy equipment
Location:	320 Neck-O-Land
Tax Map/Parcel:	4740100041
Parcel Size:	±108.27 acres
Existing Zoning:	R-1, Limited Residential and A-1, General Agricultural, with proffers
Comprehensive Plan:	Low Density Residential and Conservation Area
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

With the proposed conditions, staff finds the proposed use to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in the staff report.

Staff Contact:	Jose Ribeiro, Senior Planner II	Phone: 253-6890
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**Proposed Changes Made Since Planning Commission Meeting**

Following consideration of this SUP application by the Planning Commission at its September 3<sup>rd</sup> meeting but prior to the October 14 Board of Supervisor's meeting, the applicant informed staff that he did not wish to record the subdivision plat that was approved by the County on August 11, 2014. The plat would have resubdivided the Gilley farm tract into three (3) lots and for each of the lots new addresses and tax map ID numbers were assigned by the Real Estate Assessments Division. This information was used to identify the parcels subject to this SUP application in the public hearing advertisement for the September 3 Planning Commission meeting. This information was also used in the ordinance for the renewal of the Gospel Spreading Church Farm Agricultural and Forestal District (AFD 12-86-1-2014) which was approved by the Board of Supervisors at its September 9, 2014, meeting.

To ensure that the Agricultural and Forestal District (AFD) renewal ordinance does not reference parcels which have not yet been recorded, a revised ordinance renewing the Gospel Spreading Church Farm AFD will be considered by the Board of Supervisors at their October 28<sup>th</sup> meeting. Similarly, this SUP request application has been re-advertised to ensure that the current addresses and tax map ID numbers are referenced accordingly. No changes have been made to this SUP application since it received a recommendation of approval from the Planning Commission (7-0) on September 3, 2014. The reminder of this staff report and staff's recommendation remains the same from the September 3<sup>rd</sup> Planning Commission meeting.

### **PROJECT DESCRIPTION**

Mr. Gregory Davis, on behalf of REGJAG L.L.C., has applied for a special use permit (SUP) to allow for the storage of heavy equipment on a portion of the Gilley family farm commonly know as "Gatehouse Farm." The property is split zoned R-1, Limited Residential and A-1, General Agricultural, with proffers and designated Low Density Residential and Conservation Area by the 2009 Comprehensive Plan. To the north and east of the property are Mill Creek and its tributaries and tidal marsh areas. The Gatehouse Farms residential neighborhood is located to the west, and to the south is property which is currently undeveloped. The property has frontage on Smokehouse Lane; however, vehicular access to and from the property is currently through an existing 50-foot ingress/egress easement which connects with Gate House Boulevard. The property is part of the Gospel Spreading Church Farm Agricultural and Forestal District (AFD). The area where the storage of equipment is proposed is zoned A-1, General Agricultural. According to the Zoning Ordinance, storage and repair of heavy equipment requires issuance of a SUP in areas zoned A-1.

According to the applicant, activities related to farming were established on the property as far back as 1905; however, the Gilley family has also been operating a general contracting business from Gatehouse Farm, such as clearing and grading and other site work requiring heavy equipment, for many years. All of the vehicles and equipment associated with farming and the business have been stored on the Gatehouse Farm property.

On March 14, 2011, a home occupation permit was issued to Mr. Edwin Gilley as he started his own company (Gilley Enterprises) in the tradition of his family business. As Mr. Gilley's business has outgrown the standards established for a home occupation permit, as defined in the Zoning Ordinance, issuance of a SUP is required specifically to allow the storage of heavy equipment. Currently, Mr. Gilley stores the following equipment and vehicles at Gatehouse Farm: a GMC single Axle Dump Truck, a twenty-ton trailer, a John Deere Skid Loader, a twenty-four feet Haulmark trailer, and a John Deere 75 excavator. Mr. Gilley proposes to limit storage of these and future equipment to a 3,200 square feet area (graveled parking area to provide an all-weather surface) as shown on the attached master plan.

### *History of the Property*

On July 30, 1987, the Board of Supervisors rezoned approximately 173 acres of property located behind the Gatehouse Farms residential neighborhood 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.

On June 25, 2013, the Board of Supervisors approved a resolution authorizing the purchase of a conservation easement as part of the purchase of development rights program (“PDR”) with the County 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, and 174 acres are zoned A-1, General Agricultural. 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  $\pm 50$  acre each. No further subdivision rights have been retained and future development of 136 dwelling units no longer attainable.

On July 22, 2014, the Board of Supervisors approved a proffer amendment eliminating the need for a recreational lot and comprehensive drainage analysis for the subject property based on the number of dwelling units being limited to three  $\pm 50$  acres lot.

The property subject to this SUP application is part of the Gospel Spreading Church Farm AFD. The district was approved by the Board of Supervisors on December 1986 and in 1987  $\pm 100$  acres of the Gilley’s property was added to the district with subsequent additions in 1991 ( $\pm 65$  acres) and in 2004 ( $\pm 71$  acres). Pursuant to restrictions established by the policies governing AFDs subdivision of lands is limited to 25 acre or more. Staff notes that a subdivision and boundary line adjustment plat creating three parcels (each of approximately 56 acres) was granted final approval by the County on August 11, 2014.

Further restrictions set forth by policies governing AFDs state that “no special use permit shall be issued except for agricultural, forestall, or other activities and uses consistent with Virginia Code, which are not in conflict with the policies of the District.” So as not to conflict with AFD requirements the property owner has requested that  $\pm 3,200$  square feet of area proposed to be used for the storage of equipment and vehicles associated with commercial uses not be included in the current renewal process for the Gospel Spreading Church Farm AFD (attachment 3). On August 6, 2014, the Planning Commission recommended approval of the Gospel Spreading Church Farm AFD renewal which did not include the request for removal of the aforementioned 3,200 square feet area; however, this request was considered by the Board of Supervisors at its September 9, 2014 meeting, at which time the Board renewed the District until October 31, 2018. As previously noted in this report, the Gospel Spreading Church Farm AFD renewal request has been re-advertised for the October 28, 2014, Board of Supervisors meeting.

## **PUBLIC IMPACTS**

### **Archaeological Impacts**

The subject property is not located within an area identified as a highly sensitive area in the James City County Archaeological Assessment and therefore an archaeological study is not required.

### **Environmental**

Watershed: Powhatan Creek

The Engineering and Resource Protection Division (ERP) has reviewed the application and has issued comments that will be addressed by the applicant at the development plan design stage should this application be approved. Staff will also be consulting the 2014 Federal Emergency Management Agency (FEMA) flood maps at the development plan stage to ensure that the location of the storage area is placed outside a flood plain area.-

Parts of the property, particularly areas located near Mill Creek and its tributaries, and the tidal marsh areas are designated as resource protection areas (RPA) by the County and as conservation sites by the Department of Conservation and Recreation (DCR). The conservation natural heritage resource with this site is the Rare skipper, a small, yellow-orange butterfly species that inhabits tidal marshes. According to the DCR, there are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity and that the current activity will not affect any documented state-listed plants or insects. To ensure that the location of the storage area will not encroach into the RPA and the conservation site staff has proposed a SUP condition that requires placement of the storage area no closer than 15-feet of a RPA buffer and areas designated by the Department of Conservation and Recreation (DCR) as containing natural heritage resources (condition 9).

### **Public Utilities**

The site is located inside the Primary Service Area. The James City Service Authority (JCSA) staff has reviewed this SUP application and has no objections to the proposal.

### **Transportation:**

The proposal is expected to generate low daily traffic and therefore have minimal impact to the local road system. According to the applicant, equipment associated with Mr. Gilley's business are typically moved from work site to work site and are not taken to and from Gatehouse Farm on a daily basis therefore minimizing vehicular trips through Gatehouse Boulevard from where access to Neck-O-Land Rod is obtained.

**VDOT Staff comments:** VDOT staff has reviewed the application and has issued comments that will be addressed by the applicant at the development plan design stage particularly the reconstruction, relocation, and/or upgrading of existing commercial entrances.

### **COMPREHENSIVE PLAN**

The site is designated by the 2009 Comprehensive Plan as Low Density Residential and Conservation Area (areas along the proximity to Mill Creek and its tributaries). Recommended uses in Low Density Residential areas include residential, school, churches, very limited commercial and community-oriented facilities. Recommended uses in Conservation Areas include hunting and fishing clubs, fish and game preserves, parks, and other open space that complement the natural environment. For very limited commercial activities in Low Density Residential areas, the Comprehensive Plan establishes the following standards (with staff's comments in *italics*):

- a. Complement the residential character of the area.  
*Staff finds the storage of heavy equipment will be located on an area distant from any residential units. A foreseeable impact to adjacent residential areas is vehicular traffic through Gate House Boulevard; however, the applicant has maintained that traffic should be limited as vehicles and equipment are typically moved from work site to work site.*
- b. Have traffic, noise, lighting and other impacts similar to surrounding residential uses.  
*Staff finds that this small scale business operation will have limited impacts to surrounding residential areas. As vehicles and equipment are not typically moved from Mr. Gilley's property on a daily basis impacts to traffic and noise will be limited. Proposed SUP condition # 6 requires all new*

*lighting to be recessed fixtures with no lens, bulb, or globe extending below the casing.*

- c. Generally be located on collector or arterial roads at intersections.  
*Part of the vehicular traffic will occur inside the Gilley's properties. Neck-O-Land Road is the main thoroughfare which will be accessed via Gate House Boulevard.*
- d. Provide adequate screening and buffering to protect the character of nearby residential areas;  
*The equipment storage area is located at the center of Mr. Gilley's property and distant from the nearest residential neighborhoods of Gatehouse Farms and Peleg's Point.*
- e. Generally located to support the residential community in which they area located.  
*Mr. Gilley business provides support not only to adjacent areas but to the County as a whole.*

Staff finds that the low density residential character of this neighborhood will not be affected by this proposal and potential impacts will be mitigated by the proposed SUP conditions.

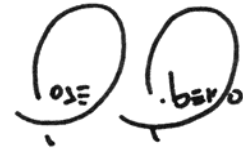
### **RECOMMENDATION**

With the proposed conditions, staff finds the proposed use to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in the staff report.

1. This Special Use Permit (the "SUP") shall be valid for the storage of construction equipment and vehicles on an area of up to 3,200 square-foot area (the "Proposal"), on a property located at 320 Neck-O-Land Road and further identified as JCC RE Tax Map No. 4740100041 (the "Property"). The SUP shall also permit use of an existing farm road and a 50-foot ingress and egress easement located on a parcel at 318 Neck-O-Land and further identified as JCC RE Tax Map No. 4740100040 for ingress/egress of such construction equipment. Development of the Property shall be generally in accordance with the Master Plan titled "Exhibit Showing Proposed Parcel 2 of the Properties of REGJAG, L.L.C. & Leigh Ann Gilley" dated May 5, 2014 (the "Master Plan"), with such minor changes as the Planning Director determines does not change the basic concept or character of the development.
2. No work associated with the Proposal, except for maintenance of equipment and vehicles, storage, and loading of materials on trucks shall be conducted at the Property.
3. Transportation of equipment to and from the construction equipment storage site shall be limited to 8 a.m. to 5 p.m. Monday through Friday, except for occasional after hours transportation related to storm damage work, snow removal jobs and the like.
4. Storage of equipment and vehicles associated with the Proposal shall be contained within the 3,200 square-foot area as shown on the Master Plan.
5. No outdoor signage advertising the Proposal shall be allowed on the Property.
6. All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining

properties.

7. An amendment to this SUP application shall be necessary should the number of vehicles and/or machinery associated with the Proposal exceed the storage capacity of the 3,200 square-foot area.
8. Prior to final site plan approval, a spill prevention and containment plan which addresses chemical handling including but not limited to oil, diesel and gasoline, shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval.
9. No soil disturbance, parking and/or storage of equipment and/or vehicles shall occur within 15-feet of a RPA buffer and/or areas designated by the Department of Conservation and Recreation (DCR) as containing natural heritage resources.
10. A site plan shall be required for this Proposal. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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

Jose Ribeiro, Senior Planner

**ATTACHMENTS:**

1. Location Map
2. Master Plan
3. Letter from the applicant dated July 28, 2014
4. Letter from the applicant dated October 15, 2014
5. Pictures of equipment and vehicles
6. Correspondence from citizens



# JCC-SUP-0008-2014

## Gilley Enterprises Equipment Storage





5UP-0008-2014

EXHIBIT SHOWING PROPOSED PARCEL 2  
OF THE PROPERTIES OF  
REGJAG, L.L.C. & LEIGH ANN GILLEY

JAMES CITY COUNTY JAMESTOWN DISTRICT VIRGINIA  
DATE: 05/05/2014 SCALE: 1"=250' JOB #08-109

**LandTech**  
Resources, Inc.

Surveying • Engineering • GPS  
3925 Midlands Road, Suite E, Williamsburg, Virginia 23188  
Phone: (757) 565-1677 Fax: (757) 565-0782  
web: landtechresources.com

SHEET: 1 OF 1

ADJOINING PROPERTY INFORMATION

- ① PARCEL 'C'  
P.B. 45, PG. 54  
② PARCEL 'B'  
P.B. 45, PG. 27  
③ PARCEL 'A'  
P.B. 45, PG. 66  
PARCEL 'A-1'  
④ LEIGH ANN GILLEY  
INSTR. #080025894 (DEED)  
INSTR. #050002188 (PLAT)  
PARCEL 'C' & PART OF PARCEL 'A'  
ROBERT E. GILLEY, II &  
MEREDITH H. GILLEY  
⑤ INSTR. #000017549 (DEED)  
P.B. 78, PG. 62 (PLAT)

- ⑥ EXISTING 20' INGRESS/EGRESS  
& UTILITY EASEMENT  
P.B. 78, PG. 62

PLANNING DIVISION

AUG 18 2014

RECEIVED

STATE PLAIN COORDINATE SYSTEM  
VIRGINIA SOUTH ZONE (NAD 83)

SURVEY TIE LINE

(T3)-(T4)

N 18°41'44" E	120.43'
S 71°16'54" E	251.66'
N 30°55'25" E	461.14'
S 83°53'47" E	373.34'
S 38°51'15" E	351.55'
S 03°56'08" E	582.47'
S 83°47'33" W	202.34'
S 02°59'51" E	143.95'
S 58°57'02" W	61.43'

SURVEY TIE LINE

(T4)-(T5)

