#### A G E N D A JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg, VA 23185 April 6, 2016 7:00 PM

#### A. CALL TO ORDER

B. ROLL CALL

#### C. PUBLIC COMMENT

#### D. CONSENT AGENDA

1. Minutes Adoption - March 2, 2016 Regular Meeting

#### E. REPORTS OF THE COMMISSION

#### F. PUBLIC HEARINGS

- 1. SUP-0005-2016. Tiki Tree Service Contractor's Office and Storage
- 2. Z-0003-2016. Tewning Road Proffer Amendment
- 3. Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment

#### G. PLANNING COMMISSION CONSIDERATIONS

#### H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report

#### I. PLANNING COMMISSION DISCUSSION AND REQUESTS

#### J. ADJOURNMENT

### **ITEM SUMMARY**

DATE:	4/6/2016
TO:	The Planning Commission
FROM:	Paul D. Holt, III, Secretary
SUBJECT:	Minutes Adoption - March 2, 2016 Regular Meeting

### **ATTACHMENTS:**

	Description	Тур	pe
D	Minutes	Min	nutes
<b>REVIEWERS:</b>			
Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/30/2016 - 1:06 PM
Planning Commission	Purse, Jason	Approved	3/31/2016 - 8:04 AM
Publication Management	Burcham, Nan	Approved	3/31/2016 - 8:09 AM
Planning Commission	Holt, Paul	Approved	3/31/2016 - 8:58 AM

#### MINUTES JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg, VA 23185 March 2, 2016 7:00 PM

#### 1. ROLL CALL

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

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

Ms. Bledsoe stated that before beginning the official agenda, the Commission would like to recognize Mr. George F. Drummond for his service on the Planning Commission. Ms. Bledsoe presented Mr. Drummond with a resolution and Certificate of Appreciation.

Mr. Drummond stated that it was a privilege to serve the community and to work with the Commission members.

Mr. John Wright moved to approve the Resolution of Appreciation.

On a roll call vote the Resolution of Appreciation was approved (7-0).

#### 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. <u>Minutes from the February 3, 2016, Regular Meeting</u>
- b. Development Review Committee
  - 1. Case No. C-0013-2016. Williamsburg Indoor Sports Complex (WISC) Aquatic Center (DRC Recommendation: Preliminary Approval, 4-0)
- Mr. Wