### AGENDA JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg, VA 23185 March 2, 2016 – 7:00 p.m.

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-			
2.	PUBLIC COMMENT		
3.	CONSENT AGENDA		
	A. Minutes from the February 3, 2016 Regular Meeting	1	
	B. Development Review Committee		
	<ol> <li>Case No. C-0013-2016, Williamsburg Indoor Sports Complex (WISC) Aquatic Center (DRC Recommendation: Preliminary Approval, 4-0)</li> </ol>		
4.	REPORTS OF THE COMMISSION		
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	B. Other Commission Reports		
5.	. PUBLIC HEARING		
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	<ul> <li>B. Case No. AFD-09-86-01-2016, Gordon Creek Agricultural and Forestal District</li></ul>	22	
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9.	ADJOURNMENT		

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

1. <u>ROLL CALL</u>

<u>Planning Commissioners</u> <u>Present:</u> Robin Bledsoe Tim O'Connor Chris Basic John Wright Heath Richardson <u>Staff Present:</u> Paul Holt, Planning Director Leanne Pollock, Senior Planner II Jose Ribeiro, Senior Planner II Maxwell Hlavin, Assistant County Attorney

Ms. Robin Bledsoe called the meeting to order at 7:00 p.m.

#### 2. <u>PUBLIC COMMENT</u>

Ms. Bledsoe opened the public comment.

As no one wished to speak, Ms. Bledsoe closed the public comment.

#### 3. <u>CONSENT AGENDA</u>

- A. Minutes from the January 6, 2016 Regular Meeting
- B. Development Review Committee
  - 1. C-0095-2-15, New Town Shared Parking Update (DRC Recommendation: Approval, 3-0-1)
- Mr. Heath Richardson moved to approve the Consent Agenda.

The Consent Agenda was approved by voice vote (6-0).

#### 4. <u>REPORTS OF THE COMMISSION</u>

#### A. Policy Committee

Mr. John Wright stated that the Policy Committee met on January 27, 2016. Mr. Wright stated that the meeting was to be the kick-off for the review of FY17-FY21 Capital Improvement Projects; however the matter was deferred to the February 11, 2016 Policy Committee meeting.

Mr. Wright requested that the Committee members return the preliminary CIP project scoring sheets to staff prior to the February 11 meeting. Mr. Wright further stated that staff would be on hand at that meeting to present their division requests and answer questions.

Mr. Wright stated that the Committee discussed amendments to the Zoning Ordinance related to vacation of recorded plats and special event venues in rural lands. Mr. Wright stated that the amendments related to the vacation of recorded plats will bring the County Code into alignment with

State Code and as well as current processes. Mr. Wright stated that the Zoning Ordinance currently does not permit event facilities in the A-1 and R-8 Zoning Districts. Mr. Wright noted that requests have been received amended amend the Zoning Ordinance to allow the establishment of event facilities in those districts. Mr. Wright noted that Ms. Jessica Aiken, Wedding Co of Williamsburg, LLC, made a presentation on the impact on potential revenue generated from such facilities. Mr. Wright stated that the Committee requested that staff look at options for permitting event facilities including requiring a Special Use Permit or establishing performance standards.

#### 5. PUBLIC HEARINGS

#### A. SUP-0010-2015, Jamestown Beach Special Use Permit Amendment

Ms. Leanne Pollock, Senior Planner II stated that Nancy Ellis of James City County Parks & Recreation has requested an amendment to the Special Use Permit for the Jamestown Beach Event Park. Ms. Pollock stated the property is located at 2205 Jamestown Road and is designated as Open Space or Recreation in the Comprehensive Plan. Ms. Pollock further stated that the SUP was originally required for the site because community recreation facilities are a specially permitted use in the Public Lands zoning district. Ms. Pollock stated that condition no. 7 requires connection to public water and sewer prior to any development on the site that would generate higher park visitation. Ms. Pollock stated that the proposed amendment would permit certain smaller infrastructure improvements to support special events and a summer concert series with a temporary stage without requiring installation of restrooms or connection to public water and sewer until such time that permanent facilities for such events are installed. Ms. Pollock stated that special events held at the site will still need to meet Health Department requirements including renting sufficient portable toilets.

Ms. Pollock stated that staff finds the request to be compatible with the Zoning Ordinance, the 2035 Comprehensive Plan and the Shaping Our Shores Master Plan. Ms. Pollock further stated that staff recommends that the Planning Commission recommend approval of the request to the Board of Supervisors subject to the amended and restated conditions.

Ms. Bledsoe opened the floor for questions from the Commission.

Mr. Wright inquired whether the SUP amendment would cover commercial events as well as those sponsored by the County.

Ms. Pollock stated that there would be both County sponsored events as well as commercial events such as several upcoming triathlons. Ms. Pollock noted that the SUP amendments would apply for both types of events.

Mr. Tim O'Connor inquired about the length of time the amended condition would be valid.

Ms. Pollock stated that there was no term limit on the amended condition.

Mr. Wright inquired whether the commercial events would be required to apply for a Special Use Permit.

Ms. Pollock stated that events would be required to obtain a Special Event Permit under Chapter 14 of County Code. Ms. Pollock noted that Special Event Permit applications are submitted to Development Management and are reviewed by Zoning, Building Safety & Permits, the Health Department, the Fire Department, the Police Department, Parks & Recreation and VDOT among others to ensure that the event meets the criteria outlined under that ordinance.

Ms. Bledsoe opened the public hearing.

As no one wished to speak, Ms. Bledsoe closed the public hearing.

Ms. Bledsoe called for disclosures from the Commissioners.

There were no disclosures.

Ms. Bledsoe opened the floor for discussion.

Mr. Rich Krapf moved to recommend approval of the application with the amended condition.

On a roll call vote the Commission voted to recommend approval of SUP-0010-2015, Jamestown Beach Special Use Permit Amendment (6-0).

#### B. SO-0001-2016, Article I, General Provisions, Section 19-12, Vacation of Recorded Plat

Mr. José Ribeiro, Senior Planner II, stated that currently County Code allows a recorded plat to be vacated pursuant to Code of Va. §§ 15.2-2271-15.2-2276, as amended. Mr. Ribeiro further stated that the ordinance amendment is being proposed because there are different plat vacation situations that require different processes under Virginia Code.

Mr. Ribeiro stated that the process described in Code of Va. §§ 15.2-2271-15.2-2276 is typically utilized in cases when a boundary line is adjusted and lot lines are to be extinguished, or if a property is sold with a designation that is no longer applicable, such as disused recreation lot or well lot. Mr. Ribeiro stated that the proposed amendment adds reference to Code of Va. §§ 15.2-2006-15.2-2008, is typically used for vacating right-of-way on a plat which has been designated but not utilized, such as alleys or "paper streets." Mr. Ribeiro further stated that the proposed amendment would allow flexibility in applying the two processes as they are applicable. Mr. Ribeiro stated that currently staff uses both of these processes as necessary and the proposed amendment would align County Code with the current procedure.

Mr. Ribeiro stated that staff recommends that the Planning Commission recommend adoption of the ordinance amendments to the Board of Supervisors.

Ms. Bledsoe opened the public hearing.

As no one wished to speak, Ms. Bledsoe closed the public hearing.

Ms. Bledsoe opened the floor for discussion.

Mr. Wright moved to recommend adoption of the ordinance amendments.

On a roll call vote the Commission voted to recommend adoptions of the ordinance amendments outlined in SO-0001-2016, Article I, General Provisions, Section 19-12, Vacation of Record Plat (6-0).

#### 6. <u>PLANNING COMMISSION CONSIDERATION</u>

## A. Initiation of Consideration of Amendments to the Zoning Ordinance for Event Venues/Places of Public Assembly in Rural Areas

Ms. Pollock stated that over the past year, the County has received a number of inquiries from citizens who are interested in starting privately-run for-profit event facility businesses on parcels in Rural Lands to accommodate events such as weddings, charity fundraisers and corporate parties. Ms. Pollock stated that event facilities are not currently permitted in A-1, General Agriculture, or R-8, Rural Residential districts.

Ms. Pollock stated that the County has a Strategy for Rural Economic Development which encourages allowing rural land owners to pursue appropriate commercial uses that would complement rural character while expanding income-generating potential. Ms. Pollock further stated that the Policy Committee included evaluating updates to the Zoning Ordinance to account for private special events and event facilities as a primary use as part of the Planning Division's 2015-16 work program.

Ms. Pollock stated that staff recommends that the Planning Commission adopt the resolution to formally initiate consideration of the amendments to the Zoning Ordinance and refer the matter to the Policy Committee.

Mr. Richardson requested confirmation that the matter would go before the Policy Committee again for further discussion.

Ms. Pollock confirmed.

Mr. Chris Basic stated that he is in favor of considering the amendments and will be interested to see the proposed ordinance language.

Ms. Bledsoe stated that she appreciates staff being proactive in recognizing the need to update the Zoning Ordinance. Ms. Bledsoe further stated that she believes the potential amendments will be beneficial to the County.

Mr. Krapf moved to approve the Initiating Resolution.

On a roll call vote the Commission voted to adopt the Initiating Resolution for Consideration of Amendments to the Zoning Ordinance for Event Venues/Places of Public Assembly in Rural Areas and refer the matter to the Policy Committee for further discussion (6-0).

B. Planning Commission and Board of Zoning Appeals 2015 Annual Report

Mr. Richardson moved to accept the report.

On a roll call vote the Commission voted to accept the Planning Commission and Board of Zoning Appeals 2015 Annual Report (6-0).

#### 6. <u>PLANNING DIRECTOR'S REPORT</u>

Mr. Holt stated that there was nothing more to add other than what was submitted in the Planning Commission packet.

Mr. O'Connor requested more information on the Joint Base Langley – Eustis Land Use Study meeting.

Mr. Holt stated that more information would be developed over the next several months as the study gets under way. Mr. Holt stated that during the 2035 Comprehensive Plan update process, there were questions

about the types of land uses that would be compatible with the operations of Joint Base Langley/Eustis (JBLE) and allow development to occur in James City County as well as allow the critical missions of JBLE to continue. Mr. Holt stated that, coming out of that discussion, JBLE requested funding form the Federal government to conduct a joint land use study. Mr. Holt stated that this is an established program for the military and numerous similar studies have been conducted throughout the Country with the goal of developing a mutually acceptable plan of action that would highlight the opportunities available and things to consider when implementing a land use adjacent to a military installation. Mr. Holt noted that the effort would include the City of Newport News and possibly the City of Hampton and York County.

#### 7. COMMISSION DISCUSSION AND REQUESTS

Ms. Bledsoe stated that she would be serving as Planning Commission representative to the Board of Supervisors for the month of February.

#### 9. <u>ADJOURNMENT</u>

Ms. Bledsoe called for a motion to adjourn.

Mr. Krapf moved to adjourn.

The meeting was adjourned at approximately 7:21 p.m.

Robin Bledsoe, Chairwoman

Paul D. Holt, III, Secretary

#### SPECIAL USE PERMIT-0001-2016. Columbia Gas Equipment Upgrade

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

Applicant:	Mr. Clarence Clark, Columbia Gas	
Land Owner:	Columbia Gas	
Proposal:	To replace and upgrade existing equipment necessary for the operation of the station	
Location:	8955 Pocahontas Trail	
Tax Map/Parcel No.:	5940100001	
Project Acreage:	+/- 0.6 acres	
Zoning:	M-2, General Industrial	
Comprehensive Plan:	General Industry	
Primary Service Area:	Inside	
Staff Contact:	Jose Ribeiro, Senior Planner II	

#### **PUBLIC HEARING DATES**

Planning Commission: March 2, 2016, 7:00 p.m. Board of Supervisors: March 8, 2016, 6:30 p.m. (tentative)

#### FACTORS FAVORABLE

- 1. The proposal is compatible with surrounding zoning and development.
- 2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.
- 3. The Special Use Permit (SUP) request will bring the existing use into compliance with the zoning regulations.

#### FACTORS UNFAVORABLE

1. With the attached SUP conditions, staff finds that there are no unfavorable factors.

#### **STAFF RECOMMENDATION**

Staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Staff recommends the Planning Commission to recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

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.

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### **PROJECT DESCRIPTION**

The existing facility, originally built in 1960, is a measurement and regulation station; it measures gas flow and regulates gas pressure. The station supplies natural gas to the local distribution company, Virginia Natural Gas. The applicant proposes to upgrade the technology of the station by replacing and upgrading equipment required for the operation of the station. A temporary staging area of  $\pm$  11,000 square feet to support the construction will be located on adjacent property. Approximately 6,295 square feet of clearing is proposed to accommodate the new equipment.

The station is accessed via a private road (approximately 0.7 miles in length) off the intersection of Pocahontas Trail and BASF Drive. This is an unmanned station and the only vehicles accessing the station are Columbia Gas employees performing maintenance as needed. An SUP is required for this proposal as transmission pipelines, including pumping stations and accessory storage for natural gas require issuance of an SUP. If approved, this request will bring the use into compliance with the zoning ordinance.

#### SURROUNDING ZONING AND DEVELOPMENT

- Located south and west of James River Commerce Center.
- Surrounding zoning designations include:
  - a. M-1, Limited Business to the north and east, (James River Commerce Center);
  - b. M-2, General Industrial to the south and west (BASF property).

#### **COMPREHENSIVE PLAN**

The property is designated General Industry, as are all of the surrounding parcels except for parcels to the north designated as Mixed Use.

- Appropriate primary uses include uses that support the industrial opportunities in an area.
- The development standards state that commercial and industrial developments should be located adjacent to compatible uses. Staff finds the use to be consistent given that the existing station is located within an industrial area (i.e., James River Commerce Center, BASF property, Greenmount Industrial Park.)

#### PUBLIC IMPACTS

Anticipated impact on public facilities and services:

- Streets. No impacts anticipated. The existing gravel entrance will continue to be used and the Virginia Department of Transportation anticipated no impacts to Pocahontas Trail (Route 60).
- Schools/Fire/Utilities. No impacts anticipated. The site is not connected to public water and sewer.
- Environmental/Cultural/Historic. No impacts anticipated. The site is located within a resource protection area. During site plan review the applicant must demonstrate compliance with the Chesapeake Bay Preservation Ordinance. The Department of Historic Resources has determined that this project will result in no historic properties affected.
- Nearby and surrounding properties: No impacts anticipated. The existing site is located within an industrial area with no residential developments in the vicinity. The station is surrounded by a forested buffer. At a visit to the site, staff did not notice any noise or odor coming from the station.

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.

#### PROPOSED SUP CONDITIONS

• The full text of the proposed conditions are provided in the attached resolution.

#### **STAFF RECOMMENDATION**

Staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Staff recommends the Planning Commission to recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

JR/nb SUP01-16ColumbGasEq

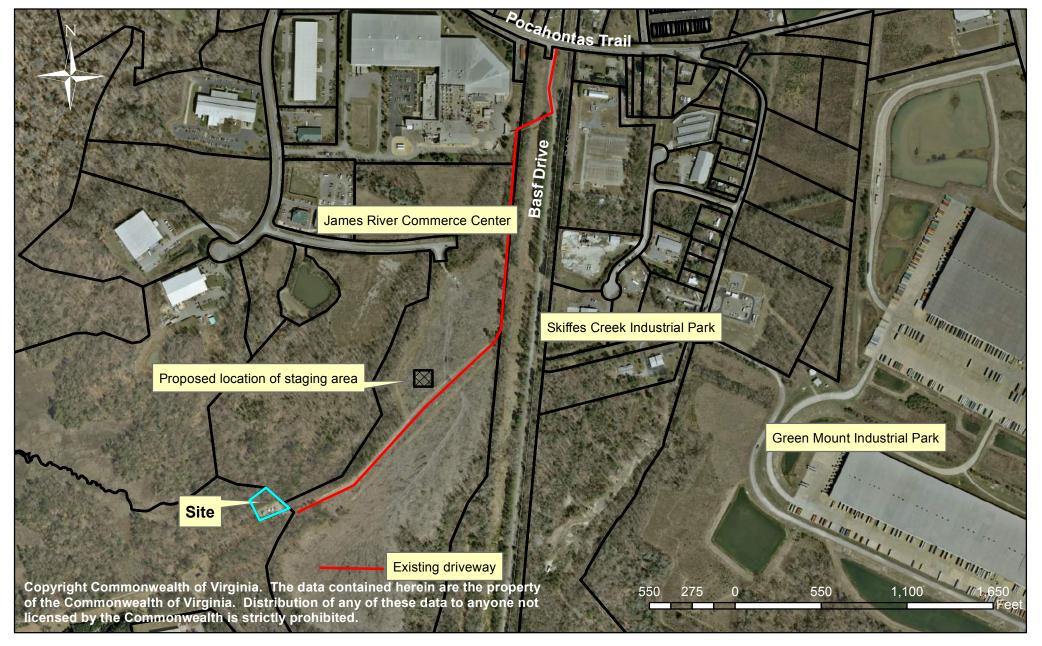
#### Attachments:

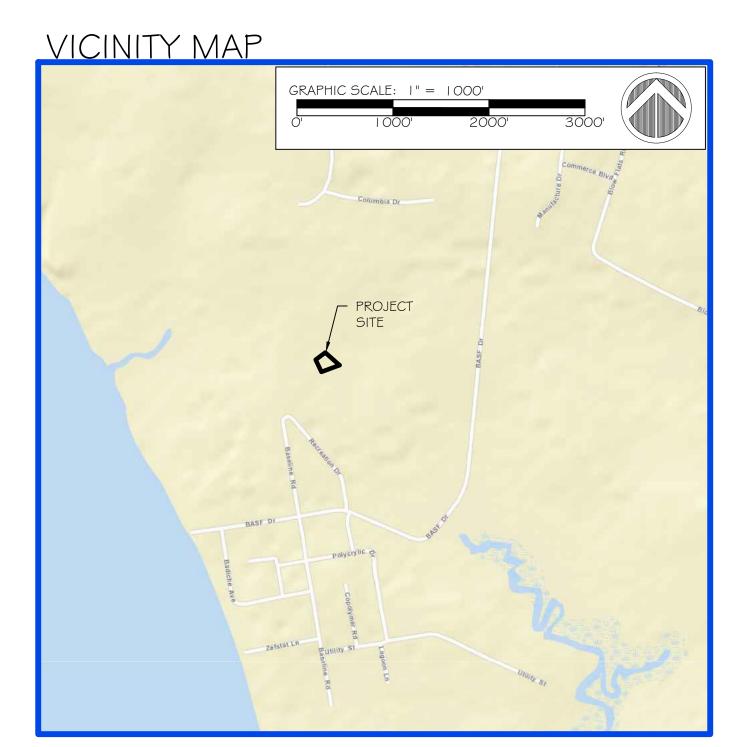
- 1. Location Map
- 2. Master Plan
- 3. Proposed SUP Conditions
- 4. Pictures of the Existing M & R Station and Equipment
- 5. Pictures of a M & R Station Located in Newport News
- 6. E-mail from the Office of Economic Development

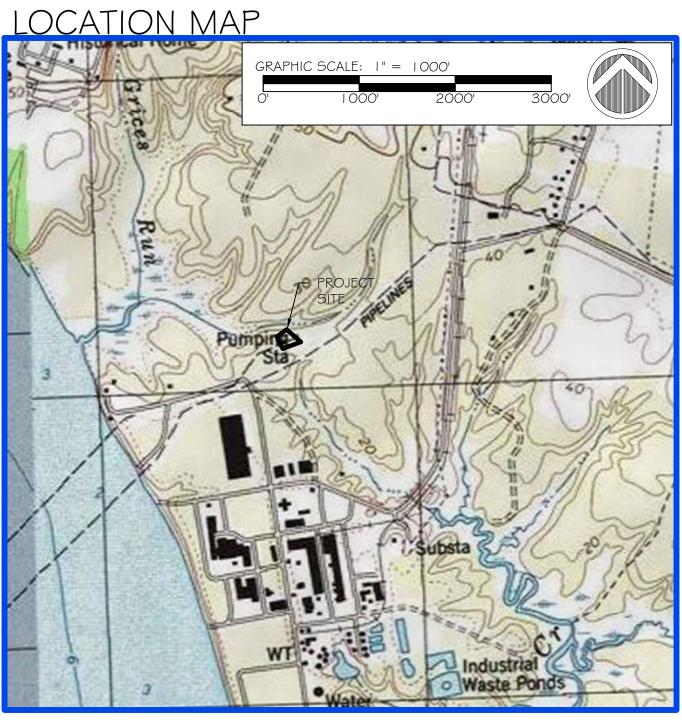
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## SUP-0001-2016 Columbia Gas Equipment Upgrade









LATITUDE: N 37° | |' 56" LONGITUDE: W 76° 36' 56"

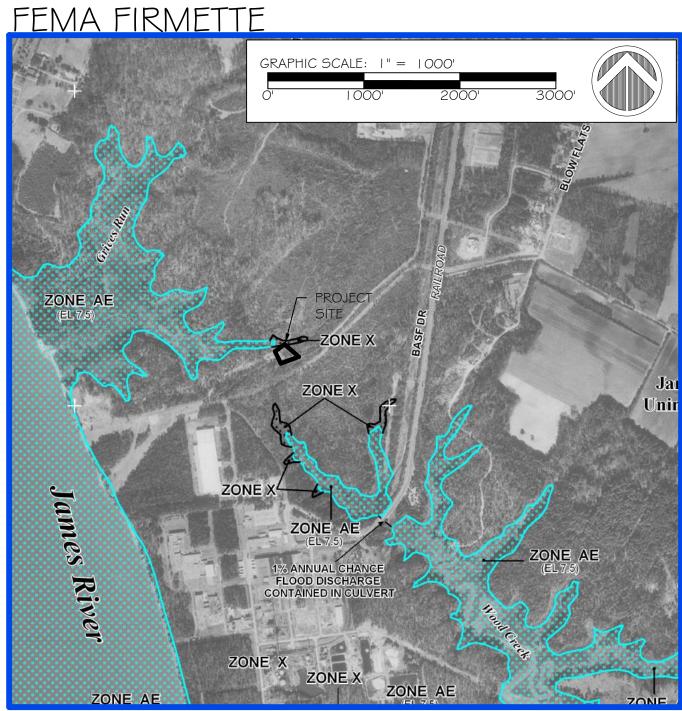


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# NEWPORT NEWS #2 M&R STATION REBUILD SPECIAL USE PLAN PER ZONING ORDINANCE CHAPTER 24, SECTION 24-23

# JAMES CITY COUNTY, VIRGINIA

AERIAL PHOTOGRAPH-PROJECT OVERVIEW



REFERENCE FEMA MAP: 51095C0230C

OWNER: COLUMBIA GAS TRANSMISSION CORPORATION 1700 MACCORKLE AVENUE, SE CHARLESTON, WV 25314 JORDAN OWENS 304-357-3815 SJOWENS@CPG.COM

REB

STATION

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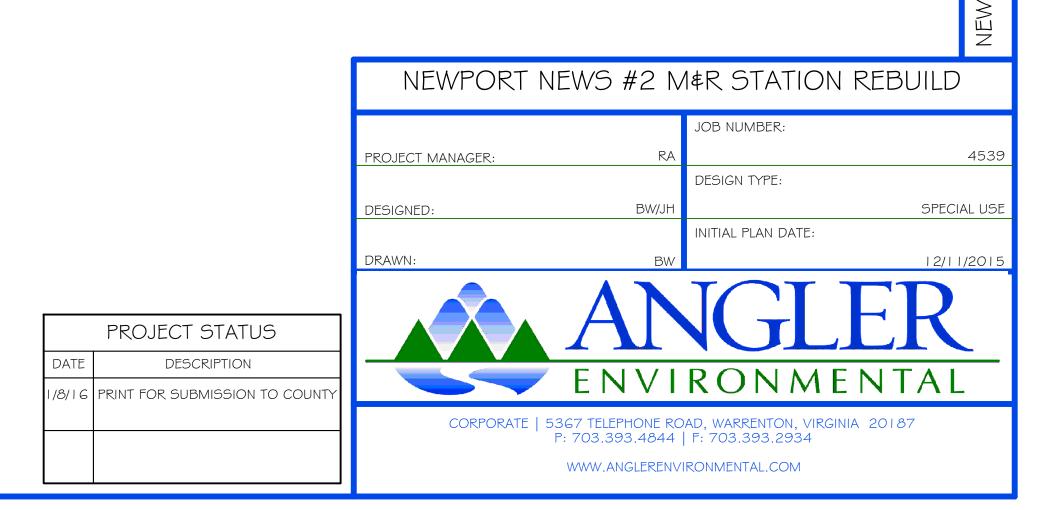
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CLIENT/APPLICANT: SAME AS OWNER

PROPERTY INFO: 8955 POCAHONTAS TR WILLIAMSBURG, VA 23185-6249 MAP#: 5940100001 ZONING: M2 GENERAL INDUSTRIAL ACERAGE: 0.60

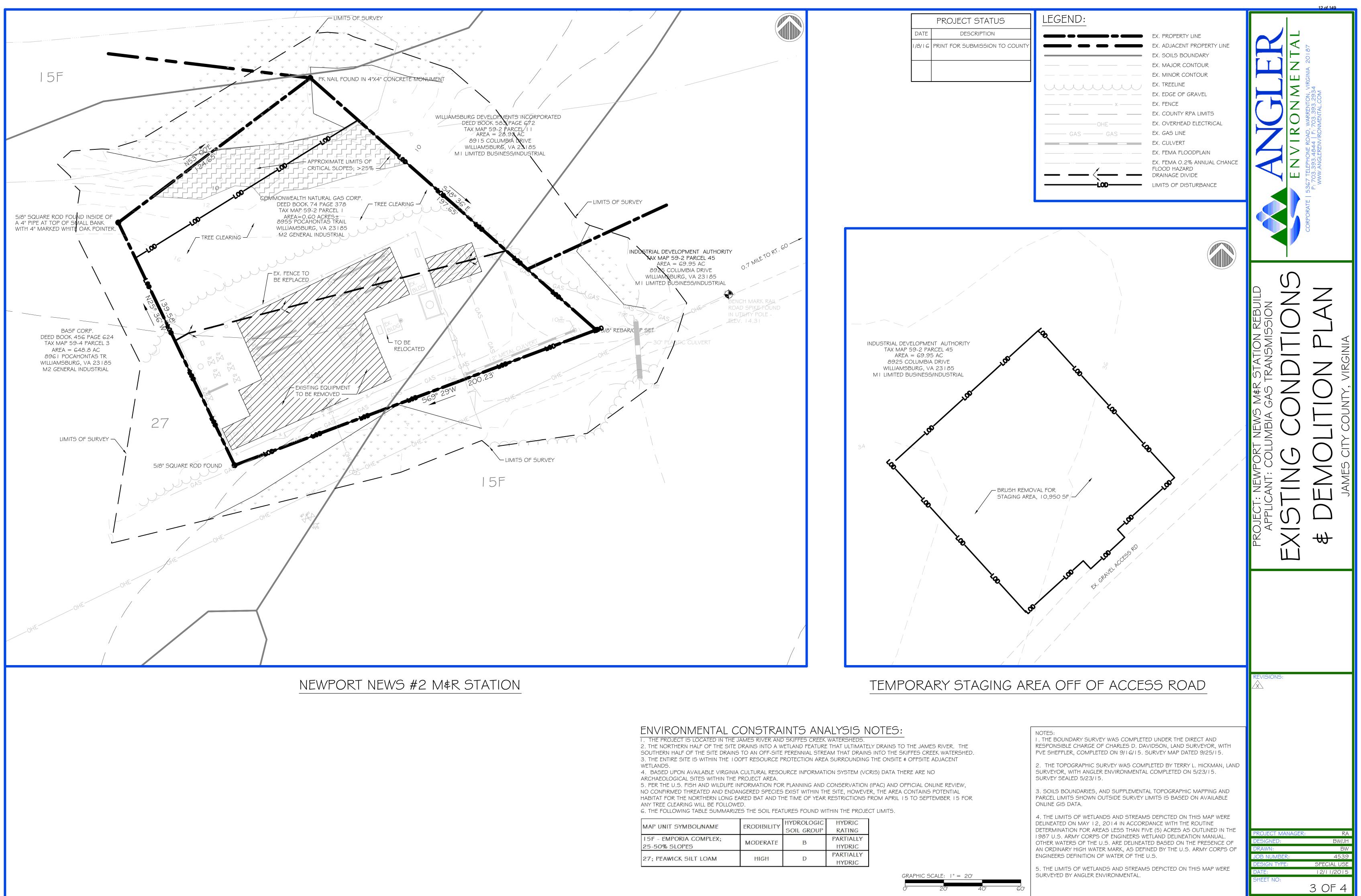
SHEET INDEX: I - COVER SHEET 2 - KEY SHEET 3 - EX. CONDITIONS

4 - SITE PLAN



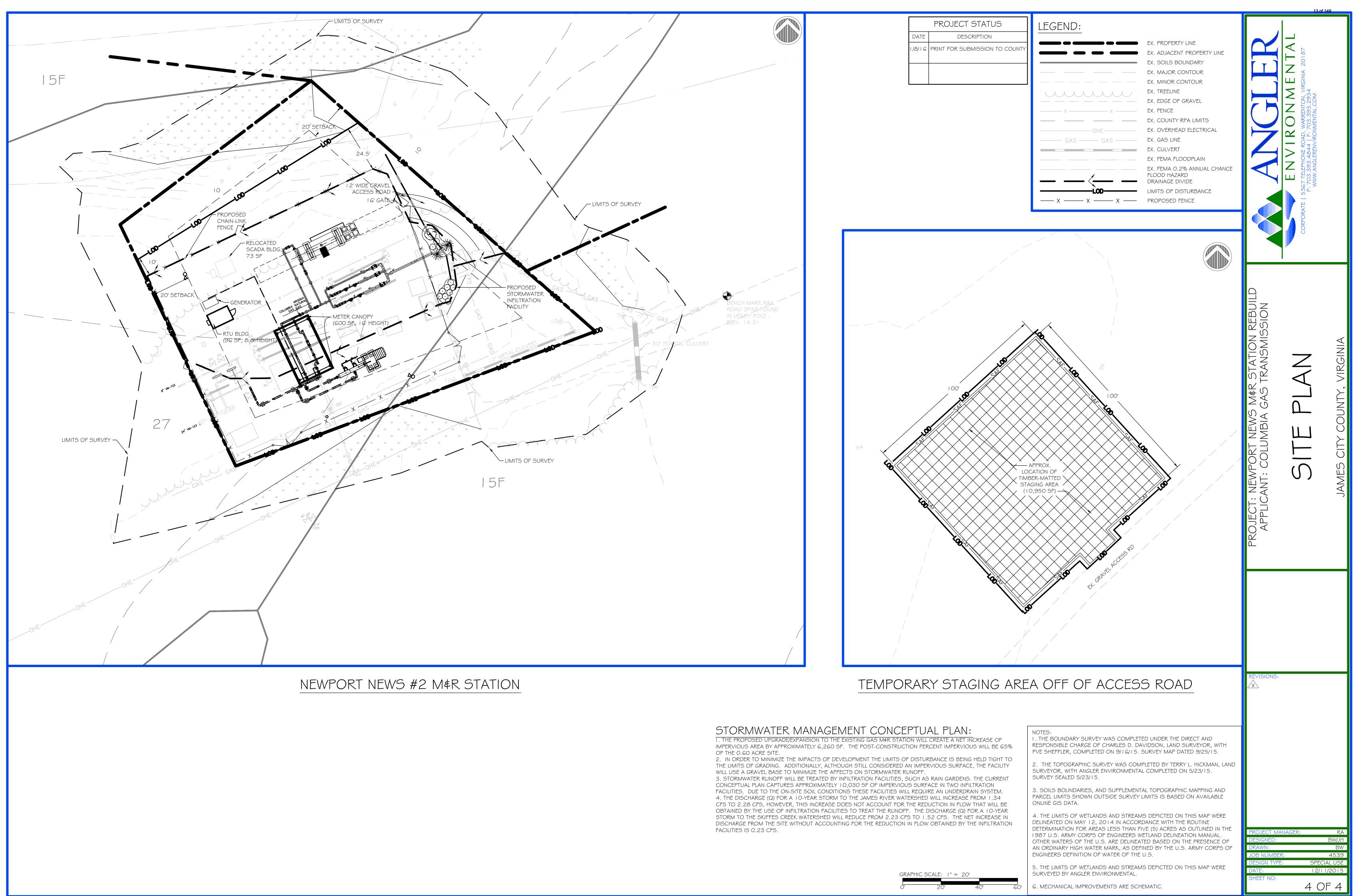






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AP UNIT SYMBOL/NAME	ERODIBILITY	HYDROLOGIC	HYDRIC
		SOIL GROUP	RATING
15F - EMPORIA COMPLEX; 25-50% SLOPES	MODERATE	В	PARTIALLY HYDRIC
27; PEAWICK SILT LOAM	HIGH	D	PARTIALLY HYDRIC



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- <u>Master Plan and Use</u>. This SUP shall be valid for the replacement and upgrading of existing equipment for the operation of the existing measurement and regulation station on property located at 8955 Pocahontas Trail, and further identified as James City County Real Estate Tax Map Parcel No. 5940100001 (the "Project"). Development of the Project shall be generally in accordance with the Master Plan entitled: "SUP-0001-2016, Newport News #2 M&R Station Rebuild Special Use Plan per Zoning Ordinance Chapter 24, Section 24-23 James City County, Virginia" drawn by Angler Environmental, and date stamped January 15, 2016 (the "Master Plan") with such minor changes as the Director of Planning, or his designee, determines do not change the basic concept or character of the development. In the event that Director of Planning finds that the proposed change alters the basic concept or character of the development the applicant may appeal the Director of Planning's determination to the Development Review Committee.
- 2. <u>Compliance</u>. Construction, operation and maintenance of the Project shall comply with all applicable local, state and federal requirements.
- **3.** <u>Security Fence</u>. Owner shall submit a detail for the measurement and regulation station security fence (the "Security Fence"). The Security Fence shall be black, brown or other neutral color. The Security Fence shall not contain barbed wire and shall not exceed a height of 20 feet above finished grade unless otherwise required by regulation. The detail and the final color shall be submitted to and approved by the Director of Planning prior to final site plan approval.
- 4. Lighting. A lighting plan shall be reviewed and approved by the Director of Planning or his designee prior to final approval of the site plan for the measurement and regulation station. Any exterior site or building lighting shall be shielded and directed downward. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines. Lights shall be operated by a motion detector or be able to be turned on as needed by the Owner and shall not be routinely illuminated at night. No lighting shall be installed on structures at a height greater than 30 feet above finished grade. This condition shall not apply to any lighting required by federal or state regulations.
- 5. <u>Emergency Management Plan</u>. The Owner shall prepare and maintain an emergency management plan to address situations that may require response from James City County public safety personnel, including, without limitation, fire safety and emergency response personnel. The Emergency Management Plan shall:
  - a. Be developed in conjunction with and approved by the County Fire Chief and County Police Chief or their designees prior to final site plan approval.
  - b. Provide a mutually agreed upon schedule for the Owner to provide information sessions and training for James City County public safety personnel relative to possible emergency response situations at the Station.
  - c. Provide pertinent contact numbers for the Owner's emergency personnel.
  - d. Provide that all emergency contact information will be posted on access gates.
- 6. <u>Spill Response Plan</u>. Prior to any site plan approval for the measuring and regulation station the following information shall be provided:
  - a. A stormwater management plan shall be submitted to the County Director of

Engineering Resource Protection (ERP) or his designee for review and approval. The stormwater management plan shall demonstrate that adequate measures have been taken for the post-development to achieve the same degree of pre-development water quality. The development of the site shall utilize the applicable best management practices as outlines in the Virginia Department of Environmental Quality Stormwater BMP Clearinghouse.

- b. A Pollution Prevention, Control and Countermeasure Plan for the measuring and regulation station shall be submitted to the County Director of ERP or his designee for review and approval. Updates and amendments to the Plan shall be forwarded to the County Director of ERP as they are developed.
- 7. <u>Landscape Plan</u>. A landscape plan shall be required to be submitted for review and approval along with the site plan for the Project. The landscape plan shall provide evergreen screening around the perimeter of the measurement and regulation station/fence line.
- 8. <u>Construction</u>. Start of construction shall commence within 24 months from the date of issuance of the SUP, or the SUP shall become void. Construction shall be defined as clearing, grading, relocating and replacing existing equipment for the measurement and regulation station.
- **9.** <u>Severance Clause</u>. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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## Pictures of the existing site

1. Approximate location of staging area



2. M&R Station (front view)



3. M&R Station (side view)



Pictures of some of the equipment to be replaced (equipment sizes may vary)

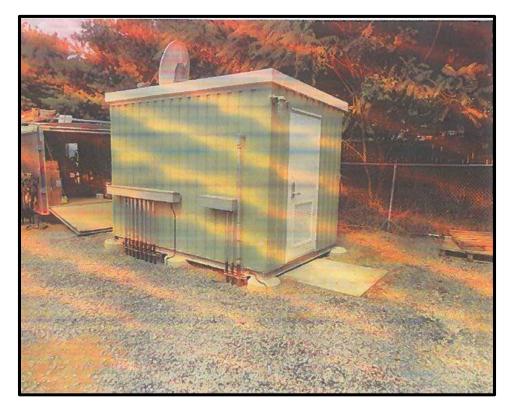


1. Filter Separator: traps any solids/liquids in the system

- 2. Meter Runs: Measure gas for billing purposes

3. Line Heater: Warms up the gas before regulation to keep it from freezing





4. RTU building: used for recording and communicating the flow, pressure and temperature to Columbia Gas control center



5. Odorant Injection System: Injects odorant in the gas stream to odorize the gas, this allow the detection of a leak by simply smelling. Gas in itself doesn't have an odor.

## Jose Ribeiró

To: Subject: Jose Ribeiro FW: Letter from EDA

Jose,

On behalf of the EDA, I would like to express support of the SUP application for Columbia Gas and inform you the EDA anticipates no issues with the requested staging area on the EDA-owned parcel, as proposed by Columbia Gas.

Kathryn Sipes Assistant Director Office of Economic Development



101-D Mounts Bay Road, PO Box 8784 Williamsburg, VA 23187 Direct: 757-259-4917 Office: 757-253-6607 <u>vesiamescitycountyva.com</u>

#### AFD-09-86-01-2016. Gordon Creek Agricultural and Forestal District - 3703 Brick Bat Road Withdrawal

#### Staff Report for the March 2, 2016, Planning Commission Meeting

#### SUMMARY FACTS

Applicant:	Mr. Will Holt, Kaufman and Canoles
Land Owners:	The Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust
Proposal:	Withdrawal of 1.45 acres, in conjunction with Special Use Permit (SUP) application for operation of a Tourist Home
Location:	3703 Brick Bat Road
Tax Map/Parcel No.:	3540100009
Parcel Acreage:	+/-57.6 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Primary Service Area:	Outside

#### PUBLIC HEARING DATES

Planning Commission: March 2, 2016, 7:00 p.m. Board of Supervisors: April 12, 2016, 6:30 p.m.

Staff Contact: Ellen Cook, Senior Planner II

#### FACTORS FAVORABLE

- 1. Request meets several of the criteria set forth in the Board's policy governing the withdrawal of property from Agricultural and Forestal Districts (AFDs).
- 2. The overall district will not be disrupted.
- 3. The proposed use on the site is located such that it minimizes impacts to agricultural and forestal uses.

#### FACTORS UNFAVORABLE

1. Request does not fully meet all four criteria set forth in the Board's policy.

#### SUMMARY STAFF RECOMMENDATION

The adopted Board of Supervisors policy governing withdrawal of property from AFDs states that it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts. This withdrawal request was submitted approximately 16 months after the most recent renewal of the Gordon Creek AFD in September 2014. While staff acknowledges that the overall district will not be disrupted and that the proposed land use (Tourist Home) is consistent with the Comprehensive Plan, staff cannot support this request for withdrawal, due to the withdrawal request not fully meeting all four of the criteria set forth in the Board's policy. As such, staff recommends that the Planning Commission recommend denial of this withdrawal application to the Board of Supervisors.

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.

#### Staff Report for the March 2, 2016, Planning Commission Meeting

#### AFD ADVISORY COMMITTEE RECOMMENDATION

The AFD Advisory Committee recommended approval of this withdrawal application at its February 18, 2016 meeting, by a vote of 8-0 (absent: P. Harcum, W. Harcum).

#### **PROJECT DESCRIPTION**

- In September 2014 the Board of Supervisors renewed the Gordon Creek AFD for a period of four years (corresponding staff report and adopted ordinance enclosed).
- The Gordon Creek AFD, currently comprised of 35 parcels, was originally created in 1986. The District consists of approximately 3,129 acres located generally west of Brick Bat Road and along Jolly Pond and Centerville Roads.
- The property at 3703 Brick Bat has been part of the district since 1986 and has not previously withdrawn any land.
- The property owner seeks to remove a 1.45-acre portion of the 57.6-acre parcel in conjunction with seeking an SUP to operate a Tourist Home (B&B) within the existing residential structures.

#### PLANNING AND ZONING HISTORY

• The Gordon Creek AFD was created by the Board in 1986 and was most recently renewed on September 9, 2014.

#### SURROUNDING ZONING AND DEVELOPMENT

- Located on Brick Bat Road approximately three-quarters of a mile southwest of Matoaka Elementary.
- The surrounding zoning of all properties is A-1, General Agricultural. The properties across Brick Bat Road are residential lots and properties to the north and south are undeveloped forested land.

#### **COMPREHENSIVE PLAN**

The property is designated Rural Lands, as are all of the surrounding parcels.

- Appropriate primary uses include traditional agricultural and forestal activities, but also innovative uses such as agri-tourism. Staff finds the proposed use to fit within the agri-tourism category.
- The development standards state that non-agricultural/nonforestal uses should be sited to minimize impacts or disturbance to agricultural and forestall uses, open fields and important agricultural/forestal soils and resources. Staff finds the use to be consistent with this standard, given that the proposal will take place within existing structures and that the forested and agricultural aspects of the property will be maintained.
- The Comprehensive Plan's Land Use Goals, Strategies and Actions include support for implementation of the County's Strategy for Rural Economic Development. The Strategy specifically encourages agri-tourism uses.

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.

#### Staff Report for the March 2, 2016, Planning Commission Meeting

### **ANALYSIS**

On September 28, 2010, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels (Attachment No. 4). The policy states "It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts" and lists four criteria, which if met would establish "good and reasonable cause" for a property owner to withdraw. A more detailed analysis of these four conditions is provided as Attachment No. 5 and the applicant's request letter is provided as Attachment No. 3. In summary, staff does not find that this withdrawal request fully meets all four conditions:

- Primarily, the request does not fully meet Criteria B as it is not explicitly for a public purpose. Staff does acknowledge that the desired use of the property is consistent with broader community goals.
- With regard to Criteria A, this property was in trust ownership since prior to the last AFD renewal. The applicant has indicated that a change in circumstance that was not anticipated occurred when a family member passed away in 2015 (see Attachment No. 3 for further details); the property remains in trust ownership.
- The request fully meets Criteria C and D, by not causing damage or disruption to the existing district and by being submitted in conjunction with a use that staff finds to be in conformance with the Comprehensive Plan.

### **STAFF RECOMMENDATION**

The adopted Board of Supervisors policy governing withdrawal of property from AFDs states that it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts. This withdrawal request was submitted approximately 16 months after the most recent renewal of the Gordon Creek AFD in September 2014. While staff acknowledges that the overall district will not be disrupted and that the proposed land use (tourist home) is consistent with the Comprehensive Plan, staff cannot support this request for withdrawal due to the withdrawal request not fully meeting all four of the criteria set forth in the Board's policy. As such, staff recommends that the Planning Commission recommend denial of this withdrawal application to the Board of Supervisors.

#### EC/nb AFD-09-86-01-16BrickBatrWthdrwl

#### Attachments:

- 1. Location Map
- 2. AFD Advisory Committee Meeting Minutes
- 3. Applicant Letter and Exhibit
- 4. Policy Governing the Withdrawal of Property from AFDs
- 5. Policy Analysis
- 6. Gordon Creek Renewal Staff Report and Ordinance

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.

# AFD-09-86-01-2016 3703 Brick Bat Road Withdrawal





UNAPPROVED MINUTES OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE EIGHTEENTH DAY OF FEBRUARY, TWO THOUSAND AND SIXTEEN, AT 4:00 P.M. AT THE BUILDING A CONFERENCE ROOM, 101 MOUNTS BAY ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call:

Members Present Ms. Smith Mr. Bradshaw Mr. W. Taylor Mr. Abbott Ms. Garrett Ms. Sadler Mr. Ford Mr. Hitchens Absent <u>Also Present</u> Ms. Ellen Cook (Planning) Mr. Will Holt (Kaufman & Canoles, PC)

<u>Absent</u> Mr. W. Harcum Mr. P. Harcum

#### 2. New Business:

#### A. Approval of the March 12, 2015 Meeting Minutes

On a voice vote the minutes of the March 12, 2015 meeting were unanimously approved.

#### B. Case No. AFD-0001-2016, 3703 Brick Bat Road, Gordon Creek Withdrawal

Ms. Ellen Cook presented the staff report stating that in September of 2014, the Board of Supervisors renewed the Gordon Creek Agricultural and Forestal District (AFD) for a period of four years. Ms. Cook stated that the property located at 3703 Brick Bat Road consists of approximately 57.6 acres and has been part of the AFD since its creation. Ms. Cook stated that the applicant is requesting to remove only 1.45 acres

Ms. Cook further stated that the applicant had approached the County about operating a Bed & Breakfast/Tourist Home on the property which requires a Special Use Permit (SUP) in the A-1, General Agricultural district. Ms. Cook noted that the Ordinance for the Gordon Creek AFD prohibits this type of SUP to be issued for a property enrolled in the AFD, which generated the request to withdraw the property.

Ms. Cook stated that the Board of Supervisors' policy regarding the withdrawal of property from an AFD sets forth four criteria that, if met, would establish acceptable cause for withdrawal. Ms. Cook stated that staff does not find that the request fully meets all four criteria. Primarily, the request is not explicitly to serve a public purpose (Criteria B),

although it is consistent with broader community goals. Ms. Cook further stated that it does not appear that the property meets the criteria of a change in circumstances, although the applicant may have some clarifying information he wishes to offer.

Ms. Cook stated that while staff acknowledges that the overall district will not be disrupted and that the proposed land use (tourist home) is consistent with the Comprehensive Plan, staff cannot support this request for withdrawal due to the withdrawal request not fully meeting all of the criteria set forth in the Board's policy. Ms. Cook stated that staff recommends that the AFD Advisory Committee recommend denial of this withdrawal application to the Planning Commission and to the Board of Supervisors.

Mr. Will Holt, stated that he represents the Jamison Trust. Mr. Holt stated that the property was placed in trust by Carol & John Jamison for the benefit of their daughter. Mr. Holt stated that Mr. Jamison passed away in February of 2015 and the daughter is now owner of the property and wishes to use the property as a bed & Breakfast. Mr. Holt noted that overall, staff is supportive of that SUP application. Mr. Holt further stated that while the entire parcel is enrolled in the AFD, approximately five acress comprising the house and the access road are not receiving the land use valuation and are taxed at the regular rate.

Mr. Holt further stated that the death of Mr. Jamison, who was a property owner would qualify as a change of circumstance that would meet the criteria. Mr. Holt further stated that the State Code section governing withdrawals from an AFD specifically states that property may be withdrawn within two years of the death of a property owner. Mr. Holt noted, however, that this would require interpretation from the County Attorney's Office due to the Trust.

Mr. Hitchens inquired if the house was a new structure or an existing structure or if there would be additions to the structure or changes to the timberland.

Mr. Holt responded that it is an existing structure and there would be no additions or changes.

Mr. Bradshaw inquired if the requested use would be allowed were the property not in an AFD.

Ms. Cook stated that the use could considered since it is a SUP use; however, County Code does not permit an SUP of this type to be issued to a property that is in an AFD.

Mr. Bradshaw stated that he believed the property meets the statute for withdrawal, as well as the criteria for change in circumstance; the area proposed to be withdrawn is only a portion of the property and is not receiving land use valuation; it is a use that would be allowed with an SUP; and the tax consequences would be zero. Mr. Bradshaw inquired whether it is even necessary to withdraw the property.

Ms. Cook stated that the adopted Ordinance requires the withdrawal to allow an SUP to be granted.

Ms. Garrett inquired what the staff recommendation would be based on the death of a property owner meeting the criteria of change in circumstances.

Ms. Cook stated that staff believes all four criteria must be met.

Mr. Bradshaw stated that State Code would supersede County Code.

The Committee and Mr. Holt discussed how the property being held in a Trust would align with interpretation of the State Code section governing withdrawal of a property within two years of the death of an owner.

Mr. Ford stated that he would recommend that the Committee approve the withdrawal.

Mr. Bradshaw seconded the motion.

Ms. Cook stated that it would be necessary to have an interpretation from the County Attorney's Office regarding whether the death of Mr. Jamison met the State Code statute. Ms. Cook further stated that it would be helpful for the Committee to vote on the matter so that, should the County Attorney's Office find that the State Code statute was not met, the applicant would not be delayed in pursuing the SUP.

Mr. Ford stated that under normal circumstances the Committee would recommend denial because property owners are well aware of the restrictions that they have agreed to for the district term.

Mr. Abbott inquired if there would be any new structures or renovation of the existing structure.

Mr. Holt stated that there would be no additions or renovation aside from possible redecorating.

Ms. Sadler requested that Mr. Holt clarify his comment regarding the determination about the proposed use not meeting the criteria of serving a public purpose.

Mr. Holt stated that if each request is considered in relation to whether they meet all criteria, then the only criteria that matters is the public purpose because it is a narrow criteria. Mr. Holt stated that the request should be evaluated by each individual criteria.

Mr. Abbott stated that this application meets the broader goal of encouraging tourism.

Ms. Garrett requested a roll call vote.

On a roll call vote, the committee voted 8-0 to recommend approval of the withdrawal request.

Mr. Abbott moved to adjourn.

On a voice vote, the meeting was adjourned at 4:25 p.m.

Ms. Smith, Chair

Ellen Cook,

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## 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

William L. Holt (757) 259.3885 wlholt@kaufcan.com

February 8, 2016

#### VIA EMAIL

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

#### Re: 3703 Brick Bat Road Tourist Home SUP-0002-2016 Request for Removal from Gordon Creek Agricultural & Forestal District Our Matter No. 0162968

Dear Mr. Holt:

On behalf of my client The Carol Sansone Jamison Marital Trust Two and The Carol Sansone Jamison Family Trust (collectively, the "Trust"), I write to request that the area which is the subject of the abovereferenced special use permit application be formally removed from the Gordon Creek Agricultural and Forestal District ("AFD"). The area requested to be removed is shown on the attached exhibit and comprises only 1.45 acres of my client's 57.6 acre property currently included in the AFD. Aside from the 1.45 acres shown on the exhibit and covered by the SUP application, my client wishes to leave the remaining 56.15 acres of the subject parcel in the AFD. The details of this request are as follows.

My client has applied for a special use permit to allow the existing residence on the subject property to be used as a "tourist home" (bed and breakfast) in accordance with James City County Code Sec. 24-212. No expansion of any existing structures or additional impervious area is proposed by the SUP, rather the application simply seeks to permit to the rental of bedrooms in the residence to accommodate overnight bed and breakfasts guests. The remainder of the Trust property will remain in agricultural and forestal use with no changes from the current usage. In the event that the Board of Supervisors does not approve the SUP at issue, my client will seek to place the 1.45 acre portion of the property back into the AFD.

As you know, the Board of Supervisors has a policy governing withdrawals from the AFD during the terms of those districts. The criteria for withdrawal are outlined below along with a brief discussion of how this minor request meets the criteria. With regard to application of the specific criteria, the policy states that "[t]he Board shall weight each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case."

#### AFD Withdrawal Criteria

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A. <u>Change in Circumstances</u>: At the time of the last renewal of the AFD, John Jamison, the prior owner and occupant of the residence was still living and the plans of using this property as a bed and breakfast had not yet materialized. Had these circumstances arisen prior to the renewal of the AFD, my client could have requested removal of this 1.45 acre portion of the subject property prior to renewal of the AFD.

B. <u>Public Purpose</u>: This request does serve a public purpose in promoting tourism in James City County and the Historic Triangle through the use of the residence on the subject property as a "tourist home" in accordance with James City County Code Sec. 24-212. This property has rich history dating back to the 1800s, when it began as a small farm and hunting lodge as part of the Warburton Plantation. As the home is already existing and used for residential purposes, the SUP and withdrawal from the AFD only seeks to open and share this home with the public as a "tourist home".

C. <u>No Damage or Disruption to Existing District</u>: This request would only apply to a very minor 1.45-acre portion of the larger 57.6-acre parcel. This removal of 1.45 acres from the AFD constitutes less than 0.046% of the overall 3,129.05 acres in the AFD. Additionally, as stated herein, no expansion of any existing structures or additional impervious area is proposed on the property. Further, the residence and driveway on the subject property are already treated separately from the remaining property from a tax standpoint and are not assessed at the lower "use value" like the rest of the property.

D. <u>Consistent with Comprehensive Plan</u>: The subject property is designated as "Rural Lands" on the 2035 Comprehensive Plan. Clearly, the primary recommended uses for the Rural Lands designation are traditional agricultural and forestal uses, consistent with the current use of 56.15 of the total 57.6 acres of the subject property. Additionally, the Comprehensive Plan speaks of "agricultural or forestal-support uses" including "eco-tourism, home-based occupations, or certain uses which require very low intensity settings relative to the site in which it will be located[.]' The proposed low intensity use of a very minor portion of this property as a "tourist home" fits precisely within the Comprehensive Plan description of the supporting uses desired in Rural Lands. This is not a typical bed and breakfast in Downtown Williamsburg or an urban area, but rather guests at the Mallardee Farm are drawn to the rural and farm feeling of this property with animals, gardens, barns, and pastures. This property began as a small farm and hunting lodge and remains a great reflection and showpiece of the County's agricultural and forestal roots. This low intensity use is precisely the type of "supporting" use the Comprehensive Plan envisions for Rural Lands.

I hope this correspondence is useful in your consideration of this matter and I welcome any further questions or comments that may arise. Thank you for your kind attention to this matter.

Very truly yours,

William L. Holt

cc: Ellen Cook, Planner Gregory R. Davis, Trustee Kelly Supplee

## EXHIBIT A

## 3703-Brick Bat Road

1.45 Acres for Withdrawal from Gordon Creek AFD



#### **RESOLUTION**

#### POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL

#### AND FORESTAL DISTRICTS (AFDs)

- WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and
- WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.
  - 1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
  - 2. The criteria for withdrawal during the terms of the districts are as follows:
    - In order to establish "good and reasonable cause," a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with the following criteria:
      - A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
      - B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
      - C. The request would not cause damage or disruption to the existing district.
      - D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

K	1
James G. Kennedy Chairman, Board of S	Supervisors
SUPERVISOR	VOTE
MCGLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

ATTEST:

Robert C. Middaugh

Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFDsPoiWdraw res

#### AGRICULTURAL AND FORESTAL DISTRICT ANALYSIS

On September 28, 2010, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels. The withdrawal policy, as adopted by the Board, states that it is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts. The withdrawal criteria in the policy are listed below with staff comments following in italics:

The criteria for withdrawal during the terms of the districts are as follows:

A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.

This property has been in trust ownership since before the last renewal of the AFD in 2014. The applicant has indicated that Mr. Jamison, prior owner and occupant of the house, and father of current resident Ms. Supplee, passed away in 2015. Prior to that time, the plans of using this property as a bed and breakfast had not yet materialized..

B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner, that could not otherwise be realized upon expiration of the AFD.

While staff acknowledges that the desired use of the property is consistent with broader community goals as expressed in the Comprehensive Plan, the withdrawal of this parcel would not explicitly serve a public interest. Previous examples of withdrawals that served a public purpose included the Matoaka Elementary School.

C. The request would not cause damage or disruption to the existing district.

Should this withdrawal be approved, the size of the Gordon Creek would be 3,127.6 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. Staff finds that no damage to the District will result from this withdrawal.

D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

In conjunction with this withdrawal request, the applicant has submitted a special use permit application for a tourist home. The tourist home will involve the rental of up to five rooms within the existing residential structures on this property. Staff finds this use to be compatible with surrounding property and meets rural economic development goals. Staff finds the proposed tourist home would be consistent with the Comprehensive Plan's Rural Lands designation.

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AGENDA ITEM NO. \_\_\_\_ I-8

#### Case No. AFD-09-86-1-2014. Gordon Creek Agricultural and Forestal District Renewal Staff Report for the September 9, 2014, Board of Supervisors Public Hearing

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

#### PUBLIC HEARINGS

#### Building F Board Room: County Government Complex

AFD Advisory Committee: Planning Commission: Board of Supervisors: July 7, 2014, 4:00 p.m. (Human Services Building) August 6, 2014, 7:00 p.m. September 9, 2014, 7:00 p.m.

#### SUMMARY FACTS

#### Owners:

Martha W. McMurran and SWR-Pinewood Edward Warburton, III and Regina L. Edward Warburton David H. Allen and Stephanie M. Thomas R. Tucker, Trustee Martha W. McMurran and SWR-Pinewood Thomas L. Hitchens W.A. Thompson and Charles Flemming Claybank Landing, LLC Claybank Landing, LLC Claybank Landing, LLC **Richardson Holdings Limited Partnership Richardson Holdings Limited Partnership** Jane T. Carswell Martha W. McMurran and SWR-MISC,LLC **Powhatan Associates Powhatan Associates** Mary Rebecca Richardson Abbott Trust Company of Virginia, c/o Greg Davis Linda Henderson Gordon Williamsburg Pottery, Inc. Nayses Bay Land Co. Nayses Bay Land Co. William Kane William Kane William Kane William Kane William Kane Baxter I. Bell Jr., Trustee Robert Anson and S. Carswell Beatrice Richardson Est. **Richardson Holdings Limited Partnership** Pickett Holdings, LLC Jerry W. Nixon and Martha M. Michael B. Isler and Michelle Ann

Parcel No.	Acres
3540100001	394.50
3520100001B	
2940100011	
3420100002	132.98
3420100002A	
3630100003	
3610100006	
3620100040	
4320100012	
4320100013	
4320100014	
3640100007	
3030100003	
3610100003	
3610100004	
4410100001	
3530100001	
3620100018	
3540100009	
3420100001	
4410100002	
3510100003	
3510100006	
2940100003	4.00
3030100007	
3520100007	
3610100001	
3610100002	
4320100003	
3520100010	
3640100009	
3640100008	
3510100001	
3730100003	
3630100004	<u>1,10</u>
TOTAL ACRES	<u>3.129.05</u>

#### Zoning:

A-1, General Agricultural

Comprehensive Plan:

Low Density Residential, Rural Lands and Conservation Area

Primary Service Area: Two parcels inside, with the remainder located outside the Primary Service Area (PSA)

#### STAFF RECOMMENDATION

Staff finds this Agricultural and Forestal District (AFD) consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends the Board of Supervisors renew the Gordon Creek AFD for a period of four years, subject to the conditions listed in the attached resolution.

Staff Contact: Luke Vinciguerra Phone: 253-6783

#### PLANNING COMMISSION RECOMMENDATION

At its August 6, 2014, meeting, the Planning Commission recommended the continuation of the District by a vote of 6-0 (Richardson absent).

#### AFD ADVISORY COMMITTEE RECOMMENDATION

At its July 7, 2014, meeting, the AFD Advisory Committee voted 8-0 to recommend the continuation of the District to the Planning Commission and Board of Supervisors,

#### Proposed Changes Made Since the Planning Commission Meeting

A property owner has requested not to continue 516.17 acres in the AFD (Attachment No. 9).

#### SUMMARY

As required by State Code, the County must review all established AFDs prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-9-86, Gordon Creek, which is scheduled to expire October 31, 2014.

Staff is attempting to synchronize the expiration dates of all districts. As part of the 2014 renewal process, staff is recommending a term of four years, making the expiration date October 31, 2018.

#### DISTRICT HISTORY

The District was approved on December 1, 1986, for a term of four years. It was subsequently renewed for four-year terms in October 1990, October 1994, September 1998, August 2002, and July 2006. There have been several additions to the Gordon Creek AFD since 1994. Approximately 40 acres of land was taken out of the District in May 2006 for the purpose of constructing the 8th Williamsburg-James City County (W-JCC) Elementary School. Originally, the property was a part of the approximately 164-acre parcel placed in the AFD by the previous owner. During the April 2006 renewal, the Barrett's Ferry AFD was terminated and the remaining land was transferred to the Gordon Creek AFD. The transfer consisted of one parcel of approximately 210 acres in land, mostly wooded in nature. On July 8, 2008, the Board of Supervisors removed 165.50 acres of land from the Gordon Creek AFD District as a part of the Ford's Colony, Section 37 rezoning. In 2010, the District was renewed for a four-year term with no addition or withdrawal of property. Since the 2010 renewal, property owned by Claybank Landing, LLC has been subdivided; however, this does not affect the size of the district. Additionally, 30.74 acres were added by Martha and Jerry Nixon, 349 acres were added by Pickett Holdings LLC, 38 acres were added by Richardson Holdings Limited Partnership, and 22 acres were added by Beatrice Richardson Estate.

The District includes all the land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Gordon Creek AFD consists of approximately 3,129.05 acres located in and around the Centerville Road/News Road area. The AFD contains parcels which front on the following roads: News Road, John Tyler Highway, Centerville Road, Bush Neck Road, Jolly Pond Road, and Brick Bat Road.

#### ANALYSIS

The majority of the District contains woodlands. All of the land within this District is zoned A-1, General Agricultural, and a major portion of the surrounding property is presently zoned A-1 and is forested. Most of the District is designated Rural Lands by the Comprehensive Plan. The Nayses Bay area is designated as Conservation Area by the Comprehensive Plan. The majority of the District is located outside of the PSA and the area remains relatively rural in nature. A small portion (340.74acres) is located inside the PSA, the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the potential use of the property.

#### REQUEST NOT TO CONTINUE IN THE AFD

A property owner of 3010 Jolly Pond Road, 4085 Centerville Road, and additional unaddressed property has requested not to continue in the AFD (Attachment No.9).

#### **ADDITIONS**

No property owner has requested land be added to the District during this renewal period.

#### CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisor's policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts to refer to the most recent policy adopted in 2010. The proposed change is as follows:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be record and no application for such recording shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

No land outside the Primary Service Area and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.

#### STAFF RECOMMENDATION

Staff finds this AFD consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. At its August 6, 2014, meeting, the Planning Commission voted to recommend the continuation of the District by a vote of 6-0 (Richardson absent). At its July 7, 2014, meeting, the AFD Advisory Committee voted 8-0 recommending the continuation of the District to the Planning Commission and Board of Supervisors. Staff recommends the Board of Supervisors renew the Gordon Creek AFD for a period of four years, subject to the conditions listed in the attached resolution.

Vinciguerra Luke

CONCUR:

Allen J. Murghy, Jr.

LV/nb AFD09-86-14GordonCk

Attachments:

1. Ordinance

2. Location Map

3. Existing ordinance and conditions, dated September 28, 2010

4. Ordinance for the addition of property, dated December 14, 2010

5. Ordinance for the addition of property, dated March 8, 2011

6. Ordinance for the addition of property, dated July 9, 2013

7. Approved minutes of the July 7, 2014, AFD Advisory Committee meeting (under separate cover)

8. Unapproved minutes of the August 6, 2014, Planning Commission meeting (under separate cover)

9. Property owner non-continue request.



ORDINANCE NO. 170A-20

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SEP 09 2014 Board of Supervisors James City County, VA

#### AGRICULTURAL AND FORESTAL DISTRICT 09-86

#### **GORDON CREEK 2014 RENEWAL**

WHEREAS, James City County has completed a review of the Gordon Creek Agricultural and Forestal District: and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting on July 7, 2014, voted 8-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on August 6, 2014, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 to recommend renewal of the district with the conditions listed below.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that:

- 1. The Gordon Creek Agricultural and Forestal District is hereby continued to October 31, 2018, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
- 2. That the district shall include the following parcels, provided, however, that all land within 25 feet of road rights-of-way is excluded from the district:

Owner	Parcel No.	Acres
Martha W. McMurran and SWR-Pinewood	3540100001	394.50
Edward Warburton, III and Regina L	3520100001B	
Edward Warburton	2940100011	
David H. Allen and Stephanic M.	3420100002	132.98
Thomas R. Tucker, Trustee	3420100002A	25.02
Martha W McMurran and SWR-Pinewood	3630100003	264.00
Thomas L. Hitchens	3610100006	
W.A. Thompson and Charles Flemming	3620100040	
Claybank Landing, LLC	4320100012	
Claybank Landing, LLC	4320100013	
Claybank Landing, LLC	4320100014	
Richardson Holdings Limited Partnership	7520100014	
Richardson Holdings Limited Partnership	3640100007	
Jane T. Carswell	3030100003	
14119 1. VBI 3174U	3610100003	44.00

Martha W. McMurran and SWR-MISC, LLC	3610100004	
Powhatan Associates	3610100004	
Powhatan Associates	4410100001	
Mary Rebecca Richardson Abbott	3530100001	
Trust Company of Virginia, c/o Greg Davis	3620100018	
Linda Henderson Gordon	3540100009	
	3420100001	
Williamsburg Pottery, Inc.	4410100002	
Nayses Bay Land Co.	3510100003	
Nayses Bay Land Co.	3510100006	
William Kane	2940100003	
William Kane	3030100007	
William Kane	3520100007	
William Kane	3610100001	
William Kane	3610100002	
Baxter I. Bell Jr., Trustee	4320100003	
Robert Anson and S. Carswell	3520100010	
Bestrice Richardson Est.	3640100009	
Richardson Holdings Limited Partnership	3640100008	
Pickett Holdings, LLC		
Jerry W. Nixon and Martha M.	3510100001	
Michael B. Isler and Michelle Ann	3730100003	
And a state of the state of the state of the state	3630100004	<u>1,10</u>
	Teach	
	Total:	3.129.05

- 3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Gordon Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
  - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
  - b. No land outside the Primary Service Area and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawal of Properties from AFDs, adopted September 28, 2010.
  - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Mary K. Jones Chaiman, Board of Supervisors

ATTEST:	
VH10	
Bryap J. Mar	

Clerk to the Board

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KENNEDY JONES	¥.		
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HIPPLE	X	<u> </u>	

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2014.

-3-

AFD09-86-14GordonCk-res

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

Applicant:	Mr. Will Holt, Kaufman and Canoles		
Land Owners:	The Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust		
Proposal:	Operation of a Tourist Home		
Location:	3703 Brick Bat Road		
Tax Map/Parcel No.:	3540100009		
Project Acreage:	+/-57.6		
Zoning:	A-1, General Agricultural		
Comprehensive Plan:	Rural Lands		
Primary Service Area:	Outside		

#### **PUBLIC HEARING DATES**

Planning Commission: March 2, 2016, 7:00 p.m. Board of Supervisors: April 12, 2016, 6:30 p.m.

Staff Contact: Ellen Cook, Senior Planner II

#### FACTORS FAVORABLE

- 1. With the proposed conditions, the proposal is compatible with surrounding development.
- 2. The proposal is consistent with the recommendations of the Comprehensive Plan.

#### FACTORS UNFAVORABLE

1. Should the Board of Supervisors deny the applicant's request to withdrawal the acreage where this use will be sited from the Gordon Creek Agricultural and Forestal District (AFD), then this use would not be consistent with the terms of the AFD.

#### SUMMARY STAFF RECOMMENDATION

Approval, subject to the proposed conditions and to removal of the property from the AFD.

#### **PROJECT DESCRIPTION**

- Proposal to operate a Bed and Breakfast, classified under the ordinance as a Tourist Home.
- The Tourist Home will have rental of up to five rooms. The property owner plans to live on site, but note that the Zoning Ordinance definition and the Special User Permit (SUP) conditions allow flexibility with regard to future occupancy.
- No changes in the size of the house or other buildings.
- The property has an existing driveway and an existing parking area sufficient to accommodate guests.

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.

Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### PLANNING AND ZONING HISTORY

• The Gordon Creek AFD was created by the Board in 1986 and was renewed on September 9, 2014.

#### SURROUNDING ZONING AND DEVELOPMENT

- Located on Brick Bat Road approximately three-quarters of a mile southwest of Matoaka Elementary.
- The surrounding zoning of all properties is A-1, General Agricultural. The properties across Brick Bat Road are residential lots and properties to the north and south are undeveloped forested land.

#### **COMPREHENSIVE PLAN**

The property is designated Rural Lands, as are all of the surrounding parcels.

- Appropriate primary uses include traditional agricultural and forestal activities, but also innovative uses such as agri-tourism. Staff finds this use to fit within the agri-tourism category.
- The development standards state that non-agricultural/nonforestal uses should be sited to minimize impacts or disturbance to agricultural and forestall uses, open fields and important agricultural/forestal soils and resources. Staff finds the use to be consistent given that the proposal will take place within existing structures and the forested and agricultural aspects of the property will be maintained.
- The Comprehensive Plan's Land Use Goals, Strategies and Actions include support for implementation of the County's Strategy for Rural Economic Development. The Strategy specifically encourages agri-tourism uses.

#### PUBLIC IMPACTS

Anticipated impact on public facilities and services: None.

Nearby and surrounding properties: No impacts anticipated.

#### PROPOSED SUP CONDITIONS

• The full text of the conditions is provided as Attachment No. 2.

#### **STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and Zoning Ordinance. Staff recommends the James City County Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions and to removal of the property from the AFD.

EC/nb SUP02-16BrickBatTourHme

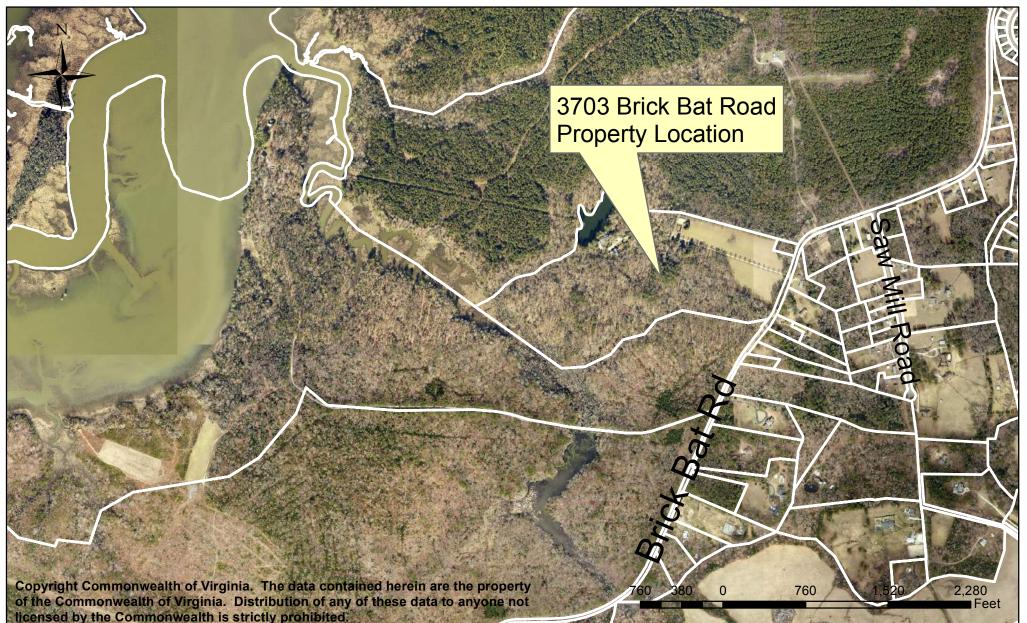
#### Attachments:

- 1. Location Map
- 2. Proposed SUP Conditions
- 3. Master Plan, Applicant Narrative and Site Photographs

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.