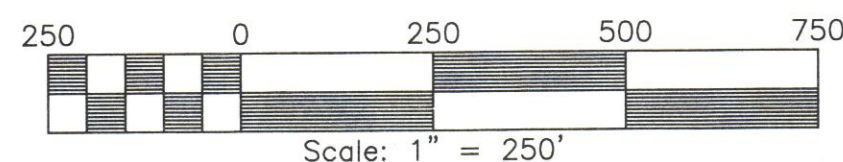
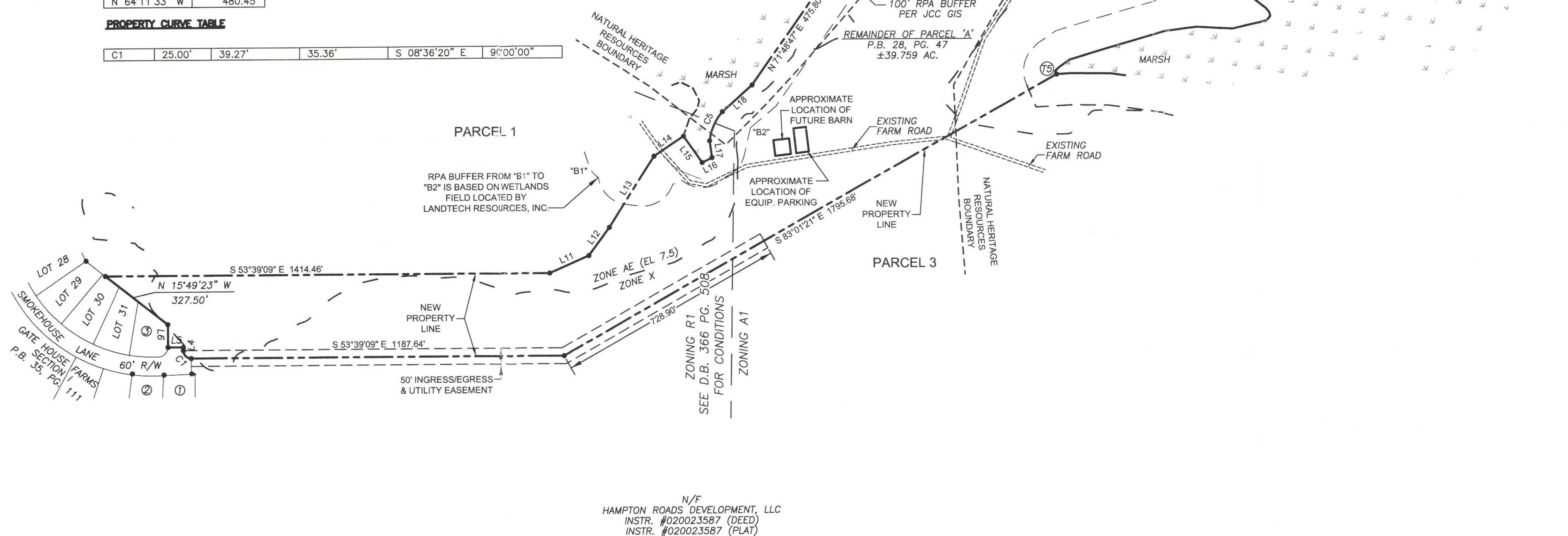
N 67°42'12" W	364.41'
S 46°07'51" E	495.74'
S 05°22'18" W	255.42'
N 44°46'59" W	575.02'
N 76°20'18" W	162.58'
S 25°05'24" E	430.53'
N 64°11'33" W	480.45'

PROPERTY CURVE TABLE

C1	25.00'	39.27'	35.36'	S 08°36'20" E	90°00'00"
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PROPERTY LINE TABLE

LINE	BEARING	DISTANCE
L4	N 36°23'40" E	10.00'
L5	N 53°36'20" W	48.95'
L6	N 36°19'01" E	71.85'
L11	S 77°18'10" E	136.37'
L12	N 72°56'24" E	109.54'
L13	N 68°41'46" E	265.29'
L14	S 87°57'01" E	113.14'
L15	S 01°16'26" W	103.43'
L16	S 80°32'40" E	34.74'
L17	S 28°27'37" W	53.90'
L18	N 85°02'02" E	126.76'
L19	N 76°38'33" E	142.35'
L20	N 82°11'46" E	301.05'
L21	S 49°44'15" W	60.71'





**KAUFMAN & CANOLES**  
attorneys at law

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

PLANNING DIVISION

JUL 28 2014

RECEIVED

Kaufman & Canoles, P.C.  
4801 Courthouse Street  
Suite 300  
Williamsburg, VA 23188

*Mailing Address*  
Post Office Box 6000  
Williamsburg, VA 23188

T (757) 259.3800  
F (757) 259.3838

kaufCAN.com

July 28, 2014

James City County Development Management  
Attn: Jose Ribeiro  
James City County  
101-A Mount Bays Road  
Williamsburg, VA 23185

**Re: Edwin Gilley Special Use Permit Application  
SUP – 008-2014**

Dear Jose:

I write to describe an amendment/clarification to the above-referenced application which will clarify the scope of the special use permit sought.

The SUP application describes a parking area and building for the storage of commercial construction equipment. My client has clarified that the building is not a part of his commercial equipment operation, and should not be considered as a part of the Special Use Permit application.

Mr. Gilley has enjoyed the use of the barn located on the family farm for many years, using that barn for storage of his tractor (used exclusively on the farm) and implements, boats, hunting equipment and other farming materials. Now that the family has sold the development rights and submitted a plan to the County to create separate lots for the three Gilley siblings, Edwin Gilley will not own the parcel on which the existing home is located. The barn to be constructed on the lot subdivided and conveyed to Edwin Gilley will be used solely for agricultural purposes associated with ownership of his property, maintenance of the farm, hunting and agricultural pursuits. That structure will not be used for the storage or other purposes associated with the commercial equipment described in the SUP application and supplemental materials.

Thus, the SUP seeks only the right to establish a 40-foot by 80-foot graveled parking area for the storage of the construction equipment described in the original application and used in connection with Mr. Gilley's business.

I have enclosed an original and twelve (12) copies of an amended plan entitled: "Exhibit Showing Proposed Parcel 2 of the Properties of REGJAG, L.L.C. & LEIGH ANN GILLEY" dated May 5, 2014, made by LandTech Resources, Inc. This exhibit shows the approximate location of the barn and equipment parking area described herein. Note that while the location of the barn and equipment


July 28, 2014

Page 2

parking area are noted as approximate, the 40-foot by 80-foot dimensions of the equipment parking area should be considered binding and made a condition of the special use permit, in order to allow continuation of the agricultural and forestal district on all other portions of Mr. Gilley's property.

If you have questions or concerns in this regard, please do not hesitate to contact me.

Very truly yours,



Gregory R. Davis

GRD:fmy

Enclosures

cc: Mr. Edwin Gilley

**KAUFMAN & CANOLES**  
attorneys at law

Kaufman & Canoles, P.C.  
4801 Courthouse Street  
Suite 300  
Williamsburg, VA 23188

*Mailing Address*  
Post Office Box 6000  
Williamsburg, VA 23188

T (757) 259-3800  
F (757) 259-3838

kaufCAN.com

Gregory R. Davis  
(757) 259-3820  
grdavis@kaufcan.com

October 15, 2014

**Via e-mail**

Paul Holt  
Director of Planning  
James City County  
101-A Mount Bays Road  
Williamsburg, VA 23185

**Re: SUP – 0008-2014**  
**R. Edwin Gilley**

Dear Paul:

This letter supplements the above-referenced application, as well as the Agricultural and Forestal District renewal related to the property which is the subject of the special use permit application.

As you are aware, the Deed of Conservation Easement put in place as a part of the purchase of development rights on the REGJAG, LLC property permitted a subdivision of the Gilley farm tract into three (3) lots (one for each of the Gilley siblings). While the special use permit application was being considered by staff, the Gilley family, working with LandTech Resources, Inc., had submitted a proposed subdivision plan for the property, which was approved by the County. Under the assumption that the subdivision plat approved by the County had been recorded prior to Planning Commission consideration of the special use permit application, the County staff placed the public hearing advertisement using a description of the Gilley farm tied to the approved subdivision plat, *but the subdivision plat had not been recorded*. Accordingly, all parties have agreed that the matter should be readvertised, and that the Planning Commission public hearing should be reopened as a matter of form in order to assure that no error in the advertising process could undermine the eventual grant of the special use permit sought by my clients.

As the special use permit requesting a parking area for contractor equipment was being considered and approved by the Planning Commission, renewal of the Gospel Spreading Church Farm Agricultural and Forestal District (the "AFD") was being processed by the County. Under prior request from the applicant, an area of 3,200 square feet of the Gilley Farm (sufficient to locate the contractor equipment storage area) was not to be included within the AFD.

Paul Holt  
October 15, 2014  
Page 2

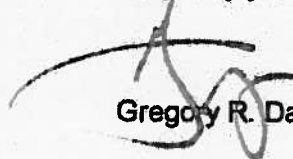
Readvertisement of the special use permit application previously approved by the Planning Commission does not affect the request of my client that the AFD renewal exclude the 3,200 square foot area of the REGJAG, LLC property in order to accommodate the special use permit applied for by my client.

By way of confirmation, supplemental letters from me originally submitted to James City County Development Management staff suggested that the special use permit referenced above include a barn, larger parking area, and the parking of a number of pieces of equipment not yet owned by my client. Subsequently, my letter of July 28, 2014 clarified that the special use permit application includes only a parking area, not a barn or building for the storage of commercial construction equipment. That same correspondence delineated a 40' x 80' graveled parking area as the subject of the special use permit. In addition, I clarified with staff and at the public hearing before the Planning Commission that my client does not seek to expand the equipment he stores on the subject property pursuant to the special use permit.

In an effort to implement a flexible plan accommodating future expansion of Edwin Gilley's business, staff had suggested including equipment beyond that which is owned today as a part of the special use permit, but I hereby confirm that the application includes only the storage of that equipment listed in the Staff Report to the September 3, 2014 Planning Commission: a GMC single Axle Dump Truck, a twenty-ton trailer, a John Deere Skid Loader, a twenty-four foot Haulmark trailer, and a John Deere 75 excavator (or equivalent equipment and replacements to obsolete or damaged equipment).

I trust you will find these clarifications helpful, and encourage you to contact me with questions or concerns in this regard.

Very truly yours,



Gregory R. Davis

GRD:fmy

cc: R. Edwin Gilley, REGJAG, LLC



## Single Axle Dump Truck and Trailer





## Skid Loader





## Twenty-four feet Haulmark Trailer





## Excavator



**Jose Ribeiro**

---

**From:** cherylsunderman@aol.com  
**Sent:** Friday, August 22, 2014 4:36 PM  
**To:** Jose Ribeiro  
**Subject:** Re: SUP-0008-2014 Gilley Enterprises Equipment Storage

I want to take some time over the weekend to review it in more detail but my initial concerns is that I don't think it's consistant with the Comp Plan. Also, what about erosion/sediment control - mud on our streets, etc. I think most people would not this type of traffic through their neighborhood.

-----Original Message-----

**From:** Jose Ribeiro <[Jose.Ribeiro@jamescitycountvva.gov](mailto:Jose.Ribeiro@jamescitycountvva.gov)>  
**To:** 'cherylsunderman@aol.com' <[cherylsunderman@aol.com](mailto:cherylsunderman@aol.com)>  
**Sent:** Fri, Aug 22, 2014 4:08 pm  
**Subject:** RE: SUP-0008-2014 Gilley Enterprises Equipmnet Storage

I am in the process of writing my staff report. Do you have any particular concerns with this proposal? If so please let me know.

Best,

Jose Ribeiro

**From:** [cherylsunderman@aol.com](mailto:cherylsunderman@aol.com) [<mailto:cherylsunderman@aol.com>]  
**Sent:** Friday, August 22, 2014 3:40 PM  
**To:** Jose Ribeiro  
**Subject:** Re: SUP-0008-2014 Gilley Enterprises Equipment Storage

Thank you very much Mr. Ribeiro. I appreciate your prompt response. Do you know what the staff recommendation is going to be?

-----Original Message-----

**From:** Jose Ribeiro <[Jose.Ribeiro@jamescitycountvva.gov](mailto:Jose.Ribeiro@jamescitycountvva.gov)>  
**To:** Cheryl Sonderman ([cherylsunderman@aol.com](mailto:cherylsunderman@aol.com)) <[cherylsunderman@aol.com](mailto:cherylsunderman@aol.com)>  
**Sent:** Fri, Aug 22, 2014 2:42 pm  
**Subject:** SUP-0008-2014 Gilley Enterprises Equipment Storage

Ms. Sonderman,

Please find attached the master plan showing the layout of the parcel and the location of the proposed 3,200 square feet storage area.

Please let me know if you have any questions.

Regards,

Jose Ribeiro

Jose Ribeiro  
Senior Planner



**PAUL HOLT**

**TO THE PLANNING COMMISSION:**

**we are uncertain of our ability to be able to be at the hearing on Sept. 3rd, with regard to Gatehouse Farms as we may be out of town.**

**we did however want to voice our concerns over the disruption of the quality of life in our neighborhood with heavy equipment operating on our quite streets at various unknown times and perhaps with frequency.**

**we do not feel it is fair that the everyday lives of a great number of residents should be disrupted by the business operations of one person who also happens to be a resident of this neighborhood. and why one resident should be given special treatment by the mere fact that his property is adjacent to this neighborhood.**

**this is a residential neighborhood. we paid a great deal of hard earned money and planned our lives and retirement to live in a nice and quiet neighborhood. i will repeat, to disrupt our lives and the lives of so many others in order for someone to operate their business here is a great, enormous thing to ask the residents of this neighborhood to allow. it will hugely impact all our lives in a very negative manner.**

**One would have to question the resident seeking this permit, if he were merely a resident in Gatehouse Farms and it was someone else who was seeking this, if he would understand and be agreeable to the disruption of his own life.**

**thank you for your consideration**

**PAUL HOLT**

**TO THE PLANNING COMMISSION:**

**we are uncertain of our ability to be able to be at the hearing on Sept. 3rd, with regard to Gatehouse Farms as we may be out of town.**

**we did however want to voice our concerns over the disruption of the quality of life in our neighborhood with heavy equipment operating on our quite streets at various unknown times and perhaps with frequency.**

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**One would have to question the resident seeking this permit, if he were merely a resident in Gatehouse Farms and it was someone else who was seeking this, if he would understand and be agreeable to the disruption of his own life.**

**thank you for your consideration**

PLANNING DIVISION

SEP 02 2014

RECEIVED

**SUBJ: COMMENTS FOR CASE # SUP-0008-2014, GILLEY ENTERPRISES EQUIPMENT STORAGE**

**FROM: ANONYMOUS**

**DATE: 09/02/2014**

**JAMES CITY COUNTY LAND USE DEFINITION FOR LOW DENSITY RESIDENTIAL AREAS STATES THAT "NON RESIDENTIAL USES SHOULD NOT ALTER BUT RATHER COMPLEMENT THE RESIDENTIAL CHARACTER OF THE LOW-DENSITY RESIDENTIAL AREA IN WHICH THEY ARE LOCATED." HOW DOES HAVING HEAVY EQUIPMENT TRAFFIC UP AND DOWN OUR ONLY TWO STREETS COMPLEMENT OUR NEIGHBORHOOD?**

**WE SHOULD NOT HAVE A COMMERCIAL BUSINESS USE OUR RESIDENTIAL ROADS FOR THEIR ECONOMIC BENEFIT. A HOME OCCUPATION BUSINESS SHOULD BE CONDUCTED THAT NEIGHBORS ARE UNAWARE OF ITS EXISTENCE. GILLEY ENTERPRISES HAS ALREADY OUTGROWN THE STANDARDS ESTABLISHED FOR A HOME OCCUPATION PERMIT AND IS NOW ASKING FOR THIS SUP, SO THEIR BUSINESS IS GROWING. THEY ARE EVEN LISTED AS A DRAINAGE CONTRACTOR FOR JCC.**

**YOUR STAFF REPORT STATES "THE APPLICANT HAS MAINTAINED THAT TRAFFIC SHOULD BE LIMITED AS VEHICLES AND EQUIPMENT ARE TYPICALLY MOVED FROM WORK SITE TO WORK SITE. " WE ARE ALREADY SEEING AND HEARING TRAFFIC FROM THEIR EQUIPMENT MORE OFTEN. WITH THEIR BUSINESS GROWING, THE TRAFFIC AND NOISE WILL INCREASE AND THIS WILL DEFINITELY HAVE AN ADVERSE IMPACT ON OUR PROPERTY.**

- 1. WE DO NOT HAVE SIDEWALKS, SO WHAT ABOUT THE SAFETY OF OUR CHILDREN RIDING THEIR BIKES ON THE STREETS.**
- 2. WE CANNOT ENJOY OUR YARDS LISTENING TO THE HEAVY EQUIPMENT COMING UP AND DOWN THE STREETS.**
- 3. WHAT ABOUT THE IMPACT TO OUR ROADS WITH THE HEAVY EQUIPMENT?**

4. HAS POTENTIAL OF LOWERING THE PROPERTY VALUES OF OUR HOMES.

THE APPROVAL OF THIS SPECIAL USE PERMIT COULD SET A PRECEDENT AND CONFLICTS WITH THE RESIDENTIAL CHARACTER OF GATE HOUSE FARMS. ASK YOURSELVES, WOULD YOU ALL LIKE A COMMERCIAL BUSINESS USING YOUR OWN RESIDENTIAL ROADS? WE NEED TO PROTECT THE RESIDENTIAL CHARACTER OF OUR SURROUNDING NEIGHBORHOOD.

THIS APPLICATION SHOULD BE DENIED.

## **Jose Ribeiro**

---

**From:** Paul Holt  
**Sent:** Friday, September 05, 2014 4:26 PM  
**To:** Jose Ribeiro  
**Cc:** Christopher Johnson  
**Subject:** FW: Case No. AFD-12-86-1-2014 Gospel Spreading Farm AFD Renewal

---

**From:** Adam Kinsman  
**Sent:** Friday, September 05, 2014 2:39 PM  
**To:** Allen Murphy; Paul Holt  
**Subject:** FW: Case No. AFD-12-86-1-2014 Gospel Spreading Farm AFD Renewal

fyi

**From:** [cherylsonderman@aol.com](mailto:cherylsonderman@aol.com) [<mailto:cherylsonderman@aol.com>]  
**Sent:** Friday, September 05, 2014 2:37 PM  
**To:** JCC Board  
**Subject:** Case No. AFD-12-86-1-2014 Gospel Spreading Farm AFD Renewal

Dear Board of Supervisors,

I am writing out of concern for some upcoming Board actions that are currently being considered that, if approved, could impact the Gate House Farms neighborhood.

First, is the Gospel Spreading Farm AFD Renewal that is on your agenda for Tuesday, Sept. 9th. In that case there is a request to have an approximate 3,200 sq. ft. removed from the AFD so that Mr. Gilley, the landowner, can store heavy equipment in support of his construction business. As far as I can tell, this request was not part of the recent review process for renewing this District by the AFD Board and their subsequent recommendation to the Planning Commission for approval. Also, it was not a part of the Planning Commission's consideration and now recommendation to the Board for approval of the renewal of this AFD. Now the request to exclude this area has been added to your material for consideration.

Adding this request at this time seems odd to me as I would think it's best to have all the information known to these bodies before their recommendation is made.

As I researched the purpose of an AFD, it is suppose to be used "purely for agricultural and/or forestal purposes". Mr. Gilley has been storing this equipment on a parcel at 227 Gate House Blvd. (not his residence but an family member's adjacent residential property) that is included in the AFD since he was granted a Home Occupation Permit in 2011 for his residence at 223 Gate House Blvd. for an office for his construction business. Isn't the storage of heavy equipment for a construction business a conflict with the purposes of the AFD? Now, in order to fix it, he is asking to remove a small portion of his property from the AFD to store his equipment. Somehow, I think this situation should not have been permitted in the first place and now he's used to having his equipment stored close to his home.

Secondly, on Tuesday, Sept. 3rd, the Planning Commission held a Public Hearing on SUP-0008-2014 for Gilley Enterprises to allow the storage of heavy equipment on the above-mentioned property and is recommending your approval. Of course, if you do not approve the exclusion of this storage area from the AFD, the SUP would no longer be applicable. During the Public Hearing, many of the Gate House Farms residents in attendance objected to the storage of heavy equipment on this parcel because the only ingress/egress from the Gilley property is through the neighborhood, primarily Gate House Blvd. but he could use Smoke House Lane and these are the only two local roads in our subdivision with access to Neck-O-Land Road.

The Planning Commission has conditions on the SUP application but one issue I am concerned about is that there is documentation from Mr. Gilley's lawyer that indicates Mr. Gilley may want to expand the amount of equipment he has in the future. He would have to amend the SUP to do that but it could be a possibility. Once he is allowed to continue to store his equipment on his property and bring it through the local streets, it could open the door for more in the

future. Finally, he plans on using existing farm roads to transport his equipment through the AFD. I am not sure that complies with the stated purpose of the AFD either but I don't know for sure.

Sorry to be so long-winded here, but it's a complicated issue and I'm not sure I'll be able to attend your meeting on Tuesday to provide comment.

Thank you for your time and consideration on this matter. Please let me know if you have any questions in this regard.

Sincerely,  
Cheryl Sonderman  
105 Gate House Blvd

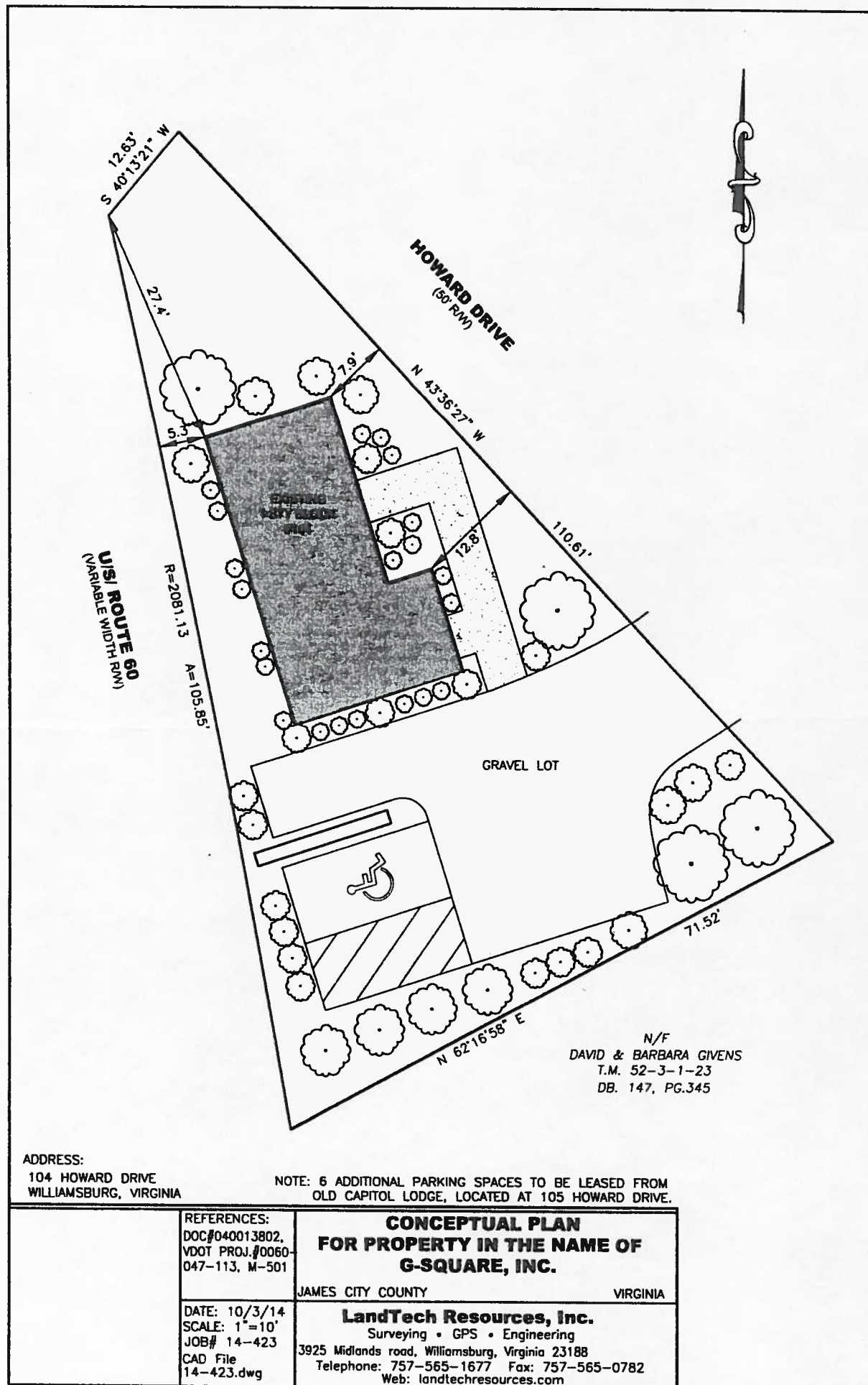
c: 757-784-2613  
h: 757-229-4365



# JCC-SUP-0013-2014

## 104 Howard Drive Grove Barber Shop





**REZONING-0006-2014 / SPECIAL USE PERMIT-0015-2014: 3116 Ironbound Road Branscome Building**

Staff Report for the November 5, 2014 Planning Commission Public Hearing

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

---

**PUBLIC HEARINGS**

	Building F Board Room; County Government Complex
Planning Commission:	November 5, 2014, 7:00 p.m. (deferral request)
	December 3, 2014, 7:00 p.m. (tentative)
Board of Supervisors:	January 13, 2014, 7:00 p.m. (tentative)

**SUMMARY FACTS**

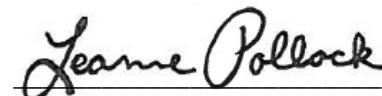
Applicant:	Mr. Vernon Geddy, III
Land Owner:	Henry S. Branscome, II
Proposal:	Rezoning to LB, Limited Business to use existing building for one of the non-residential uses identified in the attached proffer document with a special use permit for a building that is over 5,000 square feet in an area designated as Low Density Residential.
Location:	3116 Ironbound Road
Tax Map/Parcel No.:	4710100056
Parcel Size:	+/- 0.546 acres
Existing Zoning:	R-8, Rural Residential
Proposed Zoning:	LB, Limited Business with proffers
Comprehensive Plan:	Low Density Residential
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

The applicant has requested deferral of this application to the December 3, 2014 Planning Commission meeting so that staff and the applicant can jointly continue to discuss feedback from the October Development Review Committee meeting, proposed proffers, VDOT comments regarding entrance configurations and possible shared entrance and connections with the adjacent shopping center. Staff supports the applicant's request.

Staff Contact: Leanne Pollock

Phone: 253-6876



Leanne Pollock

Attachments:

1. Location map
2. Deferral request



JCC-Z-0006-2014/SUP-0015-2014

# 3116 Ironbound Rd, Branscome Building





## TC Cantwell

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**From:** Vernon Geddy <[vgeddy@ghfhlaw.com](mailto:vgeddy@ghfhlaw.com)>  
**Sent:** Friday, October 24, 2014 11:10 AM  
**To:** Leanne Pollock  
**Subject:** Ironbound Road Branscome Building

Leanne, I have spoken with Henry and we request that the Planning Commission defer consideration of this application until its December meeting. We look forward to meeting with the DRC next Wednesday. Thanks, Vernon

Vernon M. Geddy, III  
Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, Virginia 23185  
757-220-6500  
[vgeddy@ghfhlaw.com](mailto:vgeddy@ghfhlaw.com)

**REZONING-0003-2014/MASTER PLAN-0003-2014. The Promenade at John Tyler  
Staff Report for the November 5, 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.*

**PUBLIC HEARINGS**

Planning Commission:

Board of Supervisors:

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

November 5, 2014, 7:00 p.m.

December 9, 2014, 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:

Mr. Gary Werner, Franciscus Homes Inc.

Land Owner:

University Square Associates

Proposal:

Rezone six undeveloped properties to MU, Mixed Use, with proffers and design guidelines, to allow for up to 204 dwelling units and non-residential uses permitted in the MU district

Location:

South-east corner of the Williamsburg Crossing Shopping Center at the intersection of Route 199 and Route 5 (John Tyler Highway) adjacent to the Winston Terrace subdivision

Tax Map/Parcel:

4812200020	5294 John Tyler Highway	±11.18 acres
4812200025	5299 John Tyler Highway	±1.61 acres
4812200026	5303 John Tyler Highway	±1.35 acres
4812200027	5307 John Tyler Highway	±1.07 acres
4812200028	5311 John Tyler Highway	±1.50 acres
4812200029	5304 John Tyler Highway	±7.82 acres

Total Acreage: ± 24.54 acres

Existing Zoning:

B-1, General Business

Proposed Zoning:

MU, Mixed Use, with proffers

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors and acceptance of the voluntary proffers.

Staff Contact:

Christopher Johnson, Principal Planner

Phone: 253-6690

**Proffers:** The proffers are signed and submitted in accordance with the adopted James City County Proffer Policy. The mechanism for accepting cash proffers will be per unit contributions made prior to the issuance of any certificate of occupancy for the unit in question.

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water	\$1,030.00 per condominium unit
Recreation	\$37.72 per unit for fields \$245.83 per unit for trails \$20.15 per unit for playgrounds \$20.93 per unit for courts/pool
School Facilities	\$5,556.67 per unit
Library Facilities	\$61.00 per unit
Fire/EMS Facilities	\$71.00 per unit
<b>Total Amount Per Unit (2014 dollars)</b>	<b>\$7,043.30 per dwelling unit</b>
<b>Total Amount (2014 dollars)*</b>	<b>\$1,436,833.20 total</b>

*\*Should the Board of Supervisors approve this application, the total amount proffered is expected to be reduced based on the provisions of the adopted Housing Opportunities Policy. Please refer to Item No. 3(a) of the policy "Applicability of Cash Proffers for Housing Opportunity Dwelling Units"*

## **PROJECT HISTORY**

The initial Williamsburg Crossing master plan was adopted by the Board of Supervisors in 1989 and permitted up to 657,390 square feet of non-residential development. The master plan was subsequently amended by the adoption of two SUPs in 1993 associated with a proposed outdoor center of amusement, which included a driving range, miniature golf course, an 18-hole par-3 golf course and open space. The SUP for the outdoor amusement center expired in 1996. The adopted master plan designates the area that is the subject to the current application (Land Bay 11) as E-Commercial but limits the area as open space associated with commercial development of the subject properties. In 1993, approximately 13.3 acres was rezoned from MU, Mixed Use, and the master plan was amended to permit the development of up to 198 dwelling units and reduced the amount of non-residential development to 535,665 square feet. The La Fontaine development consists of 160 of the permitted 198 dwelling units. The Riverside Medical Facility was constructed in 1999 at the end of Kings Way. Since that time, multiple rezonings, SUPs and master plan amendment applications have been submitted; however, they have all been either withdrawn or deferred indefinitely prior to legislative action.

At its February 26, 2014 meeting, the Development Review Committee (DRC) considered the applicant's initial submission which proposed 197 single-family attached dwelling units on approximately 19 acres. At that meeting, an alternative layout for the project was presented by the applicant. The proposal, as considered by the DRC at the time, is similar to the current proposal. The most significant change is the inclusion of the four outparcels adjacent to Route 199. General concerns raised by the DRC included traffic, both internal to the site as well as at the intersection of Kings Way Drive and John Tyler Highway, pedestrian connections, the condition of existing roadways, the streetscape along Road "A" approaching the proposed development and long-term maintenance of the roads serving the proposed development.

## **PROJECT DESCRIPTION**

Mr. Gary Werner of the Franciscus Company has applied to rezone six properties totaling approximately 24.54 acres within the Williamsburg Crossing Shopping Center from B-1, General Business, to MU, Mixed Use, with proffers and design guidelines, to construct up to 204 dwelling units and commercial development along Route 199. The proposed development includes eleven, ten-plex buildings, 40 duplex buildings and 14 live-above units associated with the commercial development. The applicant has proffered that all of the 204 proposed dwelling units would be offered at targeted affordable or workforce housing pricing. The condominium units would contain up to three (3) bedrooms. While streets internal to the proposed development would be private, the applicant has also proffered to address outstanding deficiencies along both Kings Way Drive and Road "A" and make both roads eligible for acceptance into the Commonwealth's secondary road system. The site is located on the interior of the Williamsburg Crossing and would be accessed via Kings Way Drive and the road behind the shopping center, known as Road "A".