### SUP-0002-2016 3703 Brick Bat Road Tourist Home





#### Attachment 2: Proposed Special Use Permit Conditions

- 1. <u>Master Plan</u>. This Special Use Permit shall permit a tourist home. The use and layout of the property shall be generally located as shown on the document entitled "JCC SUP-0002-2016: 3703 Brick Bat Road Tourist Home" and date- stamped February 26, 2016.
- 2. <u>Number of Rental Rooms.</u> There shall be no more than five bedrooms available for rental to visitors.
- 3. <u>Signage:</u> One freestanding, non-illuminated sign, not exceeding four (4) square feet in area, may be permitted to identify this use.
- 4. <u>Virginia Department of Health.</u> Prior to commencing operation of the tourist home, the owner shall submit lodging accommodation plans to the Virginia Department of Health and meet any other applicable Department of Health regulations. The owner shall furnish a copy of the lodging and accommodation plans and any paperwork indicating Department of Health approvals to the Director of Planning prior to issuance of a new Certificate of Occupancy.
- 5. <u>Certificate of Occupancy</u>. The owner shall obtain a new Certificate of Occupancy within thirty-six months of issuance of this permit or the permit shall be void.
- 6. <u>Severance Clause</u>. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Master Plan for a five-bedroom tourist home (bed and breakfast).

Address: 3703 Brick Bat Road

**Tax Map ID: 3540100009** 

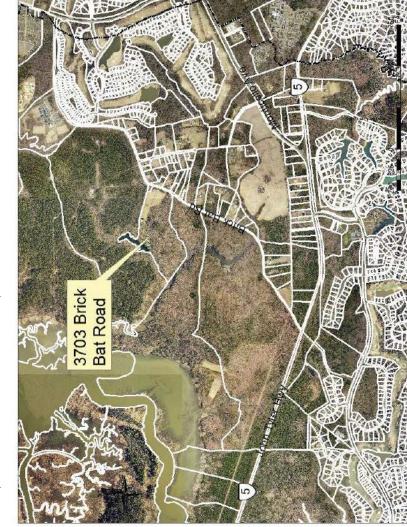
Zoning: A-1, General Agricultural

# **General Notes:**

- or additional impervious area is proposed 1. No expansion of the existing structures
- The tourist home will be served by the existing well and on-site sewage disposal system. сi
  - Property has an existing paved driveway.
     Parking:
- a. Required: 2 spaces for single family unit5 spaces for the rental rooms 7 total
- b. Existing: 12 spaces (A two-car garage, the remainder outside)

## Sheet Index:

- 1. Cover sheet
- SUP Exhibit *.*.





#### MALLARDEE TOURIST HOME – 3703 Brick Bat Road

#### SUP APPLICATION NARRATIVE

#### Background

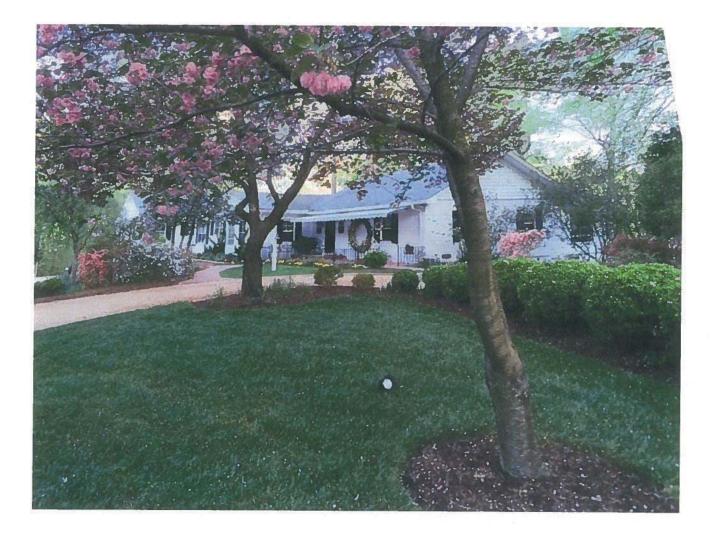
Mallardee, aptly named for the ducks on its pond and ubiquitous chickadees on the property, is a 56-acre retreat which began as a small farm and hunting lodge on Brick Bat Road as part of the Warburton Plantation in the 1800s. The lane, lined with crepe myrtles, runs through a field where acres of jonquils bloom in the spring and sheep are grazing in the pasture. A beautiful red barn, and English conservatory greenhouse can be seen while making your way to the main house. Just beyond the greenhouse, the lane descends through the woods beneath a tall oak grove covering formal English gardens, a recreational pool house, and the original home overlooking Pinewoods Pond. Inside the home, the chair rails and brass fittings reflect previous ownership by Charles Hackett, the Williamsburg Inn's former construction manager. Successive owner Sally Eddy, daughter of Mr. and Mrs. Archibald McRae (former proprietors of Carter's Grove Plantation), added the formal garden and expanded the home to its current size, while maintaining the scale of its modest facade and old hunting lodge interiors.

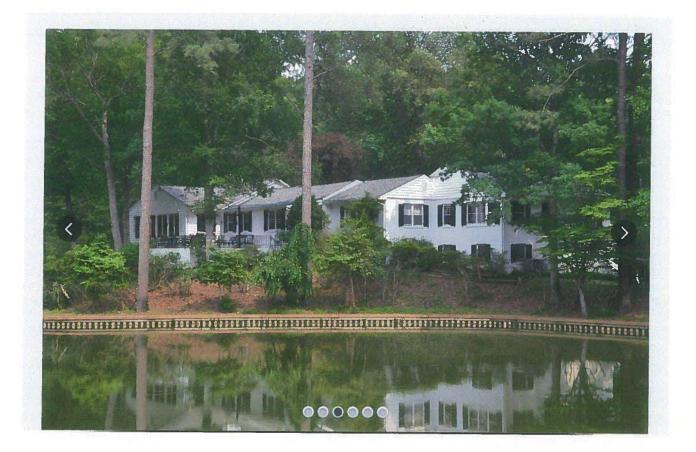
The home was purchased in 1982 by Carol and John Jamison when they relocated to Williamsburg from New York City. Mr. Jamison served as the Dean of the Business School at The College of William and Mary, CEO of the Mariner's Museum in Newport News, and founded the Williamsburg Community Foundation. The Jamison's loved Williamsburg, and served it accordingly. The property is now home to Kelly and Paul Supplee, daughter and son-in-law of Mr. and Mrs. Jamison. Kelly and Paul were innkeepers in the 1990's when their children were very young, while living near Colonial Williamsburg.

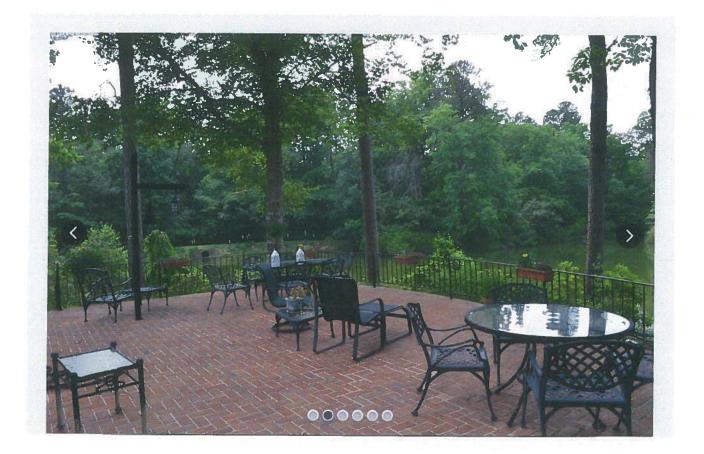
#### Proposal

The Supplees propose to operate the property as a bed & breakfast ("tourist home" as defined in the County Zoning Ordinance), while continuing to live on the property as their primary residence. No structural expansions at the property are proposed, and the Supplees propose to utilize the home in its existing condition. Five bedrooms are proposed to be available for rental to guests at Mallardee. Paved parking for 12 cars is available on the property, including a 2-car garage. Structures on the property include the main house, a pool house, a barn, and a conservatory greenhouse. All structures on the property are proposed to be open to guests during their stay.

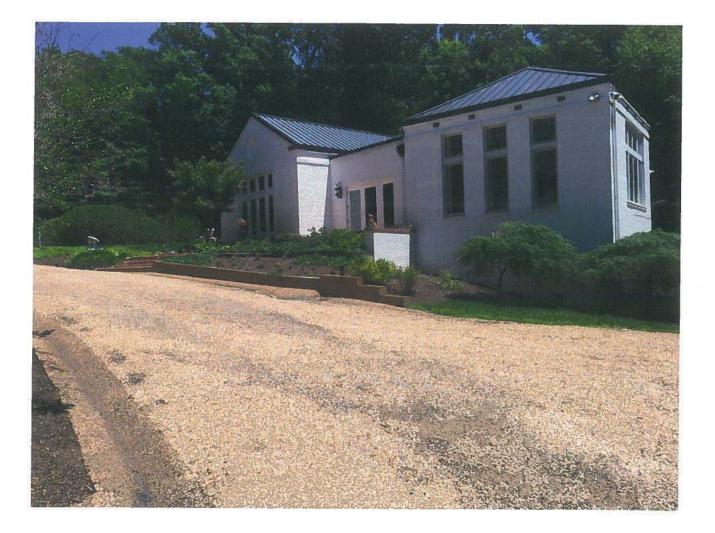










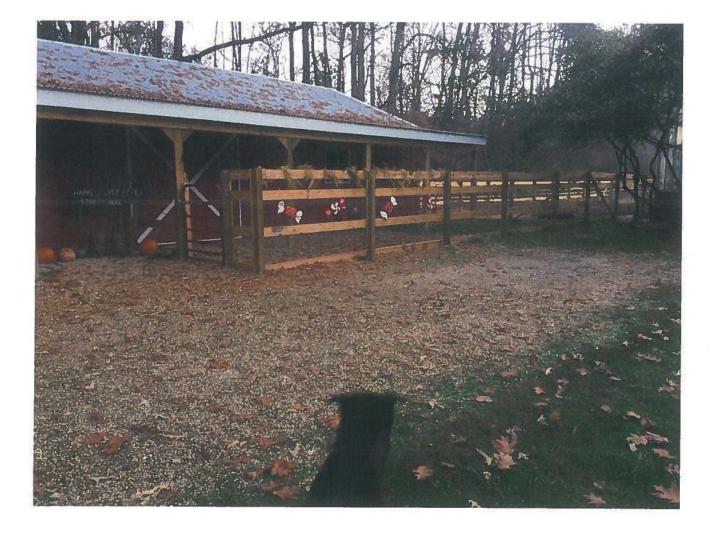
















#### REZONING-0005-2015, MASTER PLAN-0002-2015, HEIGHT WAIVER-0002-2015. Patriot's Colony Expansion

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

Applicant:	Mr. Todd Martin, Riverside	Planning Commission: March 2, 2016, 7:00 p.m. Board of Supervisors: April 12, 2016, 6:30 p.m.
Land Owner:	Riverside Healthcare Associates, Inc.	
Proposal:	To amend Land Bay M-10 of the Greensprings Master Plan to adjust unit types and unit type maximums for the existing Patriot's Colony continuing care retirement community. The proposal also includes a height limitation waiver request for four hybrid buildings, up to a maximum height of 70 feet above finished grade.	<ul> <li>Staff Contact: Leanne Pollock, Senior Planner II</li> <li><u>FACTORS FAVORABLE</u></li> <li>1. With the proposed amended proffers, the proposal is compatible with surrounding development.</li> <li>2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.</li> <li>3. Overall the project is a fiscal positive to the community.</li> <li>4. Decreases the originally proposed density of Land Bay M-10 of</li> </ul>
Location:	3400 John Tyler Highway	the Greensprings Master Plan and the Virginia Department of Transportation concurred that it will not adversely impact the
Tax Map/Parcel No.:	4520100013	<ul><li>existing surrounding roadway network.</li><li>5. Height waiver limits maximum building height to a height that is</li></ul>
Project Acreage:	+/- 88.59 acres	lower than surrounding trees and with the proposed conditions, meets the criteria outlined in Section 24-286 relative to the
Zoning:	R-4, Residential Planned Community, with proffers	<ul><li>granting of height limitation waivers.</li><li>6. The National Park Service (NPS) has concurred with proffers proposed to minimize visual impacts to Green Spring National</li></ul>
Proposed Zoning:	R-4, Residential Planned Community, with amended proffers	Historical Landmark and stop land disturbance in the event of a previously undiscovered archaeological find.
Comprehensive Plan:	Low Density Residential/Rural Lands	<ol> <li>Proffers include a conservation management plan to address habitat identified as suitable for the Northern long-eared bat.</li> <li>First floor parking for hybrid buildings minimizes impervious</li> </ol>
Primary Service Area:	Inside/Outside	<ul> <li>9. Addresses housing needs of the County's aging population identified in the 2035 Comprehensive Plan.</li> </ul>

**PUBLIC HEARING DATES** 

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#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

10. Overall Greensprings Plantation planned residential community will continue to meet Zoning Ordinance requirements for 40% open space and will not exceed 2 du/ac.

#### FACTORS UNFAVORABLE

- 1. Does not comply with the Board of Supervisor's policies and guidelines regarding Housing Opportunities and schools.
- 2. Does not fully comply with the Parks and Recreation Proffer Guidelines.
- 3. Detailed plans for Phase B for the Future Institutional building have not been finalized and include generous limits of clearing that could increase visibility of buildings from First Colony's entrance.
- 4. Does not provide a proffer for an archaeologist to monitor all onsite land disturbance as recommended by the NPS.

#### SUMMARY STAFF RECOMMENDATION

Approval of the proposed master plan amendment and rezoning and acceptance of the voluntary proffers. The Board of Supervisors will also jointly consider the height limitation waiver portion of this application, but those conditions have also been included as an attachment for informational purposes.

#### PLANNING AND ZONING HISTORY

- Greensprings Plantation was rezoned from A-1, General Agricultural and A-2, Limited Agricultural, to R-4, Residential Planned Community, with proffers in 1989.
- Amendments approved in 1992, 1993, 1997, 1998 and 1999.
- Approved master plan for Land Bay M-10 (1999) permits:

- 24 single-family detached units (Type A)
- o 76 multi-family attached, 2-4 units per building (Type B)
- 56 multi-family attached, more than four units per building, less than three stories (Type C)
- 144 multi-family attached, more than four units per building, over three stories (Type D)
- o 120 nursing beds
- o 10,000 square feet of associated commercial uses
- In 2012, the unit type definitions (Type A-D) were amended in the Zoning Ordinance and nursing and assisted living units were reclassified as institutional uses that are not included in the calculation of residential density.

#### **PROJECT DESCRIPTION**

- Re-states and amends proffers applicable to Land Bay M-10 only.
- Adjusts unit type definitions and reclassifies existing uses in Land Bay M-10 to conform to current Zoning Ordinance.
- Proposed master plan would permit:
  - o 24 single-family detached units (Type A)
  - o 8 multi-family, up to four units per building (Type B)
  - o 60 multi-family units, more than four units per building (Type C)
  - o 170 apartments (Type D)
  - o 236 institutional beds (assisted living and nursing)
  - o 10,000 square feet of associated commercial uses
- Increases permitted institutional units, but decreases the number of residential units (Type A-D).
- Results in a decrease in density from 3.39 du/acre to 2.96 du/ac.

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#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### **HEIGHT LIMITATION WAIVER**

- Includes 10-foot height waiver for four hybrid buildings that will be no taller than 70 feet in height above finished grade (which is the equivalent of 111 feet above mean sea level). Buildings will contain the 90 proposed independent living apartments.
- There is an existing 5-story building on the property that is slightly over 60-feet in height (see Attachment No. 10).
- The applicant conducted a balloon test in January and results are included in Attachment No. 9. The applicant also provided a viewshed exhibit in Attachment No. 5.
- Section 24-286 of the Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding:
  - 1. Structure is in accordance with uses, densities, design and traffic analysis on the master plan;

Staff finding: Owner has requested a master plan and proffer amendment to align the request with the master plan and satisfy this standard.

- 2. Structure will not obstruct light from adjacent property; Staff finding: Structures will be approximately the same height or shorter than surrounding existing trees.
- 3. Structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

Staff finding: Staff has worked extensively with the NPS to ensure that any concerns regarding potential visual impacts are addressed through proffers and architectural review. Please see Attachment No. 11 for letter from the NPS.

- 4. Structure will not impair property values in the area; Staff finding: The Director of Real Estate Assessments reviewed the proposal and determined that buildings will not negatively affect the surrounding property values.
- 5. Structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;

Staff finding: The Fire Department indicates that it has no concerns with the proposed buildings from a fire service standpoint.

6. Such structure will not be contrary to the public health, safety and general welfare.

Staff finding: Based on the current proposal and supporting information submitted by the applicant, staff finds that the proposed buildings will not unduly or adversely affect the public health, safety or general welfare.

#### SURROUNDING ZONING AND DEVELOPMENT

- Located on Route 5 near First Colony.
- Surrounding zoning designations include:
  - R-4, Residential Planned Community and PL, Public Land to the north and west (Greensprings Plantation, vacant)
  - o R-1, Limited Residential to the south (First Colony)
  - PL, Public Land to the north and east (Fire Station 5, Green Spring National Historical Landmark)

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.

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

#### **COMPREHENSIVE PLAN**

- Surrounding Comprehensive Plan designations include:
  - Rural Lands to the north and west
  - o Low Density Residential to the south
  - Open Space or Recreation to the east
- Designated Low Density Residential and Rural Lands on the 2035 Comprehensive Plan.
- Gross density between 1- and 4-units per acre are consistent when particular public benefits are provided.
- Continuing Care Retirement Communities are a Group 3 recommended use and may be approved if certain standards are met:
  - i. Complements the residential character of the area;
  - ii. Has traffic, noise, lighting and other impacts similar to surrounding residential uses;
  - iii. Generally located on collector or arterial roads at intersections;
  - iv. Acts as a transitional use between residential and commercial areas or, if located within a residential community, serves to complement the residential character of the area rather than altering its nature; and
  - v. Provides adequate screening and buffering to protect the character of nearby residential areas.

#### PUBLIC IMPACTS

- I. Anticipated impact on public facilities and services
  - a. Transportation:
    - A traffic impact study was completed for Greensprings Plantation in 1992 and various road improvements were proffered and completed to address the identified traffic impacts. The applicant compared the original 1992 trip generation for Land Bay M-10 with the proposal to demonstrate that the current project is expected to

generate fewer trips than originally anticipated for this Land Bay.

- The Board of Supervisors adopted a Route 5 Improvement Proffer Policy in 1996 that stated an intent for rezonings on the Route 5 corridor that increase trip generation to contribute cash or in-kind traffic mitigation. The proposed project is unlikely to have an appreciable impact over existing traffic.
- b. Schools:
  - Current and proposed proffers provide that no permanent resident of Patriot's Colony can be under the age of 18.
  - The Cash Proffer Policy for Schools indicates that the evaluation of a development's impact to schools is based on gross number of proposed dwelling units including any "age-restricted" units.
  - 90 residential apartments would be anticipated to generate 28 school children.
  - The application does not comply with the Cash Proffer Policy for Schools; however, the Board of Supervisors can evaluate applications individually and, in consideration of the proposal and proffers provided, determine if impacts to public schools have been mitigated.
- c. Utilities:
  - Project receives public water and sewer.
  - Proffers include development of water conservation standards and cash contributions for water.
  - The James City Service Authority has reviewed the master plan and proffers and concurs with the proposal.
- d. Parks and Recreation:
  - Application does not fully comply with the Parks and Recreation Proffer Guidelines, which were adopted after original approval for this development. Specific deficiencies are in the categories for biking/jogging trails

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.

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

(though there is a network of internal sidewalks and will be a connection to the Capital Trail), courts or pools (Patriot's Colony has a pool, but it does not meet the size standards in the guidelines) and multi-use fields.

- Patriot's Colony has numerous existing age-appropriate recreational amenities, such as a garden, putting green, pool and fitness center, that have been developed in consultation with residents and in accordance with 1999 proffers.
- II. Anticipated impact on environmental, cultural and historic resources
  - Application identifies and avoids Resource Protection Area and dedicates additional areas to permanent open space.
  - Project is located on a Community Character Corridor (CCC) designated as Wooded. Application proposed to retain a permanent wooded 150-foot CCC buffer.
  - Project is located adjacent to Green Spring National Historical Landmark, which is listed on the National Register of Historic Places. Application includes a 50-foot historical buffer with supplemental evergreen plantings and review of building materials and colors.
- III. Anticipated impact on nearby and surrounding properties
  - The applicant held a community meeting in January to address concerns of adjacent property owners and particularly residents in First Colony regarding visual impacts, noise, stormwater and traffic.

#### **PROPOSED PROFFERS**

Signed proffers have been submitted in accordance with the County's Proffer Policy and are provided as Attachment No. 4. In addition to proffers that have been restated from the original approval of the

Greensprings master planned community, the applicant has proposed the following:

- Conservation management plan for Northern long-eared bat.
- Planning Director review of building materials and colors and lighting limitations for facades facing Green Spring National Historical Landmark.
- Supplemental plantings in 50-foot historical buffer.
- Amendments to height restrictions within certain distances from Route 5.
- Water conservation standards.
- \$500 water contribution for each new independent living unit, assisted living unit and nursing bed.

#### **OTHER DISCUSSION**

The original Greensprings Plantation Master Plan accounted for significant residential development on Land Bay M-10. In subsequent amendments, the use of the Land Bay became the Patriot's Colony continuing care retirement community and the property has developed in-line with the approved master plan and proffers. Patriot's Colony is located along an arterial road with an entrance that aligns with Heritage Landing Road across the street. The developer has made several commitments to making sure Patriot's Colony is compatible with adjacent residential and historical uses such as building turn lanes to accommodate traffic, preserving large areas of open space and CCC buffers, providing buffering and architectural review to protect Green Spring National Historical Landmark, limiting on-site lighting and taking steps to reduce noise of generators and complying with natural resource and archaeological proffer policies. Staff finds that these commitments help make the plan compatible with the Low Density Residential Group 3 recommended uses.

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.

#### Staff Report for the March 2, 2016, Planning Commission Public Hearing

While the proposal does not meet all of the Board's adopted policies and guidelines, this is a unique application in that it amends an older master plan and proffers for a residential planned community and is a continuing care retirement center (CCRC) which offers a spectrum of services on-site ranging from age-restricted residential to institutional. Age-appropriate recreational amenities are provided based on input received from residents; however, the amenities are not in accordance with the Parks and Recreation Proffer Guidelines. The Guidelines were established to identify how residential development could help offset impacts to Parks and Recreation facilities. Patriot's Colony does not permit permanent residents under 18 years old, which is a demographic that is more likely to contribute to demand for multi-use fields and sport courts. By providing on-site amenities that are more age-appropriate and are vetted by residents, staff finds that the intent of the Proffer Guidelines are met even though the exact types and sizes of facilities that are specified in the Guidelines have not been provided.

The application also does not comply with the Housing Opportunities Policy either through providing housing at target amounts or through a cash-in-lieu contribution. CCRCs are not typical for-sale or for-rent market-rate housing units and have specific financial requirements for new residents due to the spectrum of services provided over the life of the resident. The applicant has indicated that Riverside does provide opportunities for residents to receive financial assistance to remain in their homes once they move to Patriot's Colony.

#### **STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and Zoning Ordinance. Staff recommends the James City County Planning Commission recommend approval of these applications and acceptance of the proffers to the Board of Supervisors. Please note that

no Planning Commission action is necessary for the height limitation waiver.