## **Community Meeting**

The applicant has scheduled a community meeting with residents from La Fontaine and Winston Terrace on November 3, 2014, in advance of the Planning Commission public hearing. The meeting will take place at 7:00 p.m. at the Human Services Building on Olde Towne Road.

## **Density**

Density calculations for the proposed development are based upon the acreage of the properties that are subject to the MU rezoning ( $\pm 24.54$  acres), not the entire Williamsburg Crossing development.

Since the development contains a mixture of multi-family dwelling unit types, the Zoning Ordinance requirement of up to five units per acre is used to establish the base gross density (i.e., 123 dwelling units).

To achieve the proposed development pattern, the Mixed Use zoning designation includes a provision for achieving density bonus points. The provision grants bonus points to projects which provide assurances on a master plan or through proffers that selected bonus item options will be incorporated into a project. For this application, the applicant has proffered to exceed affordable and workforce housing minimums established by the Housing Opportunities Policy ("HOP"). For every ten percent of units committed to targeted affordable or workforce housing pricing, an applicant can achieve up to four density bonus points. Given that the applicant has proffered that all 204 proposed dwelling units will be offered at HOP targeted pricing ranges, the project is able to increase its maximum density by 66 percent, which increases the allowable base gross density to the proposed 8.3 dwelling units per acre.

## **Mix of Uses**

The Mixed Use ordinance now requires that no single use or use category shall exceed 80 percent of the developable land area within a mixed use area, as designated on the master plan. Staff finds that this requirement is achieved with the proposed Master Plan.

## **Construction Phasing**

The Board of Supervisors adopted a Construction Phasing Policy on September 11, 2012, to ensure residential development does not take place before a majority of commercial/industrial development is completed in Mixed Use development projects.



The proposed development includes commercial development of the outparcels along Route 199; however, the applicant has not proffered a phasing plan or a timing mechanism for the construction of commercial development on those specific outparcels. However, when the proposed development is viewed in the broader context of the existing Williamsburg Crossing development and the existing amount of commercial space that is already occupied, staff finds that the proposal to integrate additional dwelling units into the overall Williamsburg Crossing Master Plan meets the intent of the Board policy.

In support of staff's finding, staff completed an analysis of the existing commercial square footage within the shopping center, the undeveloped acreage and the remaining non-residential square footage permitted under the adopted master plan to develop assumptions on the remaining undeveloped acreage not included as part of this application and not under the control of the applicant. By considering the amount of undeveloped acreage, the density of the existing developed area, it is expected that an additional 28,112 square feet of commercial square footage could be added to Williamsburg Crossing when all undeveloped outparcels are built out.

Total Acreage of Williamsburg Crossing	70.54
Total Approved Commercial Square Feet	535,665
Remaining Approved Commercial Square Feet	239,069
Undeveloped Acreage	27.81
Acreage of Parcels Under Application	24.54
Undeveloped Acreage Not subject to this application	3.27
Remaining Approved Commercial Square Feet Per Undeveloped Acreage	8,597
Remaining Commercial Square Footage Minus Parcels Under Application	28,112

### **Design Guidelines**

The applicant has proffered the submission and requisite Planning Director approval of design guidelines setting forth design and architectural standards consistent with the architectural elevations included in the Community Impact Statement prior to site plan approval. As with La Fontaine, all of the buildings in the development (both residential and commercial) will be constructed with four sided architecture and frontage in mind (i.e., all four sides of the buildings will be designed for maximum aesthetic quality). The proffered design guidelines require architectural consistency between the residential and non-residential development on the property.

### **Landscaping**

The proposed site is located along a Community Character Corridor; as such, the applicant has proffered enhanced landscaping along Route 199 in accordance with the County's Enhanced Landscaping Policy adopted April 9, 2013. The proffers require that the buffer planting be consistent with the narrative description and conceptual cross-section of the buffer provided within the submittal packet (exhibit 12 in the Supplemental Materials binder). The proffer includes a timing mechanism requiring installation prior to the issuance of the first certificate of occupancy or a delayed installation until the next seasonal growing season and the collection of a bond. Having the Community Character Corridor Buffer landscaping installation early on in the development of the site will ensure plantings throughout the development grow and mature at the same rate. Within the buffer, existing specimen trees will be identified and preserved to the greatest extent. A combination of deciduous and evergreen trees and understory plantings will be installed to visually expand the

buffer. Evergreen shrubs will screen parking lots that front the buffer. In accordance with the Enhanced Landscaping Policy, the applicant will exceed ordinance minimums by increasing plant sizes.

The Zoning Ordinance requires that a 50-foot wide buffer be maintained along the perimeter of a Mixed Use district; however, in accordance with Section 24-523(c), the applicant filed a request for modification with the Planning Director, which was granted. The western property lines adjacent to the Riverside Medical facility and the BMP have a reduced buffer at 25 feet. The property lines within the existing shopping center adjacent to the parking lot do not have a buffer beyond the street trees shown on the Master Plan exhibit, rather the design of the proposed development has sought to ensure and achieve integrating the proposed development with the existing shopping center development.

## **PUBLIC IMPACTS**

### **Archaeology**

According to the Virginia Department of Historic Resources, several archaeological sites have been documented within one mile of the subject property. These sites were surveyed in 1995 in association with the Route 199 Extension project. One known archaeological site was identified in the northwest corner of the subject property as a domestic farmstead from the early 19<sup>th</sup> century. The site is in an area which has been previously-disturbed and is not located within an area identified as highly sensitive.

**Proffers:** The applicant has proffered to conduct an Archaeological Study in accordance with the County's Archaeological Policy. Accordingly, a Phase I Archaeological Study shall be submitted and approved by the Planning Director prior to issuance of a land disturbing permit.

### **Engineering and Resource Protection**

#### **Watershed: Mill Creek**

**Proffers:** Completion of a nutrient management plan.

**Staff Comments:** ERP staff verified that the adopted master plan for Williamsburg Crossing anticipates the use of Detention Pond #3 (located on the Riverside property) for development of the subject property. Therefore, no new stormwater pond is proposed within the limits of the new MU development. During site plan review, the applicant will be required to demonstrate that the existing, or retrofitted, BMP design meets all applicable requirements.

### **Public Utilities**

The property is served by public water and sewer.

#### **Proffers:**

- Water conservation standards will be reviewed and approved by the JCSA.
- A contribution of \$1,030 per unit has been proffered

**Staff Comments:** Staff has reviewed the Community Impact Statement and Master Plan and concurs with the information. Additional engineering analysis will be required during site plan review.

## **Housing**

**Proffers:** A contribution of \$5,556.67 per unit has been proffered. This amount is representative of Cash Proffer Policy for Schools adopted by the Board of Supervisors in 2007. The amount proffered, \$5,556.67 per unit is the adjusted amount per single-family attached units for 2014.

**Housing Opportunities Policy ("HOP"):** Staff notes this application is subject to the HOP, adopted by the Board of Supervisors on November 27, 2012. For the targeted affordable and workforce housing units, the Board included a reduced expectation for cash proffers in the policy. The Policy includes a specific reduction for each of the component AMI ranges. Please see the table below for a break-out of the units dedicated to affordable/workforce pricing per the HOP and the attributed percentage cash proffer reduction.

Units Targeted To (percent of AMI)	Percent of the Development's Proposed Dwelling Units Required Per HOP	Number of Units Provided	Percentage of Units Provided	Percentage Cash Proffer Reduction
30% - 60%	8%	32	16%	100%
Over 60% - 80%	7%	129	64%	60%
Over 80% - 120%	5%	43	20%	30%
	20%	204	100%	

## **Transportation**

DRW Consultants prepared a traffic impact analysis for this project. The traffic study includes three 2019 Williamsburg Crossing forecast models: no build; by-right commercial development; and the proposed development. There are two existing entrances to Williamsburg Crossing, both located on John Tyler Highway. The western entrance is located at the signalized intersection at Kings Way Drive. The Kings Way intersection has dual left turns from Route 5 onto Kings Way; however, the second lane ends at Pilots Way adjacent to the bank. There are two lanes at the signalized intersection for traffic exiting Kings Way onto Route 5. One lane is a dedicated right-turn lane; the other lane can go north onto Ferncliff Drive or West onto Route 5. The eastern entrance is a right-in/right-out only for eastbound Route 5 traffic.

**2007 County Traffic Counts:** Route 5 from Stanley Drive to Route 199 recorded 16,000 vehicle trips per day. Route 199 from the intersection of Route 5 to the Williamsburg City limits recorded 35,000 vehicle trips per day and Route 199 from the intersection of Monticello Avenue to Route 5 recorded 27,000 vehicle trips per day.

**2035 Daily Traffic Volume Projected (from 2009 Comprehensive Plan):** Route 5 is expected to require improvements with 18,891 average annual daily vehicle trips (AADT) projected between Greensprings Road and Route 199. The Comprehensive Plan specifically addresses Route 5 and notes that creating four lanes is strongly discouraged. Turn lanes and minor intersection and pavement improvements will still be needed for this roadway. On Route 199, from the intersection of Route 5 to Jamestown Road eastbound, 40,022 AADT are projected; this segment is recommended for improvement. On Route 199, from the intersection of Monticello Avenue to Route 5 westbound, 32,672 AADT are projected meeting acceptable capacity levels.

**VDOT Comments:** Based on the DRW Traffic Impact Analysis, it appears that a right turn taper is required on eastbound John Tyler Highway onto Kings Way per the VDOT Road Design Manual.

**Kimley-Horn and Associates (“KHA”) Comments:** Based on VDOT’s recommendation, staff requested analysis and recommendations from KHA. This analysis found traffic volumes and associated turning movements at the intersection suggest that a right-turn taper is warranted on eastbound John Tyler Highway at Kings Way based on VDOT Guidelines for Right-Turn Treatment criteria. However, as noted in the study, historical traffic data indicate that the right-turn taper is not warranted solely as a result of the proposed development. Rather, analysis of the data indicates that under both 2007 and 2014 existing conditions, the proposed improvement is warranted.

Based on the crash data referenced in the analysis, it does not appear that there is a safety issue associated with the existing shared through and right-turn lane configuration for eastbound John Tyler Highway at this location. Based on future conditions analyses it is evident that the operational benefit gained by the construction of a right-turn taper at this location is minimal. In addition to the minimal operational benefits, given the presence of several utilities located in close proximity to the back of the existing curb along the south side of Route 5 in the vicinity of the intersection, the cost of constructing the proposed right-taper would be much higher than normal.

**Staff Comments:** The DRW report projects 86 a.m. peak hour vehicle trips, 102 p.m. peak hour vehicle trips and 1,124 vehicle trips per day at build-out of the proposed development. When compared to by-right commercial development of the subject properties, traffic generated by the proposed development would be significantly less. Overall, given capacity limitations for Route 5 and Route 199, staff finds the proposed residential development will result in fewer traffic impacts than if the site were developed commercially, as currently permitted. Further, in consideration of the KHA analysis and given the proposed significant impacts to the CCC buffer that would result from the installation of a right turn taper, that would not provide substantial traffic improvements, staff concurs that a right turn taper should not be proffered.

**Road Improvements and Proffers:** Currently, Kings Way Drive and Road “A” are privately owned and maintained streets. Staff is aware of the current conditions of the roads as well as drainage issues internal to the site. The applicant has proffered to make the necessary improvements to Kings Way and Road “A” to have the roads become eligible for acceptance into the VDOT secondary road system. VDOT has prepared a punch list of required repairs that must be completed prior to acceptance (see attachment #4).

Streets being accepted into VDOT’s secondary system are required to be in new or like new condition. Existing pavement on Kings Way and Road “A” shows signs of significant damage and cracking. Kings Way will need to be milled and overlayed up to the intersection of Route 5. Further, road “A” will need to be repaired where there are visible signs of damage and settling. Drainage improvements include new ditches to provide positive drainage and prevent ponding seen at the intersection of Route 5. The punchlist also includes much needed several traffic safety features including restriping, new pavement markings and required signage in several locations.

### **Fiscal**

The applicant submitted two fiscal impact analyses for this project. The first was conducted by Ted Figura Consulting and the second was completed using the County's fiscal impact worksheet and assumptions which was reviewed by the Planning Commission and Board of Supervisors in spring 2012. Due to the uncertainty of when construction will commence on the commercial and residential space on the outparcels, the fiscal analysis completed by Ted Figura Consulting only includes fiscal impact calculations relevant to the 190 units on Parcels 20 and 29 only. The analysis by Ted Figura Consulting included non-recurring revenues that are not included in the County's fiscal impact worksheet which resulted in a determination that the project would be fiscally positive with more than \$4,035,550 in cumulative cash flow for the County and JCSA over the initial ten (10) years of the project. The County's fiscal impact worksheet indicates that the project will be fiscally negative with a negative annual fiscal impact, \$14,717 at build out.

**Staff Comments:** The Director of Financial and Management Services reviewed both of the submitted reports. The County typically expects residential developments primarily comprised of affordable and workforce housing units to be fiscally negative (with only one or two examples to the contrary). While the proposal includes commercial square footage, the disproportionate amount does not offset the negative fiscal impacts associated with residential development. Staff finds the proposed addition of up to 204 residential dwelling units has the potential to stimulate the economic revitalization of the existing shopping center, which would offer positive fiscal impacts which are not accounted for in either report.

### **Public Facilities**

This project is located within the Rawls Byrd Elementary, Berkeley Middle and Lafayette High School districts. Per the "Adequate Public School Facilities Test" policy adopted by the Board of Supervisors, all special use permits or rezoning applications should pass the test for adequate public school facilities. The effective capacity and projected enrollment numbers show adequate capacity for the additional elementary and high school students initially; however, since the middle school is already over design capacity, this proposal fails to meet the need for middle school enrollment capacity within this district. A new middle school is currently anticipated to be online by 2018. Also, projections indicate the three eastern-most elementary schools (Rawls Byrd, James River and Matthew Whaley) will exceed capacity beginning in 2016 without the proposed development.

School	Effective Capacity	Enrollment (2014)	2014-2015 Projected Enrollment	Projected Students Generated by Proposal
Rawls Byrd Elementary	500	432	446	15
Berkeley Middle	829	902	937	8
Lafayette High	1,314	1,158	1,182	12

### **Parks and Recreation**

#### **Proffers:**

- Cash contributions in-lieu of providing trails, a playground, a field and a sport court or pool.
- A community park, two welcome parks, a pocket park and community clubhouse and pool, equating to 2.5 acres

**Staff Comments:** Staff has reviewed the project for compliance with the Parks and Recreation Master Plan and Proffer Guidelines and the Zoning Ordinance. Staff offers the following comments:

- The Guidelines state that any pool should be at least 25 meters. The proposed pool is smaller than 25 meters; therefore a cash in-lieu amount has been proffered.
- The Zoning Ordinance requires that development within the Mixed Use district shall provide no less than ten percent of the developable area of the site as usable open space area. Staff finds that this application is in compliance with the open space/recreational areas requirements of the Zoning Ordinance. The proposal includes a community park, two welcome parks, a pocket park and community clubhouse and pool, totaling 2.5 acres.

### **Requirements for improvements and design within the MU District**

Section 24-522 of the Zoning Ordinance contains certain requirements for improvements and design for projects within a Mixed Use District. Specifically, Mixed Use Districts are intended to have an integrated character with strong unifying design elements and must meet the following standards:

(a) *Unified building design.* Building design should be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.

Development shall focus on pedestrian-scaled design, mixing uses within buildings, and general design standards (such as landscaping, road design, etc.).

(b) *Unified open space.* Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s).

(c) *Water and sewer.* All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.

(d) *Recreation areas.* Residential areas and mixed use structures and areas designated on the master plan shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final development plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

(e) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of the Zoning Ordinance.

(f) *Outdoor lighting.* Outdoor lighting shall be provided as required by the Zoning Ordinance.

(g) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be shown on the master plan and site plan and preserved to the maximum extent possible.

(h) *Signs.* All signs within a mixed use district shall comply with the Zoning Ordinance.

(i) *Traffic circulation.* Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with the Zoning Ordinance requirements.

(j) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with the Zoning Ordinance and Chapter 23 of the county code, the Chesapeake Bay Preservation Ordinance.

(k) *Dwelling units,* regardless of structure type, shall be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities.

(l) *Pedestrian accommodation.* Pedestrian accommodations shall be provided in accordance with the Zoning Ordinance.

**Staff Comments:** With the proposed proffers, staff finds the application meets the above requirements for improvements and design within the MU District. However, there are two specific items that staff wants to bring to the attention of the Planning Commission:

- 1.) **Public Square.** The requirements for improvements and design for projects within a MU District call for *unified open space* (i.e., projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations). Staff finds the proposed "Public Square" on the Master Plan an integral feature of the site and one of the important, more formal open space elements of the Master Plan that makes this proposal consistent with this requirement. Staff finds this proposed improvement will contribute significantly to the quality of life for residents living in this development. The current proffers address the provision and timing of when other open space and recreational features of the site will be completed (e.g., the clubhouse and pool, two welcome parks, pocket park and community park), but not for this Public Square. As such, without a trigger requiring its completion, it is conceivable that the Public Square may never be constructed.

While the Master Plan notes that the commercial layout is shown for conceptual purposes only, the Zoning Ordinance requirements state that this Master Plan is binding upon adoption by the Board of Supervisors. Staff finds the commercial building locations fronting on the internal private street, with parking behind, an important design element, as well as the location and size of the Public Square. However, while the commercial sites will develop depending on market conditions and the ultimate sale/lease of those sites, there is currently no provision within the proffers on when the Public Square would ever be constructed.



- 2.) **Private Streets.** As noted earlier in this staff report, the internal streets of this development will be private, as allowed for in the Zoning Ordinance, upon the approval of the Board of Supervisors. The developer is also proposing to improve Road "A" and Kings Way to ensure they are eligible to be taken into the State System, thus the project will front onto publicly maintained roadways.

For private streets, the Zoning Ordinance requires the *initial construction* of streets, whether public or private, to be guaranteed by surety. Further, applicants shall also submit assurances that a property owners community association or similar organization has been legally established under which lots within the development will be assessed for the cost of *maintaining* private streets and that such assessments shall constitute a pro rata lien upon the individual units shown on the development plan.

To mitigate impacts and associated costs ultimately borne by the property owners and their community association, other developments (such as New Town, Section 12) have included proffers whereby the party responsible for construction of the private streets, deposits into a maintenance fund to be managed by the Association an initial capital sum (sometimes in an amount equal to 150% of the amount of maintenance fee).

Staff would note the current proffers for this development do not provide for such an initial deposit for capital costs for the owners association.

### **COMPREHENSIVE PLAN**

The area for the proposed development, as well as the Riverside Medical facility, La Fontaine, the existing shopping center and commercial outparcels are all included in the Williamsburg Crossing Mixed Use designation on the 2009 Comprehensive Plan Land Use Map.

The general Mixed Use area designation description notes that Mixed Use areas should be inside the Primary Service Area and should be centers for higher density development with a mix of uses served by adequate infrastructure and public services. Further, centers with higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. The consideration of development proposals should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of uses and their impacts.

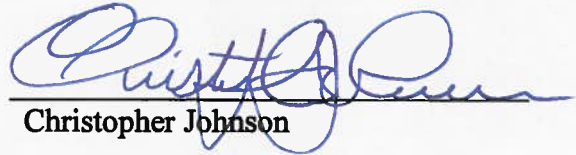
The Mixed Use area designation specifically for Williamsburg Crossing states, for the undeveloped land in the vicinity of the intersection of John Tyler Highway and Route 199 including the Williamsburg Crossing Shopping Center, the principal suggested uses are commercial and office. Moderate density residential will be accommodated as a secondary use.

Staff finds the proposed density and uses compatible with the Comprehensive Plan.



**STAFF RECOMMENDATION**

Staff finds the proposal to be consistent with surrounding zoning and development and consistent with the Zoning Ordinance and 2009 Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors and acceptance of the voluntary proffers.

  
Christopher Johnson**ATTACHMENTS:**

1. Location Map
2. Proffers dated October 15, 2014
3. VDOT Punchlist dated September 15, 2014 and accompanying exhibit
4. Supplemental materials binder (includes design guidelines, community impact statement, traffic studies and fiscal impact analysis) – under separate cover
5. Master plan – under separate cover
6. Housing Opportunities Policy
7. Enhanced Landscaping Policy
8. Narrative and exhibits received from William Bauernschmidt showing recommended traffic changes



# JCC-Z-0003-2014/MP-0003-2014

## The Promenade at John Tyler



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1 inch = 399 feet

0 0.05 0.1 Miles



# JCC-Z-0003-2014/MP-0003-2014

## The Promenade at John Tyler



0 0.05 0.1 Miles



**Tax Parcels:** 4812200020, 4812200025, 4812200026, 4812200027, 4812200028 and 4812200029

**Prepared By:** Vernon M. Geddy, III, Esquire (VSB No: 21902)  
Geddy, Harris, Franck & Hickman  
1177 Jamestown Road  
Williamsburg, VA 2318

## **PROFFERS**

**THESE PROFFERS** are made this 15<sup>th</sup> day of October, 2014 by **UNIVERSITY SQUARE ASSOCIATES**, a Virginia general partnership (together with its successors in title and assigns, the "Owner").

## **RECITALS**

A. Owner is the owner of six parcels of land located in James City County, Virginia, being Tax Parcel No's. 4812200020, 4812200025, 4812200026, 4812200027, 4812200028 and 4812200029, containing approximately 24.54 acres, more or less, and being more particularly described on Schedule A hereto (the "Property").

B. Franciscus Homes has contracted to purchase Tax Parcels 4812200020 and 4812200029 of the Property contingent upon approval of the requested rezoning. Upon taking title to that portion of the Property, Franciscus Homes shall be an "Owner" as defined herein.

C. The Property is designated Mixed Use on the County's Comprehensive Plan Land Use Map and is now zoned B-1 and is subject to the approved special use permit Master Plan for Williamsburg Crossing Shopping Center. Owner has applied to rezone the Property from B-1 to MU, Mixed Use, with proffers.

C. Owner has submitted to the County a master plan entitled "The Promenade at John Tyler" prepared by Clark Nexsen dated October 6, 2014 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU in the form of the following Proffers.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. Cash Contributions. (a) A one-time contribution shall be made to the County of \$5,556.67 for each single family attached dwelling unit constructed on the Property, subject to paragraph (f) below. Such contributions shall be used by the County for school uses.

(b) A one-time contribution shall be made to the County of \$61.00 for each dwelling unit constructed on the Property, subject to paragraph (f) below. Such contributions shall be used by the County for library uses.

(c) A one-time contribution shall be made to the County of \$71.00 for each dwelling unit constructed on the Property, subject to paragraph (f) below. Such contributions shall be used by the County for fire/EMS uses.

(d) A one-time contribution shall be made to the County of \$324.63 for each dwelling unit constructed on the Property, subject to paragraph (f) below. Such contributions shall be used by the County for parks and recreational purposes.

(e) A one-time contribution shall be made to the James City Service Authority of \$1,030.00 for each dwelling unit constructed on the Property, subject to paragraph (f) below. Such contributions shall be used by the County for water system uses.

(f) The cash contributions proffered in paragraphs (a) through (e) above shall be reduced in accordance with Section 3 of the County's Housing Opportunities Policy as shown in the table in Proffer 2 below.

(g) Such per unit contributions shall be paid to the County after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the unit in question.

(h) The per unit contribution amounts shall consist of the amounts set forth in paragraphs (a) through (e) plus any adjustments included in the Marshall and Swift Building Costs Index, Section 98, Comparative Cost Multipliers, Regional City Averages (the "Index") from 2014 to the year a payment is made if payments are made after on or after January 1, 2015, subject to reduction as provided in paragraph (f). The per unit contribution amount shall be adjusted once a year with the January supplement of the Index of the payment year. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in the preceding paragraphs of this Section. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

2. Housing Opportunities. All of the dwelling units permitted on the Property shall be offered for sale or made available for rent at prices that are targeted at households earning 30% to 120% of the Area Median Income ("AMI") as provided below:

Table 1 – 190 units on Parcels 4812200020 and 4812200029

Units targeted to (percent of	Percent of dwelling units	Number of units	Percentage cash proffer	2014 Price ranges per
----------------------------------	------------------------------	-----------------	----------------------------	--------------------------

AMI)	required		reduction	Housing Opportunities Policy Guide*
30% to 60%	16%	30	100%	\$99,436 to \$173,376
Over 60% to 80%	64%	120	60%	\$173,377 to \$242,386
Over 80% to 120%	20%	40	30%	\$242,387 to \$380,407

**Table 2 – 14 units on Parcels 4812200025, 4812200026, 4812200027 and 4812200028**

Units targeted to (percent of AMI)	Percent of dwelling units required	Number of units	Percentage cash proffer reduction	2014 Price ranges per Housing Opportunities Policy Guide*
30% to 60%	16%	2	100%	\$99,436 to \$173,376
Over 60% to 80%	64%	9	60%	\$173,377 to \$242,386
Over 80% to 120%	20%	3	30%	\$242,387 to \$380,407

\* Per the Housing Opportunities Policy Guide price ranges are set annually by the County's Office of Housing and Community Development based on the definitions in the Policy.



The forgoing affordable/workforce dwelling units shall be provided consistent with the criteria established by the Housing Opportunities Policy and Housing Opportunities Policy Guide adopted by the Board of Supervisors on November 27, 2012 and in effect as of the date of approval of the requested rezoning to provide affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal of the 2009 Comprehensive Plan; provided, however, that if the County amends the Housing Opportunities Policy as in effect as of the date of approval of the requested rezoning to increase the targeted income ranges or otherwise make the Policy otherwise less burdensome on the Owner, the Owner shall only be required to comply with the amended Policy. With respect to affordable and workforce rental units provided pursuant to this proffer, if any, Owner shall submit an annual report for each year of the required 30 year term to the County Director of Planning on or before January 30 of the current year identifying the location of the units and the rental rates charged demonstrating such rates are within the specified affordable and workforce housing income range. With respect to affordable/workforce rental units, at the time such units are provided in accordance with this Proffer a notice in form approved by the County Attorney shall be recorded in the County land records providing notice that the units are subject to the County's Housing Opportunities Policy adopted by the Board of Supervisors on November 27, 2012 and in effect as of the date of approval of the requested rezoning. If an affordable/workforce rental unit is subsequently sold in accordance with the sale requirements of this proffer, the notice will be released from the unit sold. With respect to for sale affordable and workforce units provided pursuant to this proffer, a soft second mortgage meeting the requirements of the Housing Opportunities Policy or other instrument approved in advance by the County Attorney shall be executed by the initial purchaser thereof and recorded against the unit to assure the unit continues to meet the

requirements of the Housing Opportunities Policy and a copy of the settlement statement for the sale shall be provided to the Director of Planning. In addition, each deed to an affordable or workforce for sale unit shall include a right of first refusal in favor of the County in the event a subsequent owner desires to sell the unit. All affordable or workforce units provided pursuant to this Proffer shall be rented or sold to persons whose incomes fall within the qualifying income ranges used to determine the prices/rental rates under the Housing Opportunities Policy.

3. Archaeology. A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for review and approval prior to issuance of a land disturbing permit. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's

***Professional Qualification Standards.*** All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon. This proffer shall be interpreted in accordance with the County's Archaeological Policy adopted by the County on September 22, 1998.

4. **Nutrient Management Plan.** The Owner shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a Virginia Certified Nutrient Management Planner to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for the Property. The Plan shall be submitted to the County's Engineering and Resource Protection Director for his review and approval prior to the issuance of the 50<sup>th</sup> certificate of occupancy for buildings on the Property by the County. The property owners association for the Property shall be responsible for ensuring that any nutrients applied to common areas owned or controlled by the association within the Property are applied in accordance with the Plan.

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

6. **Road Repair and Dedication.** Prior to issuance of the first certificate of occupancy for a dwelling unit on the Property, (i) either the deficiencies listed in the punch list dated September

15 made by the Virginia Department of Transportation ("VDOT") for Kingsway and "Road A" shall have been corrected and inspected by VDOT such that the roads are eligible for acceptance into the Commonwealth's secondary road system or the work necessary to correct such deficiencies shall have been bonded in form satisfactory to the County Attorney and (ii) the plat necessary to dedicate the right of way for such roads for public use shall have prepared and submitted to the County, with all required property owner signatures.

7. Architectural Guidelines. Prior to final approval of a site plan for development of the Property, Owner shall prepare and submit design guidelines to the Director of Planning for review and approval setting forth design and architectural standards for the development of the Property generally consistent with the typical architectural elevations included in the Community Impact Statement submitted with the Application for Rezoning and addressing items such as architectural features, color scheme, roof lines, building materials, streetscape improvements and landscaping (the "Guidelines") and requiring architectural consistency between the residential and commercial buildings developed on the Property. Once approved, the Guidelines may not be amended without the approval of the Director of Planning. All building plans and building elevations shall be generally consistent with the Guidelines. Prior to the issuance of final site plan approval for each building on the Property, architectural plans for such building shall be submitted to the Director of Planning for his review for general consistency with the Guidelines. The Director of Planning shall review and either approve or provide written comments settings forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. All buildings shall be constructed in accordance with the approved plans. In the case of plans that will be used on more than one building, Director of Planning approval need only be obtained for the initial building permit.



8. Community Character Corridor Buffer. The Community Character Corridor buffer along Route 199 shall have an average width of at least 50 feet. A landscaping plan for this buffer shall be shown as part of the initial building site plan, or shall be submitted as a separate plan concurrent with the initial building site plan. The buffers shall contain enhanced landscaping in accordance with the County's Enhanced Landscaping Policy as adopted April 9, 2013 and shall be consistent with the narrative description and conceptual cross-section of the buffer submitted with the Application for Rezoning. The landscaping shown on the approved landscape plan(s) shall be installed or its installation during the next appropriate growing season bonded in form approved by the County Attorney prior to issuance of a certificate of occupancy for the initial building on the Property, unless other arrangements are approved by the Planning Director, or his designee, in writing.

9. Condominium Owners Association. There shall be organized a condominium owner's association or associations (the "Association") as required by the Virginia Condominium Act (the "Act") in accordance with Virginia law in which all residential condominium unit owners in the Property, by virtue of their property ownership, shall be members.

10. Private Streets. Any and all streets on the Property may be private. Pursuant to Section 24-528 of the Zoning Ordinance, private streets within the Property shall be maintained by the Association. The condominium instruments shall require the Association to create, fund and maintain a reserve for capital components, including private roads, in amounts determined in accordance with the Act and conduct capital reserve studies and adjust such reserves in accordance with the Act.

11. Community Spaces. The clubhouse and pool, two welcome parks, pocket park and community park shown on the Master Plan shall be installed prior to the County being obligated to issue certificates of occupancy for more than 48 residential units on the Property.

12. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

13. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

WITNESS the following signature.

UNIVERSITY SQUARE ASSOCIATES

By: \_\_\_\_\_

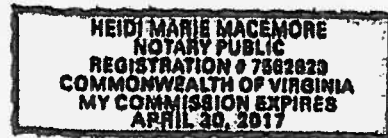
Title: Partner

STATE OF Virginia  
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 15 day of October, 2014,  
by Frank R. Spadea as Partner of UNIVERSITY SQUARE  
ASSOCIATES, a Virginia general partnership, on behalf of the partnership.

[Signature]

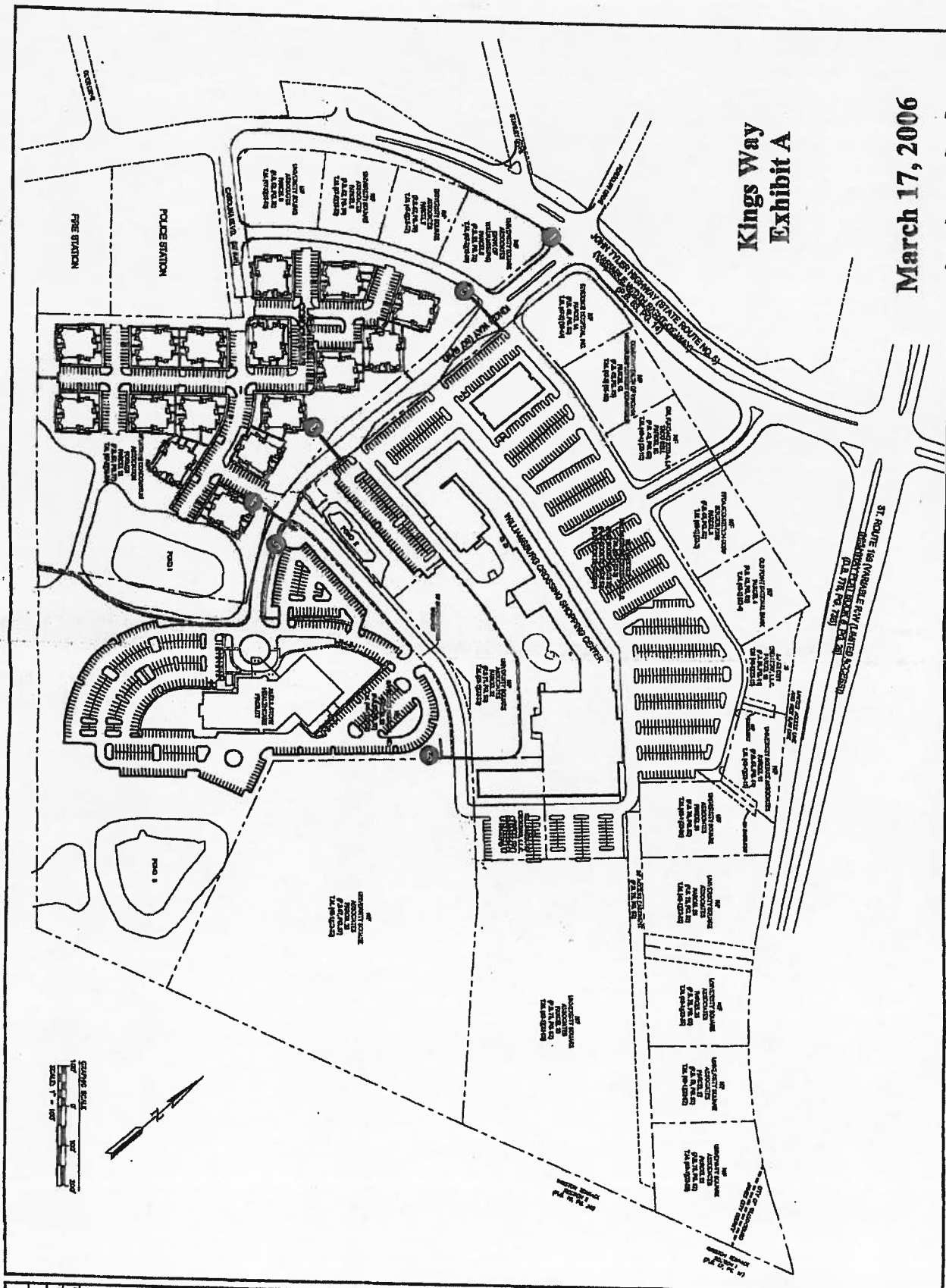
NOTARY PUBLIC



My commission expires: April 30, 2017  
Registration No.: 7562623

**Schedule A**  
**Property Description**





Overall Area Total	Prime Area Total	Area Total
1,000	1,000	1,000
10/1/73	10/1/73	10/1/73
Project No.	Project No.	Project No.
0000-0	0000-0	0000-0
Shooting Site	Shooting Site	Shooting Site
10F-1	10F-1	10F-1

OVERALL LAYOUT PLAN  
WILLIAMSBURG CROSSING  
SHOPPING CENTER

JAMES CITY COUNTY



5248 Old Towne Road, Suite 1  
Winchester, Virginia 22188  
(703) 255-0040  
Fax (703) 220-8004

[illegible]

## **RESOLUTION**

### **HOUSING OPPORTUNITIES POLICY**

WHEREAS, the 2009 Comprehensive Plan recognizes the importance of providing housing opportunities which are affordable for homeowners and renters with particular emphasis on households earning 30 to 120 percent of James City County's Area Median Income (AMI); and

WHEREAS, consideration of measures to promote affordable and workforce housing was included as part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and

WHEREAS, the Policy Committee recommended approval of the Housing Opportunities Policy to the Planning Commission on October 11, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, recommended approval of the Housing Opportunities Policy on November 7, 2012, by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following Housing Opportunities Policy in order to identify criteria whereby the provision of workforce housing in residential and multiple-use rezoning cases is done in a consistent manner:

The Housing Section of the 2009 Comprehensive Plan sets the following goal for housing opportunities in the County: *"Achieve high quality in design and construction of all residential development and neighborhood design, and provide a wide range of choices in housing type, density, price range, and accessibility."* In order to address the objectives of this goal, this policy is designed to increase the range of housing choices in the County through the provision of affordable and workforce housing in all rezoning applications that include a residential component.

This policy identifies criteria whereby the provision of affordable and workforce housing (rental and ownership) in residential rezoning cases is consistent yet flexible. Provision of housing at different price ranges is a strategy to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.

#### **1. Definitions**

- a. **Affordable Housing.** Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 30 percent and 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).
- b. **Workforce Housing.** Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between greater than 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

2. Provision and Integration of Housing Opportunity Dwelling Units

- a. At least 20 percent of a development's proposed dwelling units should be offered for sale or made available for rent at prices that are targeted at households earning 30 to 120 percent of Area Median Income (AMI). Of that 20 percent, the units should be targeted at the AMI ranges specified below:

Units targeted to (percent of AMI):	Percent of the development's proposed dwelling units expected
30 percent – 60 percent	8 percent
Over 60 percent – 80 percent	7 percent
Over 80 percent – 120 percent	5 percent

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

3. Applicability of Cash Proffers for Housing Opportunity Dwelling Units

- a. Units targeted at household meeting 30 to 120 percent of AMI will have reduced expectations for cash proffers in accordance with the amounts set forth in the Cash Proffer Policy for Schools adopted by the Board of Supervisors on July of 2007, as amended, other cash proffers related for water and sewer improvements (typically proffered to the James City Service Authority), and other public facility and infrastructure capital improvement program items. The reductions in the expected proffer amounts would be as follows:

Units targeted to (percent of AMI):	Percent cash proffer reduction:
30 percent – 60 percent	100 percent
Over 60 percent – 80 percent	60 percent
Over 80 percent – 120 percent	30 percent

4. Retention of Housing Opportunity Units Over Time

- a. Rental units must be made available at the targeted rents for a period of at least 30 years.
- b. Sales of all targeted for-sale units as specified in paragraph one shall include a soft second mortgage payable to the benefit of James City County or third party approved by the Office of Housing and Community Development and the County Attorney's Office. The term of the soft second mortgage shall be at least 50 years. In addition, a provision shall be included in the deed that establishes a County right of first refusal in the event that the owner desires to sell the unit.

5. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the provision of the percentages of affordable and workforce housing units specified above. Such cash contributions shall be payable to the James City County Housing Fund. The Housing Fund will be used to increase the supply and availability of units targeted at households earning 30 to 120 percent of AMI in the County. If applicants choose to offer a cash contribution in-lieu of construction of the units, the guideline minimum amount per unit shall be:

Units targeted to (percent of AMI):	Cash in-lieu amount
30 percent – 60 percent	The cost to construct a 1,200 square-foot dwelling as determined below
Over 60 percent – 80 percent	The cost to construct a 1,200 square-foot dwelling as determined below
Over 80 percent – 120 percent	The cost to construct a 1,400 square-foot dwelling as determined below

Beginning in February 2013, and continuing in every subsequent February, the Housing and Community Development Director shall establish the average square foot cost to construct an affordable/workforce dwelling unit, which will be added to the median cost of a lot in the proposed subject development. The dwelling unit construction cost shall be determined based on the cost information provided by at least three builders of affordable/workforce dwellings in James City County. If no costs are available from James City County builders, the Director may consult builders from nearby localities. The anticipated median cost of a lot in the proposed development shall be documented and submitted by the developer; in the case of a proposed all-apartment development, the developer shall work with the Housing and Community Development Director to reach an acceptable estimate based on land and infrastructure costs.

6. Procedures

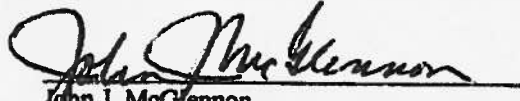
- a. For rental units, the developer shall provide assurances in a form acceptable to the County Attorney that the development will provide a statement of rental prices, demonstrating that they are within the specified affordable and workforce housing income range, for the proffered units for each year of the 30-year term.
- b. For for-sale units, the developer shall offer units at prices that fit within the affordable and workforce housing price range as stated in the definitions<sup>1</sup>, which shall be calculated and made available on an annual basis by the County.
  - i. With regard to the soft-second mortgages, the James City County Office of Housing and Community Development ("OHCD") shall be named beneficiary of a second deed of trust for an amount equal to the sales price of the market rate unit and the sales price of the proffered unit. The soft second shall be a forgivable loan, upon the terms specified in Section 5 above, in a form approved by OHCD and the County Attorney. The soft second deed of trust, the deed of trust note, and the settlement statement shall be subject to the approval of the County Attorney and Housing and Community Development Director prior to closing. The original note and deed of trust and a copy of the settlement statement identifying the net sales price shall be delivered by the closing agent of the OHCD after the deed of trust is recorded and no later than 45 days after closing. If down-payment assistance loans are authorized by OHCD, the lien on the deed of trust for the soft second may be recorded in third priority.
  - ii. Owner shall consult with and accept referrals of, and sell to qualified buyers from the OHCD on a noncommission basis.

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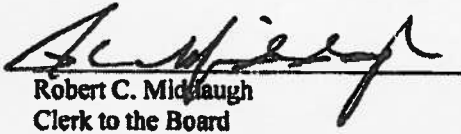
<sup>1</sup> The prices shall be established based on payment of 30 percent of household income toward housing cost.



- iii. Prior to closing, OHCD shall be provided with copies of the HUD deed and the original deed of trust and note for the soft second.

  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Robert C. Middleaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	—	—
JONES	<u>X</u>	—	—
KENNEDY	<u>X</u>	—	—
ICENHOUR	<u>X</u>	—	—
KALE	<u>X</u>	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

ZO-07-09-10\_res2

## **RESOLUTION**

### **CONSIDERATION OF ADOPTION OF AN ENHANCED LANDSCAPING POLICY**

- WHEREAS,** the 2009 Comprehensive Plan's Community Character section contains goals, strategies, and actions that are intended to ensure that development sites blend into their natural and built environments and the Enhanced Landscaping Policy is intended to help landscape design professionals in achieving these goals; and
- WHEREAS,** at the June 12, 2012, Board of Supervisors meeting, it was requested that the Professional Landscape Assessment Team (PLAT) be formed to analyze our landscape requirements and whether the County is implementing the best management practices for landscaping on development sites throughout the County; and
- WHEREAS,** the PLAT Committee recommended creation of an Enhanced Landscaping policy to proactively encourage developers to utilize best management practices when applying enhanced landscaping to development sites; and
- WHEREAS,** the Policy Committee recommended approval of the Enhanced Landscaping policy to the Planning Commission on February 15, 2013; and
- WHEREAS,** the James City County Planning Commission after a public hearing, recommended approval of the Enhanced Landscaping policy on March 6, 2013, by a vote of 5-0.
- NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of James City County, Virginia, does hereby establish the following:

### **ENHANCED LANDSCAPING POLICY**

#### **Goal**

To establish guidelines for how enhanced landscaping can be applied to special use permit and rezoning applications to ensure that landscaping best management practices are applied to all proposed development plans. The intent of the Enhanced Landscape Policy is to provide more flexibility to landscape designers to create landscape designs that both exceed minimum ordinance requirements and that create a context sensitive plan that is responsive to the goals, strategies, and actions of the County's adopted Comprehensive Plan.

Guidelines are to be applied to all special use permit or rezoning applications where enhanced landscaping is desired. Applicants are encouraged to propose such enhancements as early in the development process as possible. Enhanced landscaping proposals are most beneficial at the conceptual plan stage.

#### **Guidelines**

Enhanced landscaping shall be defined as improvements within a landscaped open space, area, or strip, as defined in Section 24-2 of the James City County Code, that exceeds minimum requirements. The specific improvement may include, but is not limited to, the following: plants that exceed minimum ordinance requirements for size, additional plants, special-purpose plants such as upright evergreens for screening, hardscapes, pedestrian

accommodations, decorative fencing, or any improvement that goes beyond the minimum ordinance requirements for landscaping and contributes a demonstrative public benefit to the proposal. Further, in proposing enhanced landscaping, the applicant shall demonstrate:

The proposal is compatible with the surrounding area and the site's Comprehensive Plan designation;

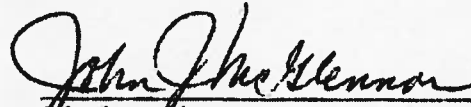
- The proposal exceeds the minimum ordinance requirements;
- The proposed plan is context sensitive and how the proposal is responsive to the goals, strategies and actions of the Comprehensive Plan; and
- The proposal is responsive to the design of the proposed development.

**Example**

*An applicant may propose plants that exceed minimum ordinance requirements for plant size to screen a certain use from public view with tall evergreen trees. The proposal for enhanced landscaping is the evergreen trees that exceed minimum ordinance requirements for size, the need is the screening of the proposed use, and the need is being met by the strategic placement of the plants.*

**Processing**

An applicant that proposes enhanced landscaping for sites that require a special use permit and/or a rezoning application shall fill out an Enhanced Landscaping request form that contains a narrative that explains the intent of the proposed enhanced landscaping. The request form shall be submitted no later than the time of application for a special use permit and/or rezoning application.