#### LP/nb

#### RZ05-15MP02-15-HW0215PatColony

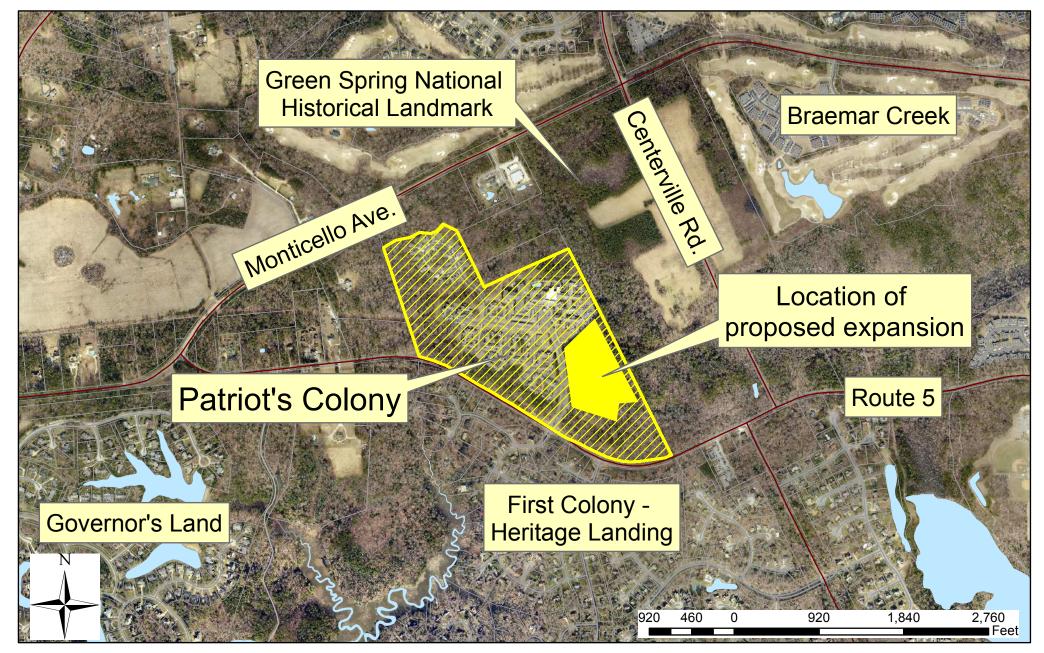
#### Attachments:

- 1. Location Map
- 2. Height limitation waiver conditions
- 3. Master Plan (under separate cover)
- 4. Proffers
- 5. Viewshed Exhibit (under separate cover)
- 6. Traffic Memorandum
- 7. Fiscal impacts worksheet
- 8. Hybrid building elevations
- 9. Photos from balloon test
- 10. Photos of existing 5-story apartment building
- 11. Letter from the National Park Service
- 12. Public comment from resident of First Colony

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.

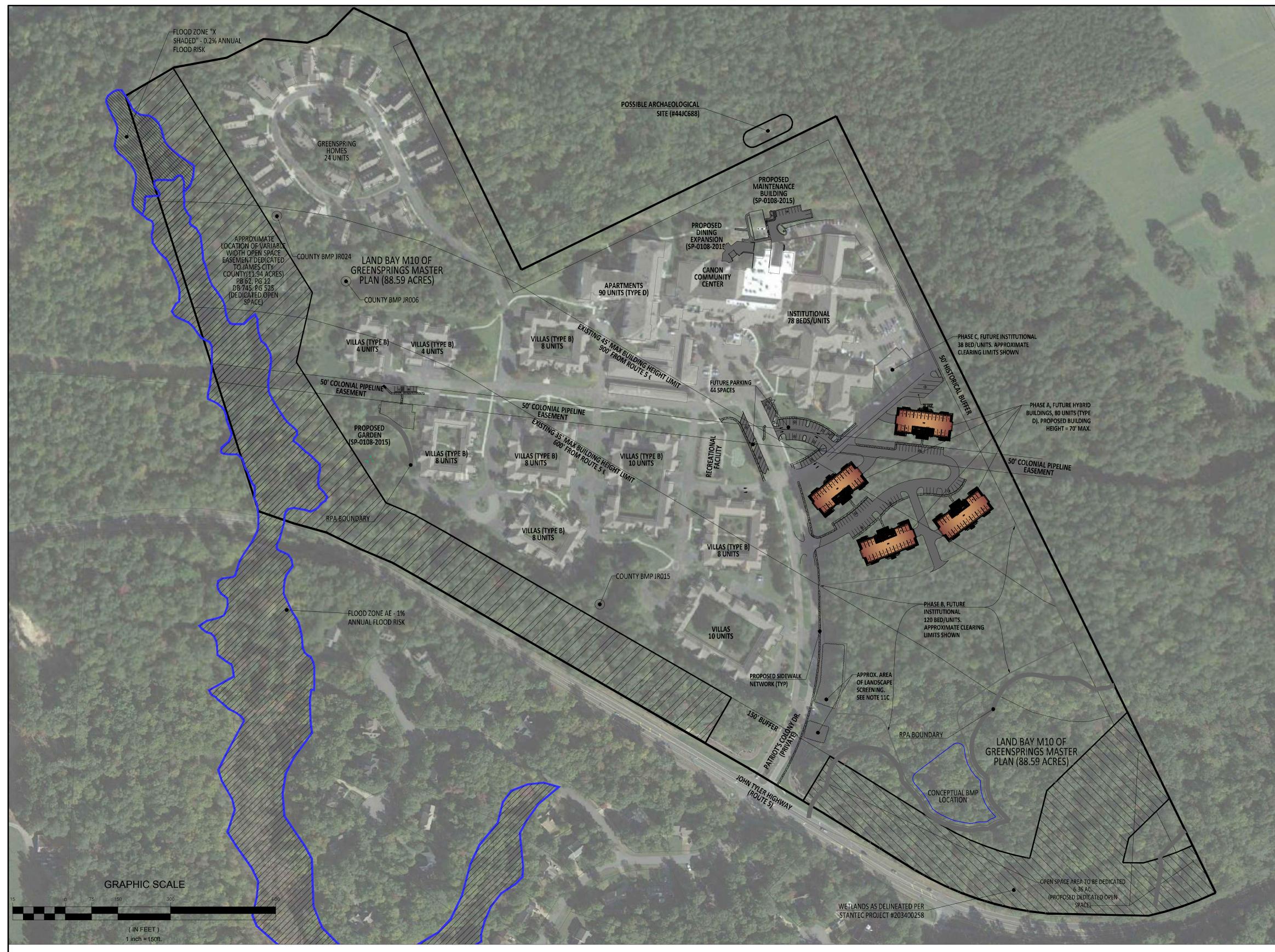
### Z-0005-2015, MP-0002-2015, HW-0002-2015 Patriot's Colony Expansion



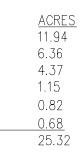


#### **Attachment 2: Proposed Height Limitation Waiver Conditions**

- 1. **Plan:** This Height Limitation Waiver (the "Waiver") shall be valid for a ten (10) foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of four (4) future hybrid buildings (the "Buildings") up to seventy (70) feet above finished grade on property zoned R-4, Residential Planned Community, further identified as James City County Real Estate Tax Map Parcel No. 4520100013, as generally shown on the plan prepared by Bowman Consulting, dated January 13, 2015 and entitled "Master Plan Patriot's Colony (Land Bay M-10 of Greensprings)" (the "Master Plan"). For the purposes of the Waiver, the maximum "finished grade" for the buildings shall be forty-one (41) feet above mean sea level. The height of the Buildings shall be calculated in accordance with the Zoning Ordinance definition for "Building, height of" in effect as of the adoption date of the Waiver.
- 2. Landscaping: The area along Patriot's Colony Drive that is shown on the Master Plan as "Approx. Area of Landscape Screening" shall be preserved and supplemented as needed and/or replanted with low, mid, and high canopy vegetation that is primarily evergreen to provide effective visual screening (the "Visual Buffer"). The Owner shall submit a landscape plan for the Visual Buffer for review and approval by the Director of Planning, or his designee, prior to final site plan approval for any portion of development of the area on the Master Plan identified as "Future Institutional, 120 beds/units proposed."
- 3. **Lighting:** No building-mounted lighting shall be installed on the side of the Buildings adjacent to the fifty (50) foot historical buffer as shown on the Master Plan (the "Historical Buffer"). Any parking lot lighting along the Historical Buffer shall be directed downward and shall not illuminate the vertical surfaces of the Buildings. The Owner shall demonstrate compliance with this by submitting a lighting plan for review and approval by the Director of Planning or his designee prior to final site plan approval for any building adjacent to the Historical Buffer.
- 4. **Severability:** This Waiver is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.



PARKING REQUIREMENTS					OPEN AREA:
UNIT TYPE	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED</u>	TOTAL	AREA
Single Family Detached (24, Type A) — 2 sp/unit	48	58		58	DEDICATED OPEN SPACE
Attached Multi-Family (8 Villas, Type B) — 1.5 sp/uni	t 12	153		153	PROPOSED DEDICATED OPEN SPACE
Multi-Family (60 units, Type C) - Min 0.76 sp/unit	46	121		121	HISTORICAL BUFFER
Multi-Family (90 tower units, Type D) - 1.5 sp/unit	135	142		142	GREEN BELT BUFFER RECREATIONAL/SPORT AREA
Multi-Family (80 hybrid units, Type D) — 1.5 sp/unit	120		139	139 (55 surface lot spaces + 84 garage spaces)	SITE WALKWAY/TRAIL NETWORK
Nursing Home (110 @ 1 sp/4 units + 1 sp/empl) (28	+30) 58		-	_	TOTAL
Assisted Living (126 @ 1 sp/4 units + 1 sp/empl) (3	2+30) 62		_	_	
Proposed Garden			6	6	SITE COVER TABULATIONS:
Proposed Maintenance Building			9	9	
Proposed Additional Parking Area			54	54	CONDITION
Total	481	474	208	682	EXISTING CONDITION
					site expansion (sp-0108-2015)
					FUTURE INSTITUTIONAL AND PARKING
					REZONING (HYBRID UNITS AND ASSOCI

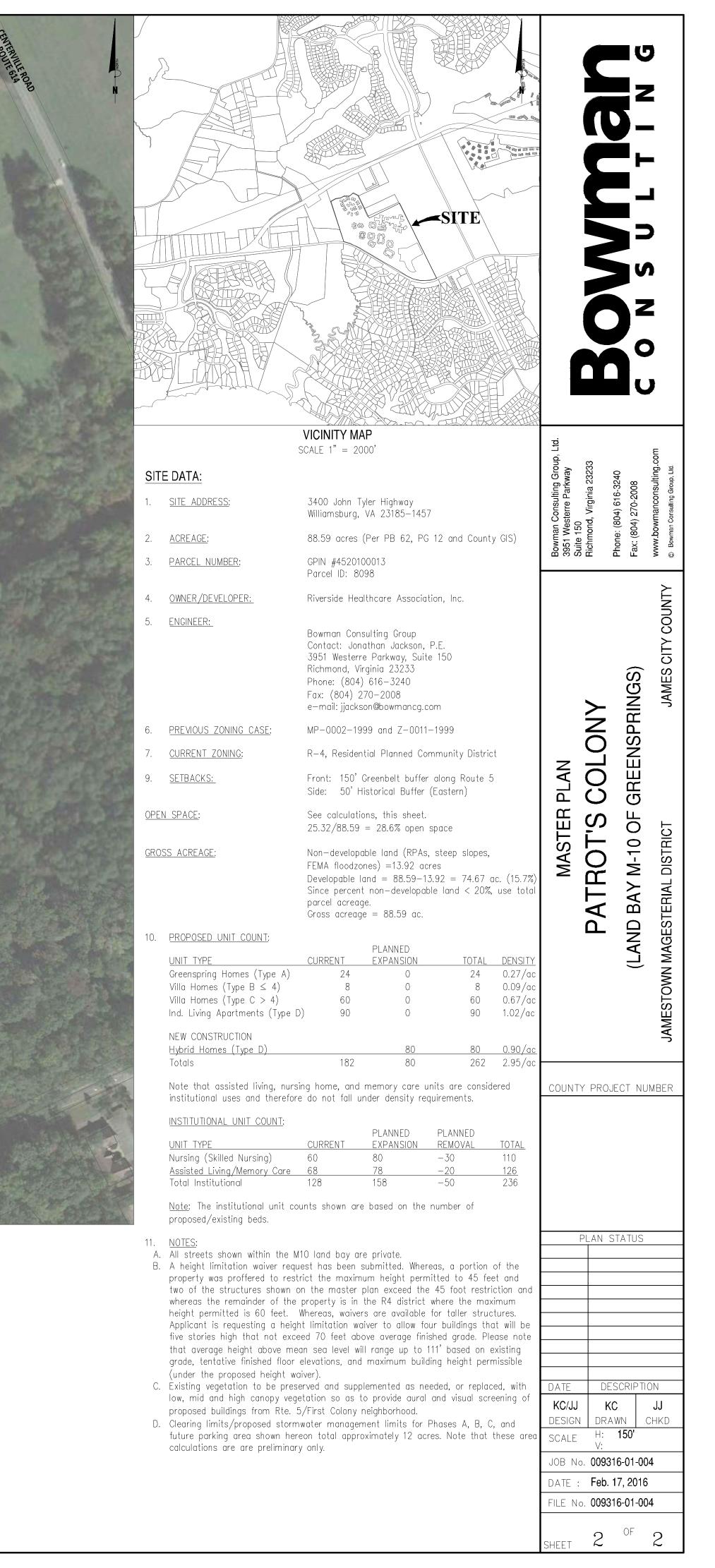


G EXPANSION CIATED PARKING) REZONING (LONG TERM CARE UNITS AND PARKING)

IMPERVIOUS AREA (AC) 16.74 17.24 17.78 19.94

71.85 71.35 70.81 68.65 NOT YET DETERMINED AT THIS TIME.

<u>PERVIOUS AREA (AC)</u> <u>TOTAL (AC)</u> 88.59 88.59 88.59 88.59



#### **RIVERSIDE HEALTHCARE**

#### **ASSOCIATION, INC. PROFFER AGREEMENT**

This Proffer Agreement is made as of this \_\_\_\_\_ day of February, 2016, by RIVERSIDE HEALTHCARE ASSOCIATION, INC., a Virginia corporation ("Owner") (to be indexed as grantor), and <u>JAMES CITY COUNTY VIRGINIA</u>, a political subdivision of the Commonwealth of Virginia (the "County") (to be indexed as grantee) and provides as follows:

#### **<u>RECITALS</u>**:

<u>R-1</u> Owner is the owner of certain real property containing  $88.59 \pm$  acres, more or less, located at 3400 John Tyler Highway and further identified as James City County Tax Map Parcel No. 4520100013, being the same property described in the deed dated February 9, 1995 recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Deed Book 726, page 629 (the "Boundary Deed") as more particularly set forth in <u>Exhibit A</u> (the "Property").

<u>R-2</u> Prior to Greensprings Plantation, Inc. ("Greensprings") conveying to Owner the Property, Greensprings applied for and the Board of Supervisors of James City County, Virginia (the "Board") granted a rezoning of the Greensprings property (including the Property) from Limited and General Agricultural Districts, A-2 and A-1 to Residential Planned Community District R4, with a master plan and proffered conditions as set forth in that certain Greensprings Proffer Agreement dated February 6, 1989 and recorded in the Clerk's Office in James City County Deed Book 427, page 466 (the "Original Proffer Agreement"). The Original Proffer Agreement and the original master plan have been amended from time to time and all such amendments are recorded in the Clerk's Office of James City County.

70 of 149

<u>R-3</u> Owner applied to the County for a fourth amendment to the master plan and the provisions of the Original Proffer Agreement as modified by the amendments referenced above. The Fourth Amendment to the Amended and Restated Greensprings Proffer Agreement is dated October 29, 1999 and recorded in the Clerk's Office as James City County Instrument No. 990025600 (the "Fourth Amendment"). Owner sought the Fourth Amendment in connection with approval of Phase II of the Patriot's Colony Continuing Care Retirement Community, as shown on the conceptual plan attached hereto as <u>Exhibit B</u> entitled "Patriot's Colony, Phase II, Continuing Care Retirement Community, Developer; Riverside Retirement Services, Inc., Berkeley District, James City County, Virginia" made by AES, Consulting Engineers (the "Conceptual Plan").

<u>R-4</u> Owner has applied to the County for an amendment to the existing master plan and the provisions of the proffers. The amendments requested by Owner are sought in connection with approval of the updated Master Plan for Patriot's Colony Continuing Care Retirement Community as shown on the plan attached hereto as <u>Exhibit C</u> entitled "Master Plan for Patriot's Colony (Land Bay M-10 of Greensprings) Jamestown Magisterial District, James City County, Virginia" made by Bowman Consulting and dated February 16, 2016 (the "Master Plan").

<u>R-5</u> This Proffer Agreement modifies certain proffers as they pertain to the Property and restates other proffers as they pertain to the Property. References to Owner in proffers below shall be read to refer to the record titleholder of the property affected by such proffers, whether Owner or its successors and assigns.

2

NOW, THEREFORE, and pursuant to Section 15.2-2303 of the Virginia Code Owner agrees that it shall meet and comply with the following proffers in developing the Property.

#### PROFFERS:

1. <u>Master Plan</u> The Master Plan for the Property shall be as set forth within that certain plan entitled "Master Plan for Patriot's Colony (Land Bay M-10 of Greensprings) Jamestown Magisterial District, James City County, Virginia" made by Bowman Consulting and dated February 16, 2016 (the "Master Plan") and attached hereto as <u>Exhibit C</u>.

2. <u>Number of Dwelling Units Land Bay M-10</u> The number of residential units within the Property as shown on the Master Plan as amended and submitted herewith shall be as follows:

Project Land Bay	roject Land Bay <u>R-4 Master Plan Designation</u>	
M-10	А	24
M-10	В	8
M-10	С	60
M-10	D	170

In addition in Project Land Bay M-10 there will be Institutional Uses not to exceed 236 Assisted Living Beds, Memory Care Beds, and Skilled Nursing Beds combined.

3. <u>Height Limitations</u> Any structure on the Property within 600 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed 35 feet in height. On the Property, any structure located in that area in between 600 feet from the centerline of Route 5 (John Tyler Highway) and 900 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed a maximum height of 45 feet. Provided, however, if Owner applies for and receives a height limitation waiver from the Board, the limitations set forth above shall not be applied.

3

4. <u>Historical Site Buffer</u> There shall be a 50-foot buffer (undisturbed and exclusive of any lots) along the eastern and western boundaries of the Greensprings National Historic Site subject only to appropriate stormwater management and utility improvements/easements as approved by the Development Review Committee (the "Historical Site Buffer"). During any construction on the Property that is in close proximity to the Historical Site Buffer, the Owner shall provide temporary fencing along the Historical Site Buffer in order to avoid damage to the Historical Site Buffer.

5. <u>Screening</u> Landscaped areas have been created as a part of development of the Property under the Conceptual Plan, so as to create an evergreen buffer and visual screening between buildings one (1) through four (4) inclusive shown on the Conceptual Plan and the Greensprings Plantation National Historic Site ("Historic Site") as shown on the Conceptual Plan. The landscaping and plantings within such areas shall be subject to approval by the County's Director of Planning (the "Director of Planning") prior to final site plan approval. Furthermore, landscaped areas shall be created as part of future development of the Property under the Master Plan, so as to create an evergreen buffer and visual screening between the buildings shown on Phase A, Phase B and Phase C of the Master Plan and the Historic Site. Lower ever-green plantings shall be integrated within the 50 foot Historical Site Buffer so as to provide additional screening. The landscaping and plantings within such area shall be subject to approval by the Director of Planning prior to final site plan approval.

6. <u>Building Materials</u> Exterior building/siding materials employed in buildings one (1) through six (6) inclusive shown on the Conceptual Plan shall be of brick or other non-glossy materials which are dark, naturally occurring colors, on such surfaces which front upon, face or are visible from the Historic Site. Samples of such building materials and colors shall be

approved by the Director of Planning prior to final site plan approval. Trim colors shall be a neutral color and shall be approved by the Director of Planning prior to site plan approval. Furthermore, exterior building/siding materials employed on the buildings shown as Phase A, Phase B and Phase C of the Master Plan shall be of brick or other non-glossy materials which are earth tone, naturally occurring colors on such surfaces which front upon, face or are visible from the Historic Site. Samples of such building materials and colors shall be approved by the Director of Planning prior to final site plan approval. Trim colors shall be a neutral color and shall be approved by the Director of Planning prior to site plan approval.

7. <u>Changes in Conceptual Plan and Master Plan</u> Owner may from time to time in final plats or site plans submitted to the County, relocate the specific uses shown on the Conceptual Plan and the Master Plan provided (a) that such uses are permitted by the County Zoning Ordinance, the Master Plan, and these Proffers, and (b) that the Director of Planning determines that such relocations do not alter the basic concept or character of the development shown on the Conceptual Plan and the Master Plan.

8. <u>Commercial Uses in the Property</u> Any accessory commercial uses located on the Property, such as bank offices, beauty salons, and barbershops, shall be located and designed to serve residents of the Property. Commercial uses shall not be advertised from any public right-of-way.

9. <u>Residency Agreement</u> Prior to the start of construction on the Property, Owner shall submit to the County a copy of the agreements between Owner and the future residents of the Property which agreements shall provide that permanent residents under the age of 18 (or such higher age determined by Owner) shall not be permitted on the Property.

10. <u>Water Conservation</u> Owner shall be responsible for developing and enforcing water conservation standards applicable to the Property, which standards shall be submitted to and approved by the James City Service Authority (the "JCSA") in accordance with the Water Conservation Guidelines adopted by the Board on November 27, 2007. The standards shall address, but not be limited to, such water conservation measures as limitations on the use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances all in an effort to promote water conservation and to eliminate the use of public water resources. The standards shall be submitted to and reviewed by the County Attorney for general consistency with this proffer and shall be approved by the JCSA prior to final development plan approval.

11. <u>Contributions to the JCSA</u> A contribution shall be made to the JCSA in the amount of Five Hundred Dollars (\$500.00) for each new independent living unit, assisted living unit and nursing bed constructed as shown on the Master Plan (the "Per Unit Contribution"). The JCSA shall make these monies available for development of water supply alternatives, the need for which is generated by the development of the Property. In the event the monies are not used by the JCSA for the purpose designated within ten years from the date of receipt by the JCSA, the amounts not used shall be used at the discretion of the Board of Directors of the JCSA for any other project in the JCSA's capital improvement plan, the need for which is generated by the development of the Property.

A. Such Per Unit Contribution shall be payable for each of the independent living units, additional assisted living units and the additional nursing beds developed within the Property after the completion of final inspection and prior to the time of the issuance of a

certificate of occupancy by the County for any particular independent living unit, assisted living unit or bed or any grouping, phase, or section of assisted living units or beds.

B. The Per Unit Contribution(s) paid in each year shall be adjusted annually beginning January 1, 2017, to reflect any increase or decrease for the proceeding year in the Marshall & Swift Building Cost Index (the "MSI"). In no event shall the Per Unit Contribution be adjusted to a sum less than Five Hundred Dollars (\$500.00) per additional independent living unit, assisted living unit and nursing bed. The adjustment shall be made using Section 98, Comparative Cost Multipliers, Regional City Averages of the MSI. In the event a substantial change is made in the method of the establishing the MSI, then the Per Unit Contribution shall be adjusted based upon the figure that would have resulted had no changes occurred in the manner of computing MSI. In the event that the MSI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the MSI, approved in advance by the County's 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.

12. <u>Archaeological Sites</u> A Phase I Archaeological Study of the Property was conducted which met the guidelines set forth in the Virginia Department of Historic Resource's <u>Guidelines for Preparing Archaeological Resource Management Records</u> and conducted under the supervision of a qualified archaeologist who met, at a minimum the qualifications set forth in the Secretary of the Interior's <u>Professional Qualification Standards</u>. The phase I Archaeological Study was prepared and previously submitted to and approved by the Director of Planning. Owner, at its expense, shall undertake a Phase II and/or, subject to the following sentence, a Phase III study of archeological sites identified in the Phase I study, if identified by the Phase I

study heretofore submitted as warranting any Phase II or Phase III study, and shall submit such studies to the Director of Planning for review and approval prior to any land disturbing on or adjacent to such sites. Owner may at its option leave undisturbed an archaeological site planed for development in lieu of performing a Phase III study thereon. The recommendations of such studies shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon. If as a result of a Phase II study of a site, the Director of Planning determines the site is eligible for inclusion in the National Register of Historic Places based on the criteria established by the Department of the Interior, Owner shall develop and implement a plan for inclusion of the site on the National Register of Historic Places and for the mitigation of potential adverse impacts on the site. All sites to be left undisturbed or upon which a Phase III study is to be conducted shall be protected from development activities by temporary fencing until development activities adjacent to the site or the Phase III study, as the case may be, is complete.