  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Robert C. Miranda  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	___	___
JONES	<u>X</u>	___	___
KENNEDY	<u>X</u>	___	___
ICENHOUR	<u>X</u>	___	___
BRADSHAW	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

Z-01-13Landscaping\_res

Christopher Johnson

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**From:** Jennifer Van Dyke  
**Sent:** Wednesday, October 29, 2014 1:46 PM  
**To:** Christopher Johnson  
**Subject:** FW: FYI Intersection of John Tyler and Kings Way  
**Attachments:** John tyler - Kings way (L).jpg; John tyler - Kings way (AL).jpg

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**From:** William Bauernschmidt [<mailto:wbauernschmidt@yahoo.com>]  
**Sent:** Saturday, September 20, 2014 7:48 PM  
**To:** Jennifer Van Dyke  
**Subject:** Fw: FYI Intersection of John Tyler and Kings Way

I messed -up on the extension --sorry otherwise you would have had this Friday late

On Friday, September 19, 2014 4:40 PM, William Bauernschmidt <[wbauernschmidt@yahoo.com](mailto:wbauernschmidt@yahoo.com)> wrote:

Before changes and the other after changes to traffic loads. There have been times that the traffic coming from Riverside (it will be worse when 200 homes are built) going North prevent the traffic traveling south on Kings way to turn left on the first street (to Taco Bell); thus backs the traffic back into the intersection. Anyway it is a point of interest for you to look at.



NORTH

JOHN TYLER HWY

JOHN TYLER HWY

BEFORE  
TRAFFIC  
CHANGE

WEST

EAST

KINGS WAY

Car- turning left going to La Fontaine

Car-turning left going to 1st left

semi-trucks- must be in outside lane to  
turn left; then work way over to left  
lane for straight through to rear of  
stores and hospital.

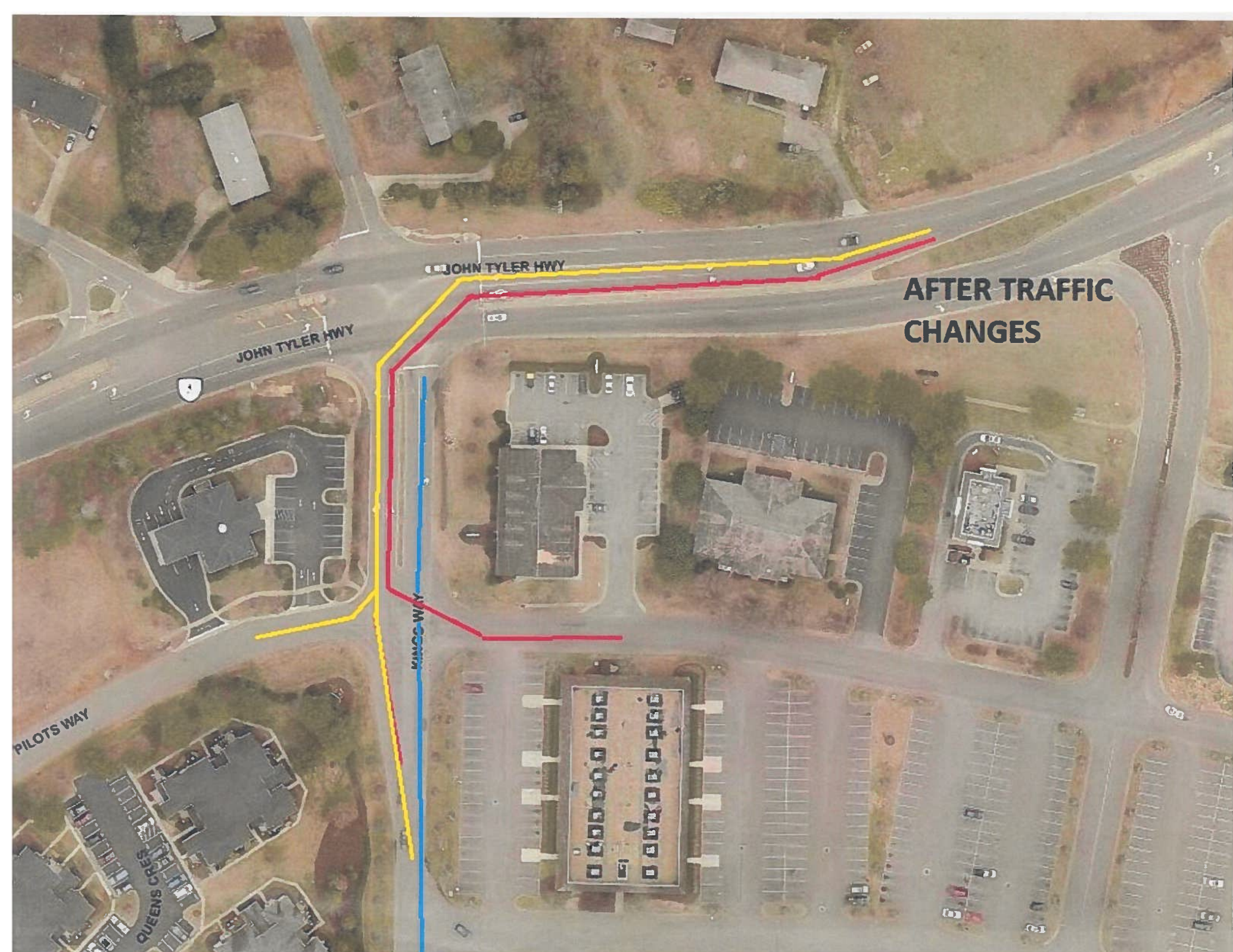
Car and trucks coming from  
hospital will cause on-coming cars  
wanting to turn left to back up to  
the light

SOUTH

PILOTS WAY

QUEENS CREEK





JOHN TYLER HWY

JOHN TYLER HWY

**AFTER TRAFFIC  
CHANGES**

KINGS WAY

PILOTS WAY

QUEENS CREEK

PLANNING DIRECTOR'S REPORT  
November 2014

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

- **New Town.** The Design Review Board did not hold a meeting in October. The DRB did consider revisions to the site layout for an assisted living facility at the end of Discovery Park Blvd., exterior renovations to the former Green Leaf Building, and a change to the location of the entrances to the building that is under construction at the corner of Settlers Market Blvd. and Casey Blvd. The next regular DRB meeting is scheduled for November 13.
- **Mooretown Road Corridor Study.** Planning staff held the second Mooretown Road Extended Corridor Study public meeting on Monday, October 20, at Norge Elementary School. The consultant team from VHB presented an analysis of future traffic conditions, land use, and real estate market potential for the study area, and citizens offered thoughts on potential alignment alternatives and design characteristics for the roadway. The potential roadway would extend Mooretown Road from its existing terminus at Lightfoot Road to Croaker Road near the Rochambeau intersection. An update on the study will be presented to the Policy Committee on November 13th.
- **Rural Lands.** The Rural Economic Development Committee (REDC) and the project consultant from ERM are currently finalizing the report on rural economic development opportunities and projects. The REDC will meet in November to continue discussion of the final report and strategies for implementation. Staff and a member of the REDC presented a session at the Rural Planning Caucus about the AFID grant process and experience.
- **Comprehensive Plan.** The Planning Commission Work Group met in October to discuss Economic Development, Land Use and prepare for the joint work session with the Board of Supervisors. The joint work session included review of draft section text and GSAs and occurred on October 28.

November meeting topics include:

- Nov. 6                      Transportation
- Nov. 20                    Land Use Applications – staff presentations and public comment
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached documents.
- **Board Action Results:**
  - October 14, 2014
    - Longhill Road Corridor Study (Approved, 5-0)

New Cases for November						
Case Type	Case Number	Case Title	Address	Description	Planner	District
Conceptual Plan	C-0064-2014	New Town Shared Parking Update	NEW TOWN SEC. 2&4	Shared parking update.	Leanne Pollock	Jamestown
	C-0065-2014	Cretney Classic Car Care	7381 RICHMOND ROAD	Proposed renovation and redevelopment of the motor lodge property for a custom car restoration facility.	José Ribeiro	1-Stonehouse
	C-0066-2014	Clara Byrd Baker Stormwater Retrofits	3131 IRONBOUND ROAD	Replacemnet of stormwater facilities.	José Ribeiro	3-Berkeley
	C-0067-2014	Weddings & Charity Events	145 OLD STAGE ROAD	Utilize barn for weddings and charity events.	Leanne Pollock	1-Stonehouse
	C-0068-2014	Jesse and Peggy Parker Conceptual Rezoning	6306 RICHMOND ROAD	Proposed rezoning of six residential properties from R-2 to B-1	Ellen Cook	2-Powhatan
	C-0069-2014	Winston Terrace, Stream Restoration	No physical address per JCC CIS	Proposed 500 LF stream restoration project to restore severely degraded stream system in headwaters of the Mill Creek Watershed.	José Ribeiro	3-Berkeley
	C-0070-2014	Yarmouth Creek Headwater Stream Restoration	7049 RICHMOND ROAD	Proposed 500 LF stream restoration to restore severely degraded stream system in headwaters of Yarmouth Creek.	José Ribeiro	1-Stonehouse
	C-0071-2014	Jamestown Rd. Stream Restoration	1350 JAMESTOWN ROAD	Proposed 950 LF stream restoration project to restore severely degraded stream system in headwaters of Mill Creek.	José Ribeiro	5-Roberts
	C-0072-2014	Paws Express Pet Resort	5423 AIRPORT ROAD	Request to remove window and replace with door and add 7 foot chain link fence in the rear of the property.	Scott Whyte	4-Jamestown
	C-0073-2014	JCSA Five Forks Water Treatment Facility, Production Wells	3123 IRONBOUND ROAD	Proposed construction of two Lower Potomac production wells, well building and associated equipment	Chris Johnson	3-Berkeley
Rezoning	Z-0006-2014	3116 Ironbound Rd, Branscome Property	3116 IRONBOUND ROAD	Zoned R8, proposing LB - Limited Business with a special use permit (SUP-0015-2014) for a building that is over 5,000 square feet and designated Low Density Residential on the Comprehensive Plan. Proffers will limit the permitted uses for property based on parcel size and traffic generation.	Leanne Pollock	3-Berkeley
Subdivision	S-0051-2014	153 Indigo Dam Rd, John C. & Wendy A. Ailor	153 INDIGO DAM ROAD	Final plat of two lots on .4821 acres.	José Ribeiro	4-Jamestown
	S-0052-2014	1651 Green Mount Parkway, Newport News Waterworks BLA	1651 GREEN MOUNT PARKWAY	Plat of boundary line agreement and easement between Green Mount Associates and Newport News Waterworks.	Ellen Cook	5-Roberts
	S-0053-2014	Wellington, Sect. 2, Lot 206, Plat of Correction	3951 BOURNEMOUTH BEND	Plat of correction to adjust rear setback line from 50' to 35' to allow an extension to an existing deck.	Chris Johnson	1-Stonehouse



New Cases for November						
Case Type	Case Number	Case Title	Address	Description	Planner	District
Site Plan	SP-0080-2014	New Town Sec. 9 (Settlers Market)Townhomes (Village Walk) SP Amend.	4520 CASEY BLVD	Amendment for crosswalk revisions and grading revisions on Casey Boulevard and minor utility revisions in the same area.	Leanne Pollock	0-Jamestown
	SP-0081-2014	James City Community Church, Storage Shed SP Amend.	4550 OLD NEWS ROAD	Addition of portable, pre-built storage shed.	José Ribeiro	4-Jamestown
	SP-0082-2014	White Hall, Section 1, Trail Amendment	8625 PARKLAND TERRACE	Proposed amendment to remove and realign a section of existing soft trail with no net increase or decrease in total length	Chris Johnson	1-Stonehouse
	SP-0083-2014	New Town, Sec. 3 & 6, Block 21, Assisted Living Facility	4201 IRONBOUND ROAD	Proposed 83,746 SF assisted living facility and associated parking.	Leanne Pollock	4-Jamestown
	SP-0084-2014	185 Industrial Boulevard WCF, Co-location SP Amend.	185 INDUSTRIAL BLVD	Addition of six remote radioheads and one feed line to existing collocation at height of 396'.	José Ribeiro	1-Stonehouse
	SP-0085-2014	Sprint Richmond Rd.,WCF Antenna Addition, SP Amend.	6487 RICHMOND ROAD	Adding additional equipment cables and antennas to existing wireless telecommunication facility.	José Ribeiro	1-Stonehouse
	SP-0086-2014	Busch Gardens Pedestrian Path Expansion SP Amend.	7851 POCAHONTAS TR	Construction of new pedestrian path connecting WATA bus stop sidewalk (from Rt. 60) to the employee parking area.	Scott Whyte	5-Roberts
	SP-0087-2014	McClure U-Haul Rental	3707 ROCHAMBEAU DR	Rental of U-Haul trucks, trailers and storage boxes.	Scott Whyte	1-Stonehouse
	SP-0088-2014	New Town, Sec. 3 & 6, Bus Shelter	NEW TOWN AVE. ROW	Installation of bus shelter at stop on New Town Avenue and addition of sidewalk in front of shelter. Location is at existing bus stop near The Pointe apartments and Sentara urgent care.	Leanne Pollock	Jamestown
	SP-0089-2014	Powhatan Secondary, Soft Surface Trail Bridges, SP Amend.	4400 NEWS ROAD	Amendment to replace two existing segments of trail in wetland area adjacent to the Stack Block Dam with wooden bridges.	Leanne Pollock	4-Jamestown
	SP-0090-2014	Advanced Vision Institute, Building and Parking Expansion, SP Amend.	5215 MONTICELLO AVENUE	Proposed building, pavement, and utility service connection at Advanced Vision Institute.	Jennifer VanDyke	4-Jamestown
	SP-0091-2014	Ford's Colony, Sec. 2, Edinburgh Drainage Improvements	213 JOHN POTT DRIVE	Drainage improvements to re-align and replace existing roadside ditch along Edinburgh with a concrete ditch.	José Ribeiro	2-Powhatan
	SP-0092-2014	James River E.S. Stream Restoration and Bioretention	8901 POCAHONTAS TR	Restroation of eroding stream channel located behind the soccer fields using natural stream channel techniques and installation of a stormwater management bioretention facility.	Scott Whyte	5-Roberts
	SP-0093-2014	Essex Court Stream Restoration	5597 SCOTTS POND DR	459 LF stream restoration of severely degraded stream system in Powhatan Creek Watershed. Streambank grading and control structures will eliminate erosion. Native plant species will be incorporated into natural stream channel design.	Scott Whyte	2-Powhatan
	SP-0094-2014	152 Tewning Road Office/Warehouse Space	152 TEWNING ROAD	Proposed construction of a 10,000 SF office/warehouse facility and associated parking.	Jennifer VanDyke	4-Jamestown
Special Use Permit	SUP-0012-2014	Jacobs Industrial Park Truck Terminal	190 INDUSTRIAL BLVD	Construction of truck terminal within Jacobs Industrial Park.	Jennifer VanDyke	1-Stonehouse
	SUP-0013-2014	104 Howard Dr., Grove Barber Shop	104 HOWARD DRIVE	Restore current building as a barber shop.	Scott Whyte	5-Roberts
	SUP-0014-2014	3116 Ironbound Rd, Branscome Property	3116 IRONBOUND ROAD	Special use permit for building in excess of 5,000 SF in a Limited Business zoning district and designated Low Density Residential on the Comprehensive Plan. Rezoning application submitted as Z-0006-2014.	Leanne Pollock	3-Berkeley
	SUP-0015-2014	Top Notch Tree Service	4680 FENTON MILL RD	Proposed contractor's office for an existing tree cutting service, including storage of equipment and firewood.	Scott Whyte	1-Stonehouse

**Case No. SUP-0013-2014, 104 Howard Drive Grove Barber Shop**  
**Staff Report for the November 5, 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.*

**PUBLIC HEARINGS**

Planning Commission:

Board of Supervisors:

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

November 5, 2014, 7:00 p.m.

December 9, 2014, 7:00 p.m. (tentative)

**SUMMARY FACTS**

Applicant:

Mr. Greg Granger

Land Owner:

G-Square Inc.