If a previously unidentified archeological site is discovered during land disturbing activities, all construction work involving subsurface disturbance will be halted in the area of the site and in the surrounding area where further subsurface remains can reasonably be expected to occur and Owner will immediately notify the Director of Planning or his designee of the discovery. The Director of Planning or his designee, or an archeologist approved by him, will immediately inspect the work site and determine the area and the nature of the affected archeological site and its potential eligibility for inclusion on the National Register of Historical Places. Construction work may then continue in the project area outside the archeological site. Within 15 working days of the original notification of discovery, the Director of Planning or his designee shall determine the National Register eligibility of the site. The Director of Planning or his

his designee may extend this 15 working day period for determining the National Register eligibility one time by an additional 5 working days by written to Owner prior to the expiration date of said 15 working day period.

If the site is determined to meet the National Register Criteria (36 CFR Part 60.0), Owner shall, at its expense, prepare a plan for its avoidance, protection, recovery of information, or destruction without data recovery. The plan shall be approved by the Director of Planning or his designee prior to implementation. Work in the affected area shall not proceed until either (a) the development and implementation of appropriate data recovery or other recommended mitigation procedures, or (b) the determination is made that the located remains are not eligible for inclusion on the National Register.

13. <u>Route 5 Greenbelt</u> Owner shall designate 150- foot greenbelt buffers along the Property's Route 5 frontage measured from the existing Route 5 right-of-way. The greenbelt buffers shall be exclusive of any lots and, except as set forth below, shall be undisturbed. Utilities, drainage improvements, community entrance roads as shown generally on the Master Plan (limited to one entrance to the Property), pedestrian/bicycle trails, and signs shall be allowed in the greenbelt buffer as approved by the Development Review Committee.

14. <u>Multi-Family Neighborhood Recreation Centers</u> Currently there are recreational facilities located within the Property. Any future recreational facilities on the Property shall be determined by the Owner following consultation with the residents of the Property. Any new recreational facilities shall be shown on the site plans for the Property and prior to approval of the site plan, the Owner shall provide evidence of consultation with the residents of the Property (in the form of meeting minutes or a letter) to the Director of Planning or his designee.

15. Lighting No building-mounted lighting shall be installed on the side of any of

the buildings shown on Phase B of the Master Plan that are adjacent to the Historical Site Buffer. Any parking lot lighting along the Historical Site Buffer shall be directed downward and shall not illuminate the vertical surfaces of the buildings shown on Phase B of the Master Plan. The Owner shall demonstrate compliance with this by submitting a lighting plan for review and approval by the Director of Planning or his designee prior to final site plan approval for any building in Phase B of the Master Plan adjacent to the Historical Site Buffer.

16. <u>Restrictions on Timeshare</u> Owner shall not create or operate a "time-share project" as defined in the Virginia Real Estate Time-Share Act, <u>VA</u>. <u>Code</u> 55-360 <u>et. seq.</u> on the Property.

17. <u>Major Open Space</u> Areas shown on the Master Plan listed as Dedicated Open Space and Proposed Dedicated Open Space (collectively "Open Space") and within subdivisions or sites shown on the subdivision plat or site plan as green space areas shall be exclusive of any lots and undisturbed, except as provided below. With the prior approval of the Director of Engineering and Resource Protection or his designee on a case by case basis, (i) dead, diseased, and dying trees or shrubbery and invasive or poisonous plants may be removed from such areas; (ii) select hand clearing and pruning of trees shall be permitted in such areas to permit sight lines or vistas; and (iii) utilities, stormwater best management practices, roads, pedestrian and golf cart paths, trails, and bridges may intrude or cross such areas. If vegetation is removed from such areas it shall be replaced by vegetation that is equally or more effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution. Utility crossings shall be generally perpendicular through such areas and Owner shall endeavor to design utility systems that do not intrude into such areas. All such Open Space and green space areas and other common areas shall be maintained by Owner.

18. <u>Natural Resource Policy</u> Owner has conducted a habitat study and determined that the habitat for the Northern long-eared bat (Myotis septentrionals) currently is present on the Property. For so long as the habitat for the Northern long-eared bat is present on the Property, Owner shall comply with the tree clearing restrictions for the Northern long-eared bat as promulgated by the U.S. Army Corps of Engineers. In addition, Owner shall submit its conservation management plan with regard to the Northern long-eared bat to the Director of Planning for approval prior to the issuance of a land disturbing permit for Phase A, Phase B, or Phase C of development as shown on the Master Plan.

19. <u>Conflicts</u> In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Zoning Appeals, Board of Supervisors, and the Courts, or as otherwise provided by law.

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

21. <u>Severability</u> In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged 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 such clause, sentence, paragraph, section or provision hereof.

22. <u>Headings</u> All section and subsection headings of Proffers herein are for convenience only and are not a part of this Agreement.

23. <u>Conditions Applicable Only to the Property</u> Notwithstanding anything in the Proffers, as hereby supplemented and modified, to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Owner or its successors in interest to develop its other property in accordance with the other applicable provisions of the Zoning Ordinance.

24. <u>Recitals</u> The Recitals set forth above shall be included and read as a part of these Proffers and are incorporated herein by reference.

WITNESS the following signatures, thereunto duly authorized:

#### [SIGNATURE PAGES TO FOLLOW]

[Signature page to the Proffer Agreement.]

RIVERSIDE HEALTHCARE ASSOCIATION, INC., a Virginia corporation, By:\_\_\_\_ ade Name: Wade D. Broughman Title: Chief Operating Officer

# COMMONWEALTH OF VIRGINIA AT LARGE, to-wit:

The Februar known to Chief Opene behalf.	e foregoing instrument was a y, 2016, by <u>Wode</u> b me, or who □ produced _ WyOGCof Riverside Healthcar	cknowledged before Broughman e Association, Inc., a	me this the 1643 day of , who 🕱 is personally as identification, as Virginia corporation, in its
	KELLY A. TAYLOR Notary Public Commonwealth of Virginia 7528554 My Commission Expires Nov 30, 2016	Kelin	Notary Public
	ission expires: <u>November 30</u> ation number is: <u>75 78554</u>	2016	

[Signature page to the Supplemental and Amendatory Proffer Agreement.]

COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By:		
Name:		
Title:		

#### COMMONWEALTH OF VIRGINIA CITY/COUNTY OF \_\_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_\_, 2016, by \_\_\_\_\_\_\_, who □ is personally known to me, or who □ produced \_\_\_\_\_\_\_ as identification, as \_\_\_\_\_\_ of the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia, in its behalf.

My commission expires: \_\_\_\_\_

Notary Public

My registration number is:

APPROVED AS TO FORM:

County Attorney

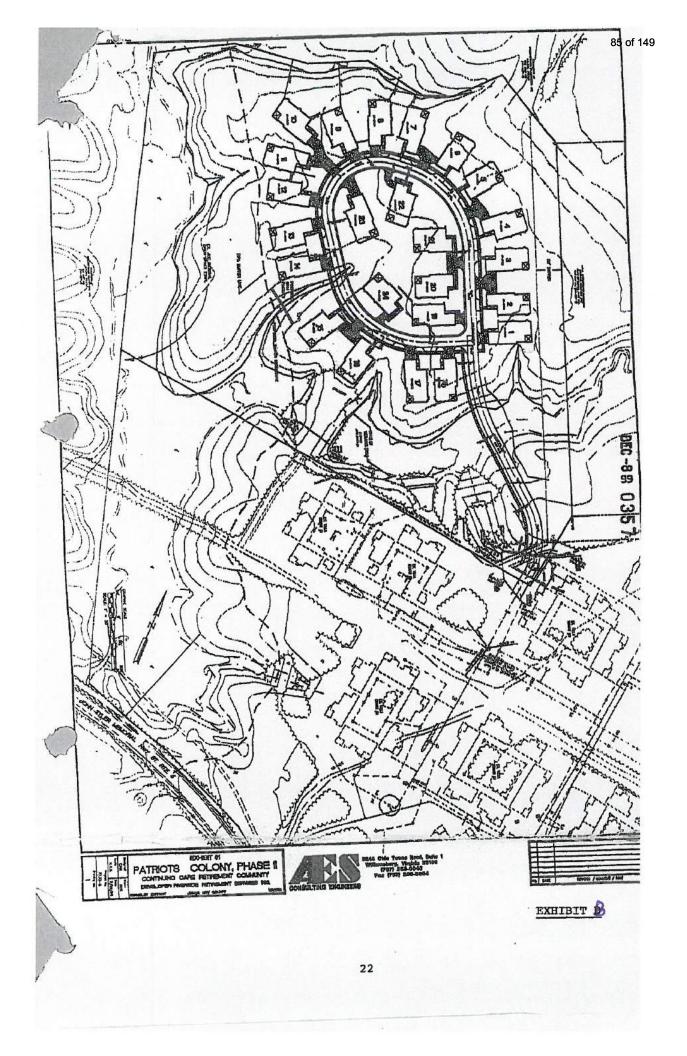
#### Exhibit A

All that certain lot, piece or parcel of land located in the Berkley District of the County of James City, and more particularly shown on the plat entitled "Plat of Subdivision, A Parcel Containing 89.404 Ac. Being a Portion of the Property Owned by Greensprings Plantation, Inc.", dated November 22, 1994, and made by AES, Consulting Engineers, Williamsburg, Virginia, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City in Plat Book 60, page 100.

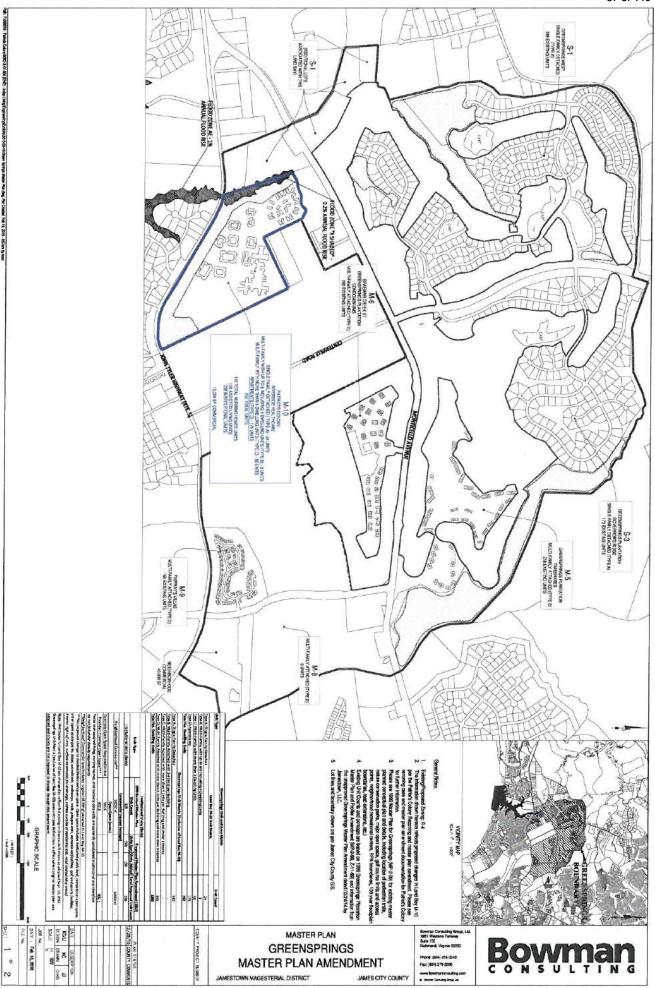
### Exhibit B

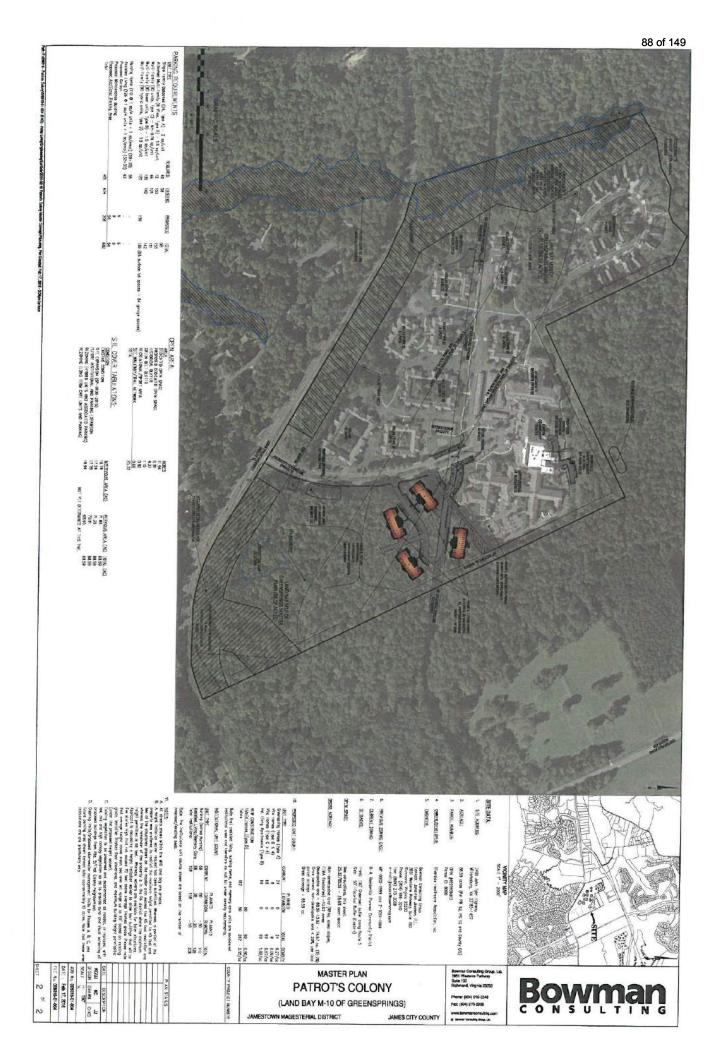
### Conceptual Plan

See Attached



#### Exhibit C Master Plan See attached









-View Corridor C - Sight Line to Existing 61' Tall Building (700')

**General Limits of** Clearing (typical)

PROPOSED AREA OF REZONING

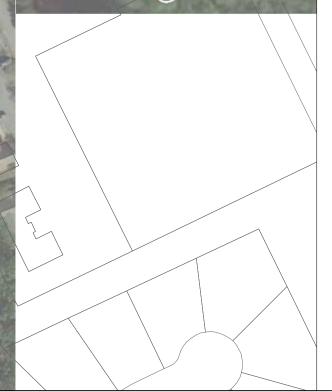
-View Corridor B -Sight Line from Route 5/Patriot's Colony Entrance (773')

-View Corridor A - Sight Line from Greensprings Plantation, Western Tree Line (1300').

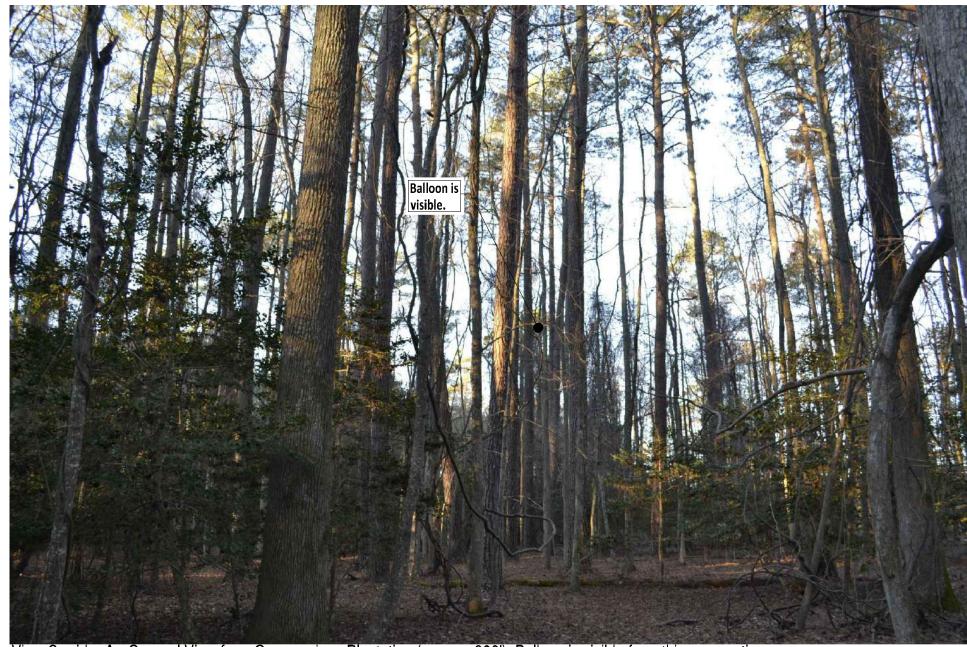
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ROUTEGIA





Patriot's Colony Viewshed Exhibit (Sheet 1 of 3) SCALE: 1" = 150' DATE: February 10, 2016



View Corridor A - General View from Greensprings Plantation (approx. 306'). Balloon is visible from this perspective.



View Corridor B - View from Route 5/Patriot's Colony Entrance





View Corridor A - 709' away from proposed structure. Balloon not visible from this perspective.

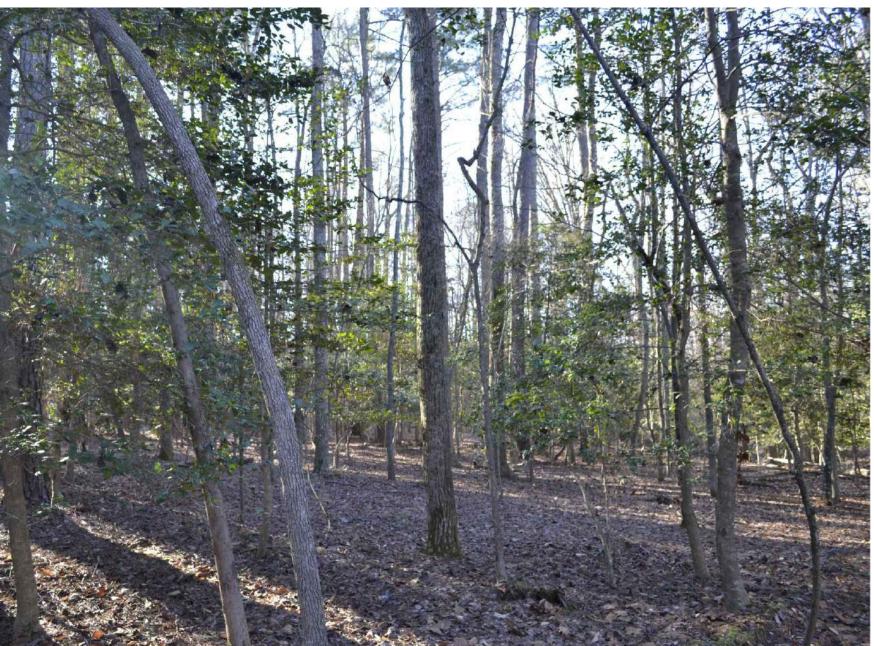


View Corridor C - 500' away from existing structure. Existing roof line is visible.



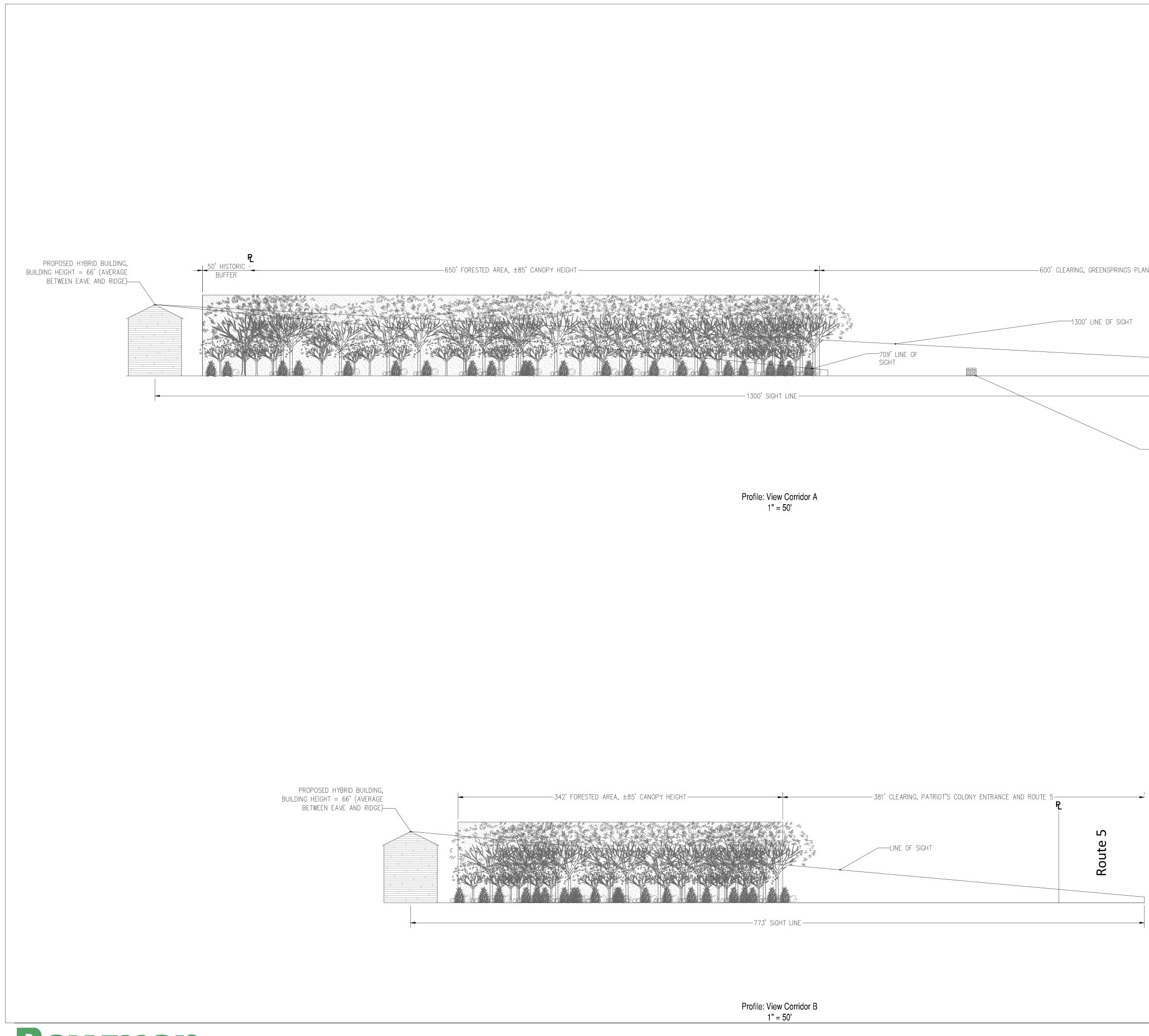


View Corridor A - General View from Greensprings Plantation (approx. 1,300'). Balloon not visible from this perspective.



View Corridor C - 700' away from proposed structure. Existing roof line is not apparent.

Patriot's Colony Viewshed Exhibit (Sheet 2 of 3) SCALE: 1" = 150' DATE: February 10, 2016





3951 Westerre Parkway, Suite 150 Richmond, Virginia 23233

NTATION ———			-

Road

ville

te

Ce

—APPROX. LOCATION OF HISTORIC REMAINS



#### MEMORANDUM

TO:	Leanne Pollock
FROM:	Dexter R.Williams
SUBJECT:	Trip Generation For Patriots Colony
	November 7, 2015

Patriot's Colony is a senior living and care facility operated by Riverside Health System. It was originally zoned as part of a Master Plan for Greensprings. Patriot's Colony constitutes Land Bay M-10 of the Greensprings Master Plan.