Proposal:

To restore and renovate the Grove Community Barber Shop

Location:

104 Howard Drive

Tax Map/Parcel:

5230100022

Parcel Size:

±0.10 acres

Existing Zoning:

R-2, General Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Staff finds the proposed use to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in the staff report.

Staff Contact:

W. Scott Whyte, Senior Landscape Planner II

Phone: 253-6867

**PROJECT DESCRIPTION**

Mr. Gregg Granger of Great Knights Inc. has proposed to renovate and restore the existing Grove Community Barber Shop building located at 104 Howard Drive. Barber shops and beauty parlors are a specially permitted use in the R-2, General Residential zoning district. The applicant requested a review by the Development Review Committee to gain a better understanding of any issues that needed to be addressed prior to submitting the SUP application. The DRC reviewed the application on September 24, 2014, and discussed with the applicant how they were planning to address parking, storm water, and renovation of the existing building. The applicant is currently engaged in preliminary discussions with the Old Capital lodge located at 105 Howard Drive which is directly

across the street from the barber shop site, about a possibility of a shared parking agreement. Once finalized, the agreement will allow the barber shop to utilize existing parking spaces at off peak hours to the majority of uses which occur at the Lodge. The applicant plans to have up to two chairs with two employees. The parking requirement for a two chair barber shop is seven spaces. The applicant is proposing two gravel spaces, including a handicap space on site and the applicant hopes to gain six additional spaces with the parking agreement. However, a 25' setback from each of the road frontages is required for off-street parking lots in R-2, General Residential zoned areas. Therefore providing the area for one or two spaces on site that do not encroach into the setback lines may be difficult to achieve. The applicant may need to consider relocating one or both of the proposed parking spaces to the lodge. The handicap space can be located off site as long as it is the closest space to the entrance of the building. An existing billboard on site is proposed to remain. Staff recommends a SUP condition that a landscape plan be required for this project for landscaping of the new parking lot if constructed and to comply with all James City County landscape ordinance requirements for the building foundation. The applicant intends to use the existing foundation and walls of the building and renovate the roof and interior of the building. Due to the small size of this parcel, any redevelopment of the property that does not reuse the existing building and footprint, would not be possible due to current ordinance setback and buffer requirements. Staff considers this project to be an adaptive redevelopment of an existing dilapidated and non-conforming building. According to the applicant, the community barber shop would primarily serve the surrounding neighborhood and the Grove area.

## **PUBLIC IMPACTS**

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

**Staff Comments:** Staff has reviewed this application and has offered comments. ERP has asked for more information about the area of disturbance, drainage and culvert sizing. Limiting the amount of impervious cover to less than 2,500 square feet would minimize costs otherwise associated with obtaining a land disturbing permit and providing storm water, erosion and sediment control, and pollution prevention plans. If more than 2,500 square feet of disturbance is proposed, a land disturbing permit, erosion and sediment control, and pollution prevention plans will be required. The applicant is considering moving one or both parking spaces offsite to remain under the 2,500 square foot threshold.

### **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. Staff has reviewed this application and has recommended preliminary approval of the plan, and it was noted that the site is served by JCSA sewer and NNWW water.

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

**VDOT Comments:** Preliminary discussions with VDOT revealed that on-street parking spaces along Howard Drive would require substantial road improvements and would not be economically feasible. VDOT comments include entrance design, culvert sizing, and sight distance triangles at intersections. VDOT allows land uses which generate less than 50 vehicle trips a day, to apply for a land use permit for private entrances rather than a need to construct a full sized commercial entrance. Staff has determined that a barber shop would generate less than 50 vehicle trips a day.

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

**Staff Comments:** Staff has reviewed this application and has recommended approval of the plan.

### **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 community barber shop with only two chairs would complement the residential character of the Grove area. Staff finds the use would be compatible with the nearby residences and the lodge across the street.*
- b. Have traffic, noise, lighting and other impacts similar to surrounding residential uses;  
*Staff finds that a barber shop with two chairs has the potential to create minimal additional vehicular traffic and noise in the neighborhood. Staff is concerned that impacts may occur during evening hours. However, with a limit of two chairs and operating hours that limit any impacts to traditional daytime business hours, staff feels these impacts will be mitigated with the proposed conditions.*
- c. Generally be located on collector or arterial roads at intersections;  
*The property is located at the intersection of Howard Drive and Pocahontas Trail, and the access to the property is off of Howard Drive. No vehicle access to Pocahontas Trail is proposed.*
- d. Provide adequate screening and buffering to protect the character of nearby residential areas;  
and  
*A landscape plan shall be required at the site plan stage of this project. The plan shall address impacts to adjacent neighbors with buffering and or screening of the building and land use from adjacent properties.*
- e. Generally intended to support the residential community in which they are located.  
*According to the applicant, a barber shop supports the needs of the community by providing a community barber shop that is within walking distance from many of its intended customers, and will revitalize a community meeting spot.*

### **RECOMMENDATION**

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed below;

1. **Master Plan.** This Special Use Permit (the “SUP”) shall be valid for a barber shop and beauty parlor (“the Proposal”) with up to two chairs on property in the existing structure located at 104 Howard Drive and further identified as JCC RE Tax Map No. 5230100022 (the “Property”). No vehicular access to Pocahontas Trail shall be provided.



2. **Hours of Operation.** Operating hours shall be limited to 7:00 a.m. to 7:00 p.m. seven days a week.
3. **Lighting.** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Director of Planning or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 16 feet in height unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
4. **Shared Parking Agreement.** The owner shall provide offsite parking needed to satisfy off street parking requirements prior to the issuance of a certificate of occupancy. A shared parking agreement shall be submitted for the review and approval by the Director of Planning or his designee in accordance with section 25-55(b) of the zoning ordinance.
5. **Signs.** In addition to building face signage as permitted by the James City County Zoning Ordinance (the "Ordinance"), the Proposal shall be limited to one externally illuminated freestanding monument-style sign on the Property not to exceed six feet in height. All signage, content and materials shall be in accordance with the Ordinance and shall be approved by the Director of Planning for consistency with this condition.
6. **Landscape Plan.** A landscape plan shall be required that addresses all landscape ordinance requirements for landscape areas adjacent to buildings and screening and/or buffering any proposed parking spaces from adjacent properties. The landscape plan shall be submitted to the Director of Planning or his designee for review and approval and with such approved landscaping installed or guaranteed with a surety to the county prior to the issuance of a certificate of occupancy.
7. **Commencement of Construction.** Construction on this project shall commence within thirty-six (36) months from the date of approval of the SUP or the SUP shall be void. Construction shall be defined as obtaining building permits, if applicable, and an approved certificate of occupancy.
8. **Severance Clause.** This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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W. Scott Whyte

**ATTACHMENTS:**

1. Location map
2. Master Plan entitled, "Conceptual Plan for Property in the Name of G-Square, Inc."



*COMMONWEALTH of VIRGINIA*

DEPARTMENT OF TRANSPORTATION  
1700 North Main Street  
SUFFOLK, VIRGINIA 23434

Charles A. Kilpatrick, P.E.  
Commissioner

September 15, 2014

Franciscus Homes  
616 Village Drive – Suite G  
Virginia Beach, Virginia 23454

Attn: Gary Werner

Ref: Kings Way – Williamsburg Crossing Shopping Center  
Updated Punchlist Inspection  
John Tyler Highway (Route 5), James City County

Dear Mr. Werner,

The Williamsburg Residency Land Development Section, with assistance from the Williamsburg Area Headquarters, inspected the above referenced street(s) on August 8, 2014, in an effort to provide an updated punchlist of items that require attention; the most recent prior punchlist inspection was completed in June 2009. The streets segments referenced in this memorandum are based on the attached March 17, 2006 Exhibit A. Please be advised that a follow-up punchlist will not be completed until due diligence has been shown in addressing the deficient items, or otherwise deemed appropriate by this Department. The following items need to be addressed prior to VDOT producing a resolution request to James City County for consideration of street acceptance.

**Kings Way (Point 1 to Point 2)**

- This section of Kings Way will need to be milled/overlayed and restriped.
- Ditches need to be established to provide positive drainage and prevent ponding at the intersection of Route 5. A paved ditch may be needed.
- Remove sediment build-up in front of both culverts on the eastern side of this section of Kings Way. Existing rip-rap may need to be removed and reinstalled.

- The washout/undermine needs to be addressed on the northeast corner of the first entrance (adjacent to Riverside). This culvert pipe will also need to be cleaned/flushed as sediment was visible within the pipe.
- The paved flume on the western side of this section had a crack. There were also several sections of curbing that were cracked around the curb return that will need to be addressed. The ground in this vicinity will also need to be built up to be flush with the existing curb.
- Access for Mobility Impairments (CG-12) needs to be installed in the curb return adjacent to Union Bank and a maintenance agreement may be required for the continuous maintenance of the exposed aggregate walkway.

### **Kings Way (Point 2 to Point 3)**

- Additional striping and/or signage will be required at the transition to two lanes beyond Point 2. The entrance was initially designed to tie into a four-lane section on Kings Way; however, this widening was never constructed by the Developer.
- Shoulders need to be re-graded to eliminate high spots and provide drainage to establish ditches from the roadway.
- Ditches, on both sides of Kings Way, need to be established to provide positive drainage to the existing drainage structures and contain the roadway runoffs within the proposed 60 feet of right of way. Additional easements may be required to provide positive drainage.
- The top section of the first drop inlet, located on the southbound side, needs to be mortared and the drainage structure appears to have several sections of collapsed and/or separated pipe that need to be repaired. Brick located inside the DI appear to have very little to no mortar. Existing steps are not accessible and need to be relocated. Additional steps may be needed. There was also a significant crack in the bottom of the structure.
- Access for Mobility Impairments (CG-12) needs to be installed and a maintenance agreement may be required for the continuous maintenance of the brick walkway serving La Fountain housing complex.
- Curtain walls (DI-7) may be required for positive drainage once the ditch line has been established. Rip rap needs to be removed from the top of the DI structure near the La Fountain walkway.
- The Greenwood Christian Academy sign needs to be relocated outside of the right of way.

**Kings Way (Point 3 to 4)**

- The DI at the third entrance (entrance to the rear of the shopping center) had separation in the top of the structure, as well as a significant crack in the bottom of the structure. There was a chunk of concrete missing from the wall of the structure, and the piping needs to be re-mortared (existing patch is failing). The pavement was also not flush with the top of the DI resulting in standing water. It is also noted that the cross drain pipe appeared to be separated.
- The nonstandard curb will need to be replaced, and the standing water near the second shopping center entrance needs to be addressed.
- A proper turnaround is not provided as required by Section 24VAC-30-91-110 of the 2005 Subdivision Street Requirements for acceptance into VDOT's secondary roads system. Upon approval of your proposal, this will be addressed.
- The section adjacent to the pond/BMP will need to be cleared and grubbed. The shoulder at the intersection return needs to be addressed and re-graded.

**Kings Way (Point 5 to 6)**

- A R1-1 stop sign is needed at the intersection of Road A and Kings Way.
- This section of roadway does not meet the provisions of Section 24VAC30-91-50.C.2 which states, "Entrance streets and internal traffic circulation system of shopping centers and apartment complexes qualify only if more than three property owners are served and the street is separated from the parking areas." This segment of roadway does not appear to qualify for addition into the secondary system as it does not meet the public service requirements. Upon approval of your proposed development, this street would meet these requirements.
- The existing street lights needs to be relocated on the backside of the ditch once the ditch line is established to provide proposed drainage and meet clearzone requirements. This would apply to both sides of Road A.
- The area adjacent to the pond/BMP needs to be cleared and grubbed for adequate sight distance.
- The entire northside of this section of Road A needs to be cleared and grubbed. The ditch line on the north side was not inspected as access was limited.
- One of the manholes that was uncovered during the inspection on the north side had a cracked ring that needs to be addressed.
- The DI behind Food Lion needs to be re-mortared around the pipe.
- The endwall adjacent to the Riverside access needs to be cleared of sediment and debris.



### **General Notes**

- Several drainage structures appear to not be contained wholly in the right of way, and are intended solely to capture site drainage. We note that these structures will not be maintained by VDOT.
- All drop inlets, manholes, and other drainage structures will need to be cleaned out per VDOT standards and specifications.
- As VDOT was not present during the construction for required inspections, the use of a video camera will be required to evaluate the condition of the existing drainage system. All possible efforts to determine the condition of the existing storm sewer pipes were made during our inspection, however, we are unable to provide a conclusive report on the condition of the pipe beyond approximately the first thirty feet of pipe from the drop inlet structures.
- A Planting Maintenance Agreement will need to be completed, submitted, reviewed, and approved by our Roadside Development Office for any plants located in the proposed right of way. The existing plantings will need to be limbed to 7 feet above ground to preserve sight lines and accommodate pedestrians.
- Removal of the non-standard No Parking signs and the real estate signs are needed, as well as the Greenwood Christian Academy sign. The existing Stop Signs do not meet our current standards, and will need to be replaced/reset. Additional Stop Signs may be required, and two 25 mph speed limit signs will be required. These signs are the responsibility of the Developer.
- As VDOT was not present during construction for the required inspections, pavement core samples should be tested to determine the subgrade California Bearing Ratio (CBR), performed by a licensed Geotechnical Engineer, to evaluate the adequacy of the existing roadway design in handling built out traffic conditions in reference to the current pavement design standards. At a minimum, each core sample should be tested for asphalt content by extracting aggregate gradation of the mixture from the extracted samples and existing thickness of aggregate base layers, and asphalt layers using applicable standard test methods. The extent of the pavement repairs will be determined based on the geotechnical engineering and test results. Certain testing requirements may be waived if the construction materials data can be provided. Actual pavement depths must be reflected on as-built drawings. The testing results have been submitted and are currently under review by our Materials Division.
- Streets being accepted into VDOT's secondary system are required to be in new or like new condition. Existing pavement shows signs of significant damage and cracking. Kings Way will need to be milled and overlaid up to the intersection of Route 5. There were also sections of Road A that will need to be repaired. Road A will need to be rebuilt where there was signs of damage and settling. Additional pavement requirements may be required for Road A upon completion of the review from our Materials Section.

- Standard striping and pavement markings may be required once the damaged roadway pavement is repaired. All pavement markings shall be thermoplastic.
- Additional development within the site may require a traffic impact study to determine the need for possible additional warranted roadway improvements.
- We note that upon acceptance of the streets, VDOT will not be responsible for the maintenance of the BMP or its outfall structures. This is a standard condition in the resolution from the County.

### **Acceptance Package Requirements**

Once all punchlist items have been addressed, the Developer/Owner will need to provide the following standard items to this office in order to process the streets into the State's Secondary Roads system:

1. Two certified copies of the recorded plats dedicating the streets for public street purposes with the County Clerk's stamp, one set reduced to 8½" x 11", and one 11" x 17" sheet that shows all phases of the plats reduced to fit the 11" x 17" sheet.
2. A County tax map showing the subdivision/development.
3. Two sets of the as-built plans.
4. In-place utility permits. A Deed of Quit Claim for any easements shown on the plans that extends into the proposed right of way.
5. Measurement of each road segment, from intersection to intersection, to the nearest hundredth (0.00) of a mile.
6. Maintenance fee, administrative cost recovery fee, and surety fee; all fees are calculated based on lane miles at rates established in the 2005 Subdivision Street Requirements.

If you have any questions, please contact me at (757) 925-1594 or [tommy.catlett@vdot.virginia.gov](mailto:tommy.catlett@vdot.virginia.gov).

Sincerely,

Tommy Catlett, P.E.  
Area Land Use Engineer  
Virginia Department of Transportation  
Hampton Roads District