The Rt. 5 Traffic Study dated March 1992 that you provided included daily trip generation for the entire Greensprings development and not for individual land bays. It cited proposed development (at that time) for Greensprings that included 540 single family units and 913 multi-family units with total daily trip generation of 10,507 vehicles using <u>Trip Generation</u>, <u>5th Edition</u> (TG5). No breakout for different residential types was not included nor was peak hour trip generation included.

Using TG6 (the oldest Trip Generation version I have), I applied conventional single family ITE Code 210 (540 units) and apartment ITE Code 220 (913 units) daily trip generation equations and calculated a total residential daily trip generation for the 1992 Greensprings development of 10,598 vehicles. This is very close to the total daily trip generation cited in the 1992 study and I think it is safe to conclude that the 1992 trip generation for Greensprings used these two conventional trip generation land uses.

Your research showed that Greensprings Master Plan Land Bay M-10 had 248 multi-family units (conventional apartment trip generation) in the 1992 traffic study. Rezonings in 1993 and 1999 had various descriptions of land uses for Land Bay M-10 but no updated trip generation has been provided for either of those rezonings.

2319 Latham Place Midlothian, VA 23113

phone 804-794-7312 fax 804-379-3810 The following table shows the current development inventory proposed for rezoning in Patriot's Colony:

PATRIOT'S COLONY MASTER PLAN SEPTEMBER 2	9, 2015	LAND USE TRIP	GENER	RATION
Unit Type	Total	Trip Generation Manual, 9th Edition		
Existing Improvements		Land Use	Code	Variable
Independent Living Apartments (Type D)	90	Sr. Adult Attached	252	Unit
Villa Homes (Type B)	68	Sr. Adult Attached	252	Unit
Greensprings Homes (Type A)	24	Sr. Adult Detached	251	Unit
Assisted Living (Type C)	62	Assisted Living	254	Bed
Memory Care - Existing Building	D	Assisted Living	254	Bed
Convalescent Center Skilled /LTC Beds (convert existing to 30 private rooms for rehab)	30	Assisted Living	254	Bed
New Construction				
Hybrid Homes (5 Bldgs@ 12units ea.)	80	Sr. Adult Attached	252	Unit
Small House - LTC Beds (3 - 20 bed neighborhoods) (SNF)	60	Assisted Living	254	Bed
Assisted Living Expansion (Type C)	24	Assisted Living	254	Bed
Small House - Memory Care ( 3 - 20 bed neighborhood) (SNF)	60	Assisted Living	254	Bed
Maintenance Building (4500 GSF)	4500 SF			
Totals	498			

## TABLE ONE: PATRIOT'S COLONY PROPOSED DEVELOPMENT INVENTORY AND TRIP GENERATION LAND USE TYPES

The following table compares trip generation for Patriot's Colony (Greensprings Land Bay M-10) for the 1992 traffic study and for the proposed development plan using the current <u>Trip</u> <u>Generation Manual 9th Edition</u>:

		LAND			W	EEKD.	AY TRI	P GENE	RATIO	DN	- 101
		USE			AMP	EAK F	IOUR	PM P	EAK H	IOUR	
VALUE	LAND USE	CODE	UN	ITS	Enter	Exit	Total	Enter	Exit	Total	DAILY
1992 MAS	STER PLAN 248 CON	VENTION	AL UNIT	rs		_	1.5				
eqadj. st.	Apartment	220	248	units	25	100	125	100	54	154	1626
PROPOSI	ED DEVELOPMENT	PLAN			100						
rate-adj. st.	Sr. Adult Detached	251	24	units	2	3	5	4	2	6	88
eqadj. st.	Sr. Adult Attached	252	238	units	16	31	47	32	27	59	730
rate-adj. st.	Assisted Living	254	236	occ.bed	29	13	42	34	34	68	647
			498	UNITS	47	47	94	70	63	133	1465

TABLE TWO: PATRIOT'S COLONY TRIP GENERATION

The proposed development plan for Patriot's Colony does not increase trip generation for Patriots' Colony relative to the 1992 traffic study peak hour and daily total traffic.

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Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

### FISCAL IMPACT WORKSHEET AND ASSUMPTIONS

Please complete all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions please contact the Planning Office at 757-253-6685 or planning@jamescitycountyva.gov

1a)	PROPOSAL NAME:
1b)	Does this project propose residential units? Yes No (if no, skip Sec. 2)
1c)	Does this project include commercial or industrial uses? Yes No (If no, skip Sec. 3)

#### Fiscal Impact Worksheet Section 2: Residential Developments

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single-Family Detached	Apartment	
Townhome/Condominium/Single-Family	Manufactured Home	
Total Dwelling Units		

Are any units affordable? Yes 🗌 No 🗌 (If yes, how many?)\_\_\_

#### **Residential Expenses – School Expenses**

2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single-Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c) TOTAL SCHOOL EXPENSES. *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses
	\$5920.16	\$2176.06	\$8096.22	\$

#### **Residential Expenses - Non-School Expenses**

2d) TOTAL POPULATION GENERATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	<b>Total Population Generated</b>
	2.45	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

Total Population Generated	Per-Capita Non-School Expenses	Total Non-School Expenses
	\$640.98	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses		Non-School Expenses	Total Residential Expenses
\$	6	\$	\$

#### **Residential Revenues**

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single-Family Detached		\$	\$
Townhome/Condo/Multi-family		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate blow.

Total Market Value		Real Estate Tax Rate	Total Real Estate Taxes Paid
\$		.0084	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

	Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
9	5	0.15	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$	.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	<b>\$2000/acre</b> (prorated)	\$

21) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	<b>Total Assessed Value</b>	Real Estate Tax Rate	Total HOA Taxes Paid
		.0084	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

 Total Residential Revenues
 \$

2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential	<b>Total Residential Revenues</b>	Total Residential Fiscal Impact
		\$

#### Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments

#### **Commercial and Industrial Expenses**

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? \_\_\_\_\_\_\_ (Include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall). 3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
\$1	0.0045	\$

#### Commercial & Industrial Revenues

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. Estimate the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0084	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business Name	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
Total:		N/A	\$

3g) TOTAL SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Тах Туре	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

3h) TOTAL BUSINESS LICENSES FEES PAID. Estimate each business element's total gross sales. Multiply each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Proposed Business Name(s)	Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
	Professional Services		0.0058	
	Retail Services		0.0020	
	Contractors		0.0016	
	Wholesalers		0.0005	
	Exempt*		No fee due	
	Other Services		0.0036	
	Total	N/A	N/A	\$

3i) TOTAL COMMERCIAL AND INDUSTRIAL REVENUES. *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

#### **Total Commercial and Industrial Revenues**

3j) COMMERCIAL FISCAL IMPACT. *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

\$

3k) TOTAL PROPOSED FISCAL IMPACT. *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	<b>Commercial Fiscal Impact</b>	Total Proposed Fiscal Impact
		\$

#### Fiscal Impact Analysis Worksheet Section 4: Current Land Use

<u>**Current Residential Use**</u> (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single-Family Detached	Apartment
Townhome/Condominium/Single-Family Attached	Manufactured Home
Total Dwelling Units	

#### **Residential Expenses - School Expenses**

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single-Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

#### **Residential Expenses - Non-School Expenses**

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.45	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$640.98	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

Sch	ool Expenses	Non-School Expenses	Residential Expenses
\$		\$	\$

#### **Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <u>http://property.jccegov.com/parcelviewer/Search.aspx</u>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid	
	.0084	\$	

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid	
	0.15	\$	

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid	
	.09	\$	

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

<b>Total Current Residential Revenues</b>	\$
---	----

4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential	Total Residential Revenues	Total Residential Fiscal Impact	
		\$	

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	<b>Current Residential Impact</b>	Final Residential Fiscal Impact	
		\$	

#### **Current Commercial Use**

Current Commercial Expenses (if there are no current businesses or commercial properties, skip to (5k).

- 5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties? \_\_\_\_\_(Include all businesses that rent or lease space at the location).
- 5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

#### **Current Commercial Revenues**

5c) TOTAL CURRENT ASSESSMENT VALUE. Search for each commercial property included in the proposal on the Parcel Viewer at <u>http://property.jccegov.com/parcelviewer/Search.aspx</u>. Indicate each property's total assessment value below. Then, add total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0084	
		.0084	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business	Personal Property	Machinery and Tools Tax
	Capitalization	Tax Rate	Paid
		0.01	\$

5f) TOTAL CURRENT SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

5g) TOTAL CURRENT BUSINESS LICENSES FEES PAID. *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) TOTAL CURRENT COMMERCIAL REVENUES. *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

<b>Total Current Commercial Revenues</b>	\$

5i) CURRENT COMMERCIAL FISCAL IMPACT. *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact			
		\$			

5j) FINAL COMMERCIAL FISCAL IMPACT. *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact		
		\$		

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact		
		\$		

#### Fiscal Impact Worksheet Section 6: Phasing

#### **Residential Phasing**

6a) Copy *and paste* the residential phasing template from the accompanying Excel sheet to the page below.

#### **Commercial Phasing**

6b) *Copy* and *paste* the commercial phasing template from the accompanying Excel sheet to the page below.

#### **Final Phasing Projections**

6c) *Copy* and *paste* the final phasing projection from the accompanying Excel sheet to the page below.

#### Fiscal Impact Worksheet Section 7: Employment

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

#### **Phasing - Residential Phasing**

6a) When will proposed residential units be built?

#### Total Units Proposed

80

	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Homes Built	80					80
Total Res Exp	\$ 89,737.20	\$ 89,737.20	\$ 89,737.20	\$ 89,737.20	\$ 89,737.20	
Per Unit Exp	\$ 1,121.72	\$ 1,121.72	\$ 1,121.72	\$ 1,121.72	\$ 1,121.72	\$ 1,121.72
Total Res Exp	\$ 89,737.20	\$ -	\$ -	\$ -	\$ -	\$ 89,737.20
Total Res Rev	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	
Per Unit Rev	\$ 2,640.46	\$ 2,640.46	\$ 2,640.46	\$ 2,640.46	\$ 2,640.46	\$ 2,640.46
Total Res Rev	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	\$ 211,236.48	\$ 1,056,182.40
Per Unit Impact	\$ (1,518.74)	\$ (1,518.74)	\$ (1,518.74)	\$ (1,518.74)	\$ (1,518.74)	\$ (1,518.74)
Res Impact	\$ (121,499.28)	\$ (121,499.28)	\$ (121,499.28)	\$ (121,499.28)	\$ (121,499.28)	\$ 121,499.28

#### **Phasing - Commercial Phasing**

6b) When will proposed commercial units be built?

Total New Businesses					2
		Year 1		Year 2	Buildout
Bus Built		1		1	2
Bus Exp	\$	46,725.00	\$	46,725.00	
Per Bus Exp	\$	23,362.50	\$	23,362.50	
Year Bus Exp	\$	23,362.50	\$	23,362.50	
Bus Rev	\$	103,200.00	\$	103,200.00	
Per Bus Rev	\$	51,600.00	\$	51,600.00	
Year Bus Rev	\$	51,600.00	\$	51,600.00	
Bus Impact	\$	28,237.50	\$	56,475.00	

6c) What is the final phasing projection?

	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Res Impact	\$ (121,499.28) \$	(121,499.28)	5 (121,499.28)	\$ (121,499.28)	\$ (121,499.28) \$	(121,499.28)
Bus Impact	\$ 28,237.50 \$	56,475.00 \$	56,475.00	\$ 56,475.00	\$ 56,475.00	
Final Impact	\$ (93,261.78) \$	(65,024.28)	65,024.28)	\$ (65,024.28)	\$ (65,024.28)	

#### **Employment**

7a) How many fill-time equivalent jobs (FTE) will be generated from the proposal? What will be the average payroll?

	Business	FTE Jobs Generated	Average Payroll
1	PCAW	5	
2	Long term care (	60	\$ 1,726,515.00
3	AL Exp	15	<mark>\$ 431,628.75</mark>
4			\$ -
5			\$ -
6			\$-

#### **DEFINITIONS AND ASSUMPTIONS**

<u>Apartment</u> – A building used, or intended to be used as the residence of three or more families living independently of each other. Tenants have no equity in the dwelling.

<u>Assessment Value</u> – Assessment value is assumed to be within 1% of market value. Market value drives assessment value.

**<u>Buildout</u>** – All data and assumptions reflect the fiscal impact of the proposal at buildout.

<u>**Commercial Expense Rate**</u> – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method businesses are collectively responsible for contributing 15% of the non-school budget (\$10,391,694).

Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.0045. This rate assumes that the costs of providing County services to a business are directly correlated with that business's property assessment. This assumes more valuable properties have generally more intense uses incurring greater County expenses.

 $\underline{Condominium}$  – A building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis.

<u>Contractor</u> – Any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys or highways, any excavation of earth, rock or other materials, any construction of sewers and any installation of interior building components.

**Direct Impact** – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools and as such, does not make a determination whether any type of development "should" happen based solely on that proposal's fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the state, remain uncounted.

**<u>Dwelling</u>** – Any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses and tourist cabins.

**<u>Exempt</u>** – Certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes and gasoline sales.

<u>Fees & Licenses</u> – All fees collected by the County, including business and professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses and motor vehicle licenses, are deducted from the per-capita and per-business budgetary costs of each department that collects them.

**Fiscal Impact Analysis** – The County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County's budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from myriad sources, often within the County, which were difficult to verify. The fiscal impact worksheet allows consistency across multiple fiscal impact studies.

**Fiscal Impact Worksheet** – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

<u>Non-School Expenses</u> – Non-school expenses include all FY10 non-school budget spending. Nonschool expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County's non-school spending.

<u>Manufacturing</u> – Assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances or purposes.

<u>Market Value</u> – Market value is assumed to be within 1% of assessment value. Market value drives assessment value.

<u>Manufactured Home</u> – A manufactured home is a structure not meeting the specifications or requirements or a manufactured home, designed for transportation after fabrication. The only manufactured homes counted in the Student Generation figure are those in designated manufactured home parks. Manufactured homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

**Phasing** – All residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after the Board of Supervisors approval.

<u>**Professional Services**</u> – Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture,

law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission.

**<u>Proportional Valuation Impact</u>** – Proportional valuation impact assumes that a proposed residential or commercial project's fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial.

James City's proportional valuation is calculated using the County's Real Estate Mapping GIS program. The program calculated an aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses.

Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

<u>**Per-Business Expense Rate**</u> – The per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

<u>**Per Capita Evaluation Method**</u> – This worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per- capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

<u>**Per Capita**</u> – Per capita calculations divide each department's spending, minus fees and state contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

66048* 30221**	Units 2010	Dwelling Units 201	JCC Population 2010	
		30221**		66048*

\*US Census 2010 Population Count

\*\*JCC Codes Compliance Division Housing Unit Count + Apartment Count

<u>**Per Student**</u> – Per student calculations divide County contributions to WJCC Schools, minus state educational contributions, by the total number of K-12 students living in James City and also

attending WJCC Schools. Total students are determined from Williamsburg-James City County Schools 2009-2010 School Year enrollment reports.

<u>**Per Business**</u> – Per business calculations divide each departments spending, minus fees and state contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

Total N	umber	of JCC Bus	inesses	5400*
Percentage	of	Property	Tax	15%**
Assessments				*James City County Commissioner of the Revenue

\*\*Commercial impacts are calculated on a proportional variation process

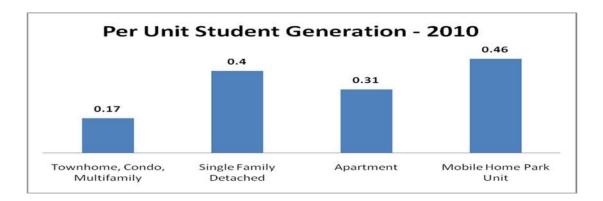
<u>**Proffer**</u> – Proffers paid for schools can only be applied toward the capital expense portion of perstudent school expenses. (See Board of Supervisors' Proffer Policy.)

<u>**Retail Services**</u> – Display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses and other uses.

<u>Single-Family Detached Dwelling</u> – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit.

<u>State Contributions</u> – The state contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

**Student Generation Rate** – The student generation rate the number of students produced by an individual dwelling unit per year. Different domestic units produce students are different rates. Using WJCC enrollment figures, an address was found for WJCC students residing in James City County. Using the James City County Real Estate Division's Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division's Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions were determined this way, along with the same method for counting students from apartments and manufactured home parks.



**Townhome** –In a structure containing three or more dwelling units, a dwelling unit for single-family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances.



# Attachment 9: Patriot's Colony Balloon Test on January 14, 2016

Green Spring NHL at about 850' off the proposed building near the brick foundation on the park property:



Green Spring NHS at about 454 feet from proposed building:



Green Spring NHL at about 396 feet:



Green Spring NHL at about 208 feet:





Green Spring NHL at about 196 feet – NPS boundary:

Green Spring NHL at NPS boundary - view of existing Patriot's Colony development:



First Colony entrance at Heritage Landing Road:

First Colony entrance at Heritage Landing Road (zoomed in to see balloon):





Attachment 10: Photos of existing 5-story building

Pictures taken approximately 50 feet from 5-story apartment building (about at the property line with Green Spring National Historical Landmark)





# Leanne Pollock

From:	Connolly, Jonathan <jonathan_connolly@nps.gov></jonathan_connolly@nps.gov>
Sent:	Thursday, February 11, 2016 10:53 AM
To:	Leanne Pollock
Cc:	Carol Tyrer; Kym A Hall; Paul Carson; Steven Williams
Subject:	Patriot's Colony Expansion

Leanne,

I have reviewed the material provided, as well as the archeologcial survey data, and believe that the proposed construction will not adversely affect the view shed and cultural landscape at Historic Green Spring. Based on conversations I have had with Carol Tyrer of Circa CRM, Inc., it is questionable as to whether the site of the proposed construction was shovel-tested. I understand that there is a covenant in place that requires construction to halt in the event of an inadvertent discovery. Due to the unclear nature of archeological survey in this area, I support the use of an inadvertent discovery policy to protect archeological resources, should they be discovered, to allow for their recovery. I would also recommend that ground disturbing activities be monitored by a professional archeologist due to the unclear nature of archeological survey in this area.

If you have any questions, please do not hesitate to contact me.

Thank you for consulting with Colonial National Historical Park and allowing for the opportunity to comment.

Jonathan D. Connolly Acting Chief of Resources Colonial National Historical Park P.O. Box 210 Yorktown, Virginia Office: (757)898-2429 Cell: (757)846-0482



January 01, 2016

Ms. Leanne Reidenbach James City Planning Department Reference: Case #Z-0005-2015, Patriots Colony – Height Limitation Waiver Request

Dear Ms. Reidenbach,

After reviewing the Bowman Consulting plans referenced above, please be aware that I am opposed to the proposed height limitation waiver for any proposed structure at Patriots Colony, 3400 John Tyler Highway (Tax Map # 452010013). Below are the issues with any heights greater than currently allowed by County Code at Patriots Colony:

- 1) It will negatively impact the view from the Green Springs National Historic Landmark property;
- It will negatively impact the character of the Commonwealth's second dedicated scenic Virginia Byway;
- 3) It will negatively impact the Route 5 scenic Community Character Corridor entrance to Williamsburg;
- 4) It will negatively impact the scenic view from the Capitol to Capitol Bikeway;
- 5) It will increase the housing capacity which will increase traffic volume on the already dangerous Route 5 and associated nearby intersections (intersections at Heritage Landing Road, John Rolfe Road, Centerville Road and Greensprings Road).
- 6) It is inconsistent with prevailing development along the entire length of John Tyler Highway.

I have forwarded these comments to the First Colony Homeowners Association, Friends of Greensprings organization, and Mrs. Ruth Larson, Member – Board of Supervisors as I believe they and others have a right to know and will concur that any height limitation waiver should not be granted. Should you have any comments or questions, please feel free to contact me.

Sincerely,

H.L. Phillip Goering, P.E.

#### **MEMORANDUM**

DATE:	March 2, 2016
TO:	Planning Commission
FROM:	Savannah Pietrowski, Planner I
SUBJECT:	Case No. Z-0001-2016. The Promenade at John Tyler Proffer Amendment

On December 9, 2014, the Board of Supervisors rezoned approximately 24.54 acres of land located in the southeast corner of the Williamsburg Crossing Shopping Center, adjacent to the Winston Terrace subdivision, from B-1, General Business, to MU, Mixed Use, with proffers.

The Promenade at John Tyler was approved for construction of up to 204 dwelling units and commercial space. The development will consist of up to 11 ten-plex buildings, 40 duplex buildings and 14 live-above units to be located above the commercial space.

Mr. Gary Werner, of Franciscus Homes, has submitted a request to amend Condition No. 2 of the adopted Proffers, dated October 15, 2014, made by University Square Associates. During the course of site plan review, staff and the developer realized the proffer language was, in certain respects, inconsistent with the requirements of the Housing Opportunities Policy, adopted by the Board of Supervisors on November 27, 2012. The proposed proffer amendment would align the Proffers with the Housing Opportunities Policy by removing the full narrative of the existing proffers and simply providing that the units shall be provided consistent with the Housing Opportunities Policy as adopted by the Board of Supervisors. There is no proposed change in the number of affordable/workforce units that will be provided and no other proposed changes to the adopted proffers or master plan.

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the County Attorney's office consulted the Board of Supervisors and the Board voiced no objection to the applicant's request to consider amending these proffers as a consideration item.

#### Staff Recommendation:

Staff finds that the requested Proffer amendment would not negatively impact the development and that new language will ensure consistency with the Board policy on affordable housing. Staff, therefore recommends that the Planning Commission recommend approval of the proposed Proffer amendment to the Board of Supervisors.

SP/ab Z-01-16PromJTProAmd-mem

#### Attachments:

- 1. Location Map
- 2. Narrative accompanying proffer amendment application
- 3. Adopted Proffers dated October 15, 2014
- 4. Draft Proffers dated February 24, 2016

# JCC-Z-0001-2016, The Promenade At John Tyler Proffer Amendment





# NARRATIVE TO PROFFER AMENDMENT APPLICATION

The applicant, Franciscus Homes, Inc. is applying to amend and restate Condition 2 of the Proffers dated October 15, 2014 made by University Square Associates. Following the rezoning approval, the applicant held extensive meetings with the Planning Department and the Department of Housing and Community Development regarding the implementation of Condition 2 of the Proffers and the County's Housing Opportunities Policy. During the course of these meetings, all the parties realized that the language of Condition 2 was in certain respects inconsistent with the requirements of the Housing Opportunities Policy as properly applied in this case. For example, the language of Condition 2 requires the use of a soft second deed of trust in the sale of a unit. Since all units in the Promenade are proffered to be sold at prices consistent with the Housing Opportunities Policy there is no difference or subsidy between the market price of a unit and the proffered price to be secured by a soft second deed of trust so it is impossible to comply with this requirement. The Applicant, the Planning Department and the Department of Housing and Community Development all agree that it is appropriate to amend Condition 2 of the proffers to simply provide that all of the units will be provided for sale or rent in the percentages specified in accordance with the Housing Opportunities Policy. This is the approach taken by the County itself in its proffers at the Wellington development. The applicant was and remains committed to providing quality housing at the Promenade at prices and on terms consistent with the Housing Opportunities Policy.

# 150010679

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.

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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. <u>Cash Contributions</u>. (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. <u>Housing Opportunities</u>. 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	
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			Proffers		Page 3 of 12

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.

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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

Page 6 of 12

*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. <u>Nutrient Management Plan</u>. 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. <u>Water Conservation</u>. 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. <u>Road Repair and Dedication</u>. 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

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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. <u>Community Character Corridor Buffer</u>. 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. <u>Condominium Owners Association</u>. 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. <u>Private Streets</u>. 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. <u>Community Spaces</u>. 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. The Public Square shown on the Master Plan shall be installed prior to the County being obligated to issue certificates of occupancy for the first building in the area designated on the Master Plan as M (EGC).

12. <u>Bus Pull-Off/Shelter</u>. Prior to final development plan approval for development of the Property, Owner shall have consulted with Williamsburg Area Transit Authority ("WATA") regarding the need for a bus pull-off area and a bus shelter on the Property. If the Williamsburg Area Transit Authority determines there is a need for a bus pull-off area and a bus shelter on the Property, such bus pull-off area and bus stop shelter shall be shown on the development plans for the Property in a location approved by Owner and WATA. Such bus pull-off area and bus stop shelter shall be installed prior to the County being obligated to issue certificates of occupancy for more than 48 residential units on the Property.

13. <u>Severability</u>. 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.

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

Page 10 of 12 Promenade at John Tyler (The) Proffers Page 10 of 12 WITNESS the following signature.

By:	
Panno	Ŕ
STATE OF Virginia Beach, to-wit:	
The foregoing instrument was acknowledged before me this $15$ day of Or $\frac{15}{12}$ day of $\frac{15}{12}$ day day of $\frac{15}{12}$ day of \frac{15}{12} day of $\frac{15}{12}$ day of \frac{15}{12} day of \frac{15}{1	E ASSOCIATES, a
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ID I I I I I I I I I I I I I I I I I I	HEIDI MARIE MACEMORE NOTARY PUBLIC REGISTRATION # 7562623 MMONWEALTH OF VIRGINIA Y COMMISSION EXPIRES APRIL 30, 2017

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\*

#### Schedule A

#### **Property Description**

Those certain parcels or lots of land located in James City County, Virginia shown and set out as (i) "New Parcel 25," "New Parcel 26," "New Parcel 27," "New Parcel 28," and "New Parcel 29" on the plat entitled "PLAT OF RESUBDIVISION AND LOT LINE EXTINGUISHMENT SHOWING NEW PARCELS 2, 24-29, WILLIAMSBURG CROSSING" made by AES Consulting Engineers dated November 2, 1999 which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in James City Plat Book 75 at page 92 and (ii) "Residual Parcel 20" on the plat entitled "RESUBDIVISION OF PARCEL 20, WILLIAMSBURG CROSSING" made by Langley and McDonald, P.C. and dated July 30, 1997, which plat is recorded in the aforesaid Clerk's Office in James City Plat Book 67 at page 37.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY This document was admitted to record on 10 - 2 - 2013at 8.5 AM/PM. The taxes imposed by Virginia Code Section 58.1-801, 58.1-802 & 58.1-814 have been paid. ADDITIONAL TAX LOCAL TAX STATE TAX TESTE: BETSY B. WOOLRIDGE, CLERK Clerk



ь.

OFFICIAL RECEIPT WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT COURT 5201 MONTICELLO AVE SUITE 6 WILLIAMSBURG, VA 23188 757-564-2242

#### DEED RECEIPT

DATE: 06/02/15 TIME: 08:51:39 ACCOUNT: 830CLR150010679 RECEIPT: 15000017864 CASHIER: AES REG: WD19 TYPE: OTHER PAYMENT: FULL PAYMENT INSTRUMENT : 150010679 BOOK: RECORDED: 06/02/15 AT 08:51 PAGE: GRANTOR: UNIVERSITY SQUARE ASSOCIATES EX: N LOC: CO GRANTEE: UNIVERSITY SQUARE ASSOCIATES EX: N PCT: 100% AND ADDRESS : N/A N/A, XX. 00000 RECEIVED OF : UNIVERSITY SQUARE ASSOCIATES DATE OF DEED: 10/15/14 \$.00 : DESCRIPTION 1: SIX PARCELS JAMES CITY COUNTY 0 OP: 0 PAGES: 2: NAMES: 0 CONSIDERATION: .00 A/VAL: .00 MAP: PIN: 000 \*\* ZERO PAYMENT \*\* .00 TENDERED : 00

TENDER	с <i>и</i> ,	.00
AMOUNT	PAID:	.00
CHANGE	AMT :	.00

CLERK OF COURT: BETSY B. WOOLRIDGE

PAYOR'S COPY RECEIPT COPY 1 OF 2

> Z-3-14/MP-3-14 PR-118 Promenade at John Tyler (The) Proffers Recordation Page

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

Return to: James City County Attorney's Office 101-C Mounts Bay Road Williamsburg, Virginia 23185

# FIRST AMENDMENT TO PROFFERS

This First Amendment to Proffers is made this day of , 2016 by UNIVERSITY SQUARE ASSOCIATES, a Virginia general partnership (together with its successors in title and assigns, the "Owner"), to be indexed as "Grantor." James City County, Virginia shall be indexed as "Grantee."

# RECITALS

A. Owner is the owner of certain real property (the "Property") in James City County, Virginia now zoned MU – Mixed Use, and subject to Proffers dated October 15, 2014, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 150010679 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend and restate Condition 2 of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

## AMENDMENTS TO CONDITIONS

1. Condition 2 of the Existing Proffers is hereby deleted and replaced in its entirety with the following;

2. <u>Housing Opportunities</u>. All of the dwelling units permitted on the Property shall be offered for sale or made available for rent at prices determined in accordance with the Housing Opportunities Policy and Housing Opportunities Policy Guide adopted by the Board of Supervisors on November 27, 2012 as provided below for units offered for sale:

Tier	Percent of dwelling units required	Number of units
30% - 60%	16%	30
61% - 80%	64%	120
81% - 120%	20%	40

Table 1 – 190 units on Parcels 4812200020 and 4812200029

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

Tier	Percent of dwelling units required	Number of units
30% - 60%	16%	2
61% - 80%	64%	9
81% - 120%	20%	3

The forgoing affordable/workforce dwelling units shall be provided consistent with the criteria established by the 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 to provide affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal of the 2035 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

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burdensome on the Owner, the Owner shall only be required to comply with the amended Policy.

2. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

[remainder of page intentionally left blank - signatures appear on following page]

WITNESS the following signature.

UNIVERSITY SQUARE ASSOCIATES . By: Title:

STATE OF Viginia CITY/COUNTY OF Virginia Bach, to-wit:

The foregoing instrument was acknowledged before me this <u>24</u> day of February, 2016, by <u>Frank R.Spocken</u> as <u>Partner</u> of UNIVERSITY SQUARE ASSOCIATES, a Virginia general partnership, on behalf of the partnership.

NOTARY PUBLIC

My commission expires: April 30, 2017 Registration No.: 786262.3 HEIDI MARIE MACEMORE NOTARY PUBLIC REGISTRATION # 7562623 COMMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES APRIL 30, 2017

#### **MEMORANDUM**

DATE: March 2, 2016

TO: The Planning Commission

FROM: Jose Ribeiro, Senior Planner, II

SUBJECT: Case No. Z-0002-2016. The Village at Candle Station Proffer Amendment

On June 9, 2015, the Board of Supervisors rezoned approximately 65 acres of land adjacent to the Candle Factory commercial complex and CVS and Food Lion stores, from MU, Mixed Use and M-1, Limited Business/Industrial, to PUD, Planned Unit Development, with proffers. The Village at Candle Station was approved for construction for up to 208 dwelling units and self storage units. The development will consist of 66 single-family and 142 townhomes.

Mr. Tim Trant, of Kaufman and Canoles has submitted a request to amend Condition No. 4 of the adopted Proffers, dated April 17, 2015 and prepared by Kaufman and Canoles. During the course of site plan review, staff and the developer realized the proffer language was, in certain respects, inconsistent with the requirements of the Housing Opportunities Policy, adopted by the Board of Supervisors on November 27, 2012. The proposed proffer amendment would align the Proffers with the Housing Opportunities Policy by removing the full narrative of the existing proffers and simply providing that the units shall be provided consistent with the Housing Opportunities Policy as adopted by the Board of Supervisors. There is no proposed change in the number of affordable/workforce units that will be provided and no other proposed changes to the adopted proffers or master plan.

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirement for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the County Attorney's office consulted the Board of Supervisors and the Board voiced no objection to the applicant's request to consider amending these proffers as a consideration item.

#### Staff Recommendation

Staff finds that the requested Proffer amendment would not negatively impact the development and that new language will ensure consistency with the Board's Policy on affordable housing. Staff, therefore recommends that the Planning Commission recommend approval of the proposed Proffer amendment to the Board of Supervisors.

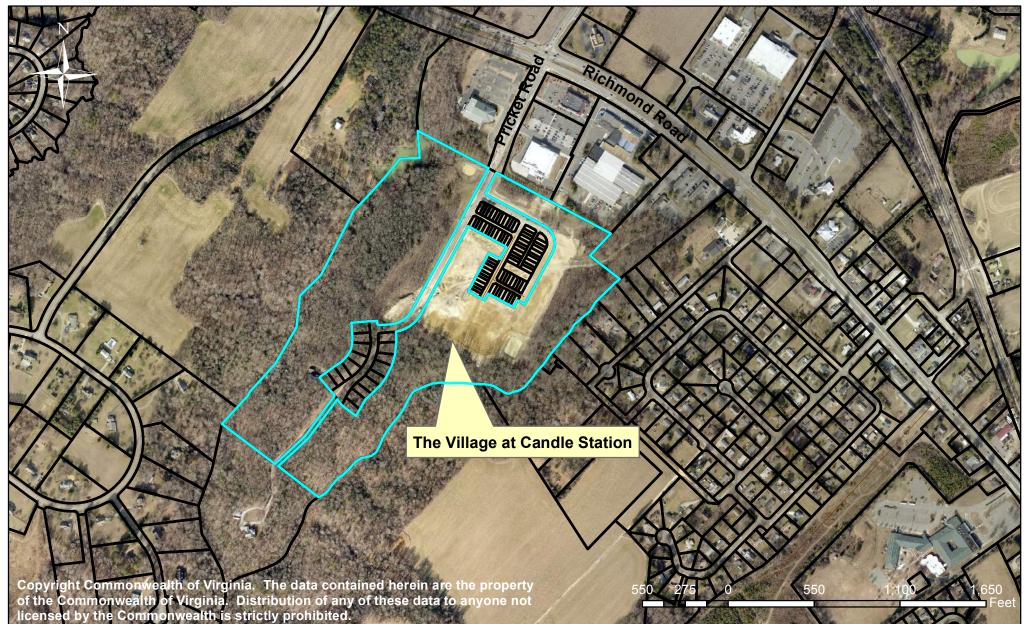
JR/nb Z-02-16VillCandleStnProfferAmd-mem

#### Attachments:

- 1. Location Map
- 2. Narrative accompanying proffer amendment application
- 3. Adopted Proffers dated April 17, 2015
- 4. Draft Proffers dated February 5, 2016

# JCC-Z-0002-2016 The Village at Candle Station





# Narrative to Proffer Amendment Application

The applicant, Candle Development, LLC is applying to amend and restate Condition 4 of the Proffers dated April 27, 2015 made by Candle Development, LLC. Following the rezoning approval, the applicant and its home builder partner have had extensive discussions with the Planning Department and the Department of Housing and Community Development regarding the implementation of Condition 4 of the Proffers and the County's Housing Opportunities Policy. During the course of these discussions, all the parties realized that the language of Condition 4 was complicating compliance with the requirements of the Housing Opportunities Policy as properly applied in this case. For example, the language of Condition 4 requires the use of a soft second deed of trust in the sale of a unit. Since most of the homes (and all of those being marketed for workforce housing) have a market price consistent with the Housing Opportunities Policy there is no difference or subsidy between the market price of a unit and the offering price to be secured by a soft second deed of trust so it is impossible to comply with this requirement. The applicant, the Planning Department and the Department of Housing and Community Development all agree that it is appropriate to amend Condition 4 of the proffers to simply provide that all of the units will be provided for sale or rent in the percentages specified in accordance with the Housing Opportunities Policy. This is the approach taken by the County itself in its proffers at the Wellington development. The Applicant was and remains committed to providing quality housing at The Village at Candle Station at prices and on terms consistent with the Housing Opportunities Policy.

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

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

4.

Housing Opportunities. Development of the Property shall be done in a manner

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Z-0008-2014/MP-0004-2014 The Village at Candle Station Rezoning and Master Plan Amendment Proffers Page 4 of 29 consistent with the criteria established by the 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 (the "HOP") 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 affordable and workforce Dwelling Units provided may be located anywhere within the Property in areas designated for residential development. With respect to affordable and workforce Dwelling Units provided pursuant to this proffer, a soft second mortgage meeting the requirements of the HOP or other instrument approved in advance by the County Attorney shall be executed by the initial purchaser thereof and recorded against the Dwelling Unit to assure the Dwelling Unit continues to meet the requirements of the HOP. In addition, each deed to an affordable or workforce for sale Dwelling Unit shall include a right of first refusal in favor of the County in the event a subsequent owner desires to sell the Dwelling Unit. All affordable or workforce Dwelling Units provided pursuant to this Proffer shall be sold to persons whose incomes fall within the qualifying income ranges used to determine the prices under the HOP.

# 5. <u>Cash Contributions for Community Impacts.</u>

(a) A contribution of \$19,505.34 for each single-family detached Dwelling Unit and of \$5,550.16 for each single-family attached Dwelling Unit constructed on the Property shall be made to the County for the mitigation of impacts on County schools.

(b) A contribution of \$1,099 for each Dwelling Unit constructed on the Property shall be made to the County for the mitigation of impacts on emergency services, offsite road improvements, future water needs, library uses, and public use sites.

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Z-0008-2014/MP-0004-2014 The Village at Candle Station Rezoning and Master Plan Amendment Proffers Page 5 of 29

## THE VILLAGE AT CANDLE STATION

#### PROFFER AMENDMENT

THIS PROFFER AMENDMENT is made this \_\_\_\_\_ day of February, 2016 by CANDLE DEVELOPMENT, LLC, a Virginia limited liability company (together with its successors in title and assigns, the "Candle").

#### RECITALS

A. Candle is the developer of that certain project commonly known as the Village at Candle Station and located in the Norge area of James City County (the "Project"). The remaining undeveloped residential portion of the Project is owned by Candle.

B. The Project is zoned Planned Unit Development with proffers, which proffers are dated April 27, 2015, and are recorded in the Circuit Court Clerk's Office for James City County, Virginia as Instrument Number 150013720 (the "Proffers").

C. Candle desires to amend and restate Section 4 of the Proffers as more particularly set forth below.

NOW, THEREFORE, pursuant to Section 15.2-2302 of the Code of Virginia, 1950, as amended (the "Virginia Code"), and the County's Zoning Ordinance, Owner agrees that it shall meet and comply with the Proffers, as amended and restated below, in developing the Property.

#### AMENDED AND RESTATED CONDITION

Section 4 of the Proffers is hereby amended and restated to read as follows:

4. <u>Housing Opportunities</u>. Development of the Property shall be done in a manner consistent with the criteria established by the Housing Opportunities Policy adopted by the

Prepared By: Kaufman & Canoles, P.C., 4801 Courthouse Street. Suite 300, Williamsburg, VA 23188 Return To: James City County Attorney's Office, 101-C Mounts Bay Road, Williamsburg, VA 23185

My Commission Expires 10/31/2016

Board of Supervisors on November 27, 2012 to provide affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal described in the Comprehensive Plan.

WITNESS the following signatures.

CANDLE DEVELOPMENT, LLC By: Pete Henderson, Manager STATE OF VIRGINIA AT LARGE park to-wit: Cooper The foregoing instrument was acknowledged this  $5^{\text{th}}$  day of \_ by Pete Henderson as manager of Candle Development, LLC. NOTARY PUBLIC My commission expires: Registration No.: \_/83 Linda W. Cooper Commonwealth of Virginia Notary Public Commission No. 183594

# PLANNING DIRECTOR'S REPORT March 2016

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

- <u>New Town</u>: The New Town Design Review Board did not meet in February. The DRB did electronically review changes to a roof, lot layout and elevations for single-family detached houses in Charlotte Park and minor amendments to townhome widths in Village Walk (Section 9). The DRB's next meeting is May 19th. Staff has continued to meet with the developer and various agencies to discuss satisfying remaining proffers and master plan and proffer amendments that will be necessary to complete build-out of several sections of New Town.
- <u>Capital Improvements Program (CIP)</u>: The Policy Committee held the first CIP meeting with various departments in February. At the next meeting, scheduled for March 3, Committee members will discuss preliminary project scores and rankings. Committee members are encouraged to submit scores in advance of the next meeting to Jose Ribeiro at jose.ribeiro@jamescitycountyva.gov. The Planning Commission is scheduled to review the CIP recommendations at a special meeting on March 21<sup>st</sup>.
- <u>Historical Commission</u>: The County's Historical Commission had two resignations in February and is accepting applications for new members. Applications are available on the County's <u>website</u>.
- <u>**Transportation:**</u> Work to reconstruct County Club Drive and Lexington Drive in the Williamsburg West subdivision will begin on February 29 with a scheduled completion date of June 3. The project will address pavement quality and drainage concerns to bring the roads to VDOT standards. Construction will also begin on February 29 for the intersection improvements at the Route 199 west ramp at Route 60. The project will provide dedicated right and left turn lanes to reduce delay for right turns. Completion is scheduled for late July. Construction for the Marclay Road improvements which bring the airport access road to VDOT standards is anticipated to conclude in April.
- <u>Monthly Case Report</u>: For a list of all cases received in the last month, please see the attached documents.
- **Board Action Results:** 
  - o February 26, 2016
    - SUP-0007-2015, St. Olaf Catholic Church Special Use Permit Approved (5-0)
    - Skiffes Creek Switching Station Request for Delay by Applicant to August 9, 2016 Approved (5-0)

		New	Cases for March 2016			
ase Type	Case Number	Case Title	Address	Description	Planner	District
Agricultural and Forestal District				Withdrawal of less than 2 acres, in		
Agricultural and Forestal District	AFD-09-86-01-2016	3703 Brick Bat Road, Gordon Creek Withdrawal	3703 BRICK BAT ROAD	connection with SUP-0002-2016	Ellen Cook	02-Powhatan
				Plan to convert existing building to mini-		
				storage, parking verification and re-		
	C-0005-2016	Merrimac Trail Mini-Storage	7346 MERRIMAC TRAIL	evaluation of Government Rd. entrance.	Leanne Pollock	05-Roberts
	C-0006-2016	Williamsburg Place, Farley Center Expansion	5477 MOORETOWN ROAD	A Building addition of approximately 1400	Jose Ribeiro	02-Powhatan
				Proposed rezoning from R-2 to LB to allow		
				the existing kitchen to leased to a catering		
	C-0007-2016	Our Saviour's Lutheran Church Rezoning	7479 RICHMOND ROAD	company.	Savannah Pietrowski	01-Stonehouse
	C-0008-2016	WISC Aquatic Center	5700 WARHILL TRAIL	A conceptual application showing the addit	i Jose Ribeiro	02-Powhatan
	C-0009-2016	4385 Ironbound Rd., Lawn Equipment Sales and Service	4385 IRONBOUND ROAD	A conceptual application for parking verific	aJose Ribeiro	04-Jamestown
Conceptual Plan						
	C-0010-2016	126 & 128 Ron Springs Drive Subdivision	126 RON SPRINGS DR	A conceptual application for a boundary lin	Roberta Sulouff	05-Roberts
				A courtesy review from Stantec Consulting		
				Services showing an innudation map for		
	C-0011-2016	Kiskiack Dam Break Inundation (Courtesy Review)		Kiskiack Dam.	Jose Ribeiro	
				Proposed subdivision to create one		
	C-0012-2016	2564 Little Creek Dam Rd. Subdivision	2564 LITTLE CREEK DAM ROAD	additional lot.	Savannah Pietrowski	01-Stonehouse
				Potential development of 146 units of		
	C-0013-2016	4450 Powhatan Parkway, Assisted Living Facility	4450 POWHATAN PARKWAY	senior housing	Ellen Cook	04-Jamestown
	S-0007-2016	Shepherds Landing Parcel 2	2579 LITTLE CREEK DAM ROAD	Plat for a 5 lot minor subdivision	Roberta Sulouff	01-Stonehouse
				Boundary line adjustment between Ph 1,		
	S-0008-2016	Lake Powell Forest, Ph. 1, Lot 18 BLA	2844 CASTLING CROSSING	Lot 18 and the adjacent conservation area.	Savannah Pietrowski	05-Roberts
Subdivision	S-0009-2016	The Village at Candle Station Ph. 3, Lots 10-22	7567 RICHMOND ROAD	Plat for 13 single-family homes at The Villag	gJose Ribeiro	01-Stonehouse
300010131011						
				A boundary line extinguishment and		
	S-0010-2016	112 Thompson Lane BLE	112 THOMPSON LANE	adjustment to create two lots out of three.	Roberta Sulouff	02-Powhatan
				Plat adjusting property lines of two existing	S	
	S-0011-2016	2815 and 2611 Forge Rd. BLA	2815 FORGE ROAD	lots.	Savannah Pietrowski	01-Stonehouse

		New	Cases for March 2016			
ase Type	Case Number	Case Title	Address	Description	Planner	District
	SP-0003-2016	D.J. Montague E.S. Bus Canopy Addition SP Amend.	5380 CENTERVILLE RD	Site plan for the addition of a metal canopy	Roberta Sulouff	02-Powhatan
				Site plan showing upgrades to the school's		
	SP-0004-2016	Clara Byrd Baker ES Stormwater SP Amend.	3131 IRONBOUND ROAD	stormwater system.	Jose Ribeiro	03-Berkeley
				Site plan for a 1,600 linear foot extensions		
				of Greenmount Parkway and associated		
				utilites to provide access and		
				infraestructure to southern Greenmount		
	SP-0005-2016	Greenmount Industrial Park Road Extension	1653 GREEN MOUNT PARKWAY	Industrial Park	Jose Ribeiro	05-Roberts
				Site plan amendment to slightly shift the		
				recently approved building footprint		
				without impacts to any other approved		
	SP-0006-2016	WindsorMeade - Memory Care Expansion	3975 WINDSORMEADE WAY	design or plan features.	Roberta Sulouff	04-Jamestown
Site Plan						
				Construction of 3 new buildings, additional		
				sidewalk, grading, and minor stormwater		
	SP-0007-2016	Busch Gardens 2017 New France	7851 POCAHONTAS TR	improvements in New France section.	Savannah Pietrowski	05-Roberts
				Site plan for improvements in and around		
				the caretaker's cottage at Carter's Grove		
	SP-0008-2016	Carter's Grove Plantation - Caretaker's Cottage	8797 POCAHONTAS TR	plantation.	Roberta Sulouff	05-Roberts
				Addition of an office and 15 stall barn at		
	SP-0009-2016	Stonehouse Stables, 2116 Forge Rd.	2116 FORGE ROAD	existing riding stable.	Leanne Pollock	02-Powhatan
				Site plan for a 45,000 sft buidling		
				expansion and the addition of 21 parking		
				spaces at an existing facility on La Grange		
	SP-0010-2016	3612 La Grange Parkway Building and Parking Addition	3612 LA GRANGE PKWY	Parkway.	Roberta Sulouff	01-Stonehouse
Special Use Permit	SUP-0002-2016	3703 Brick Bat Road, Tourist Home	3703 BRICK BAT ROAD	Tourist home in existing structures	Ellen Cook	02-Powhatan
Rezoning Z				An amendment to align the Promenade's		
				affordable and workforce housing proffer		
				with the adopted Housing Opportunites		
	Z-0001-2016	Promenade Proffer Amendment	5304 JOHN TYLER HGWY	Policy.	Savannah Pietrowski	03-Berkeley
				An amendment to align Candle Station's		
				affordable and workforce housing proffer		
				with the adopted Housing Opportunites		
	Z-0002-2016	The Village at Candle Station Proffer Amendment	7546 TEALIGHT	Policy.	Jose Ribeiro	00-Unknown
Zoning Ordinance				Ordinance amendment to evaluate		
Zoning Ordinance	ZO-0001-2016	A-1, General Agricultural, Places of Public Assembly	N/A	allowing banquet facilities in rural areas.	Leanne Pollock	N/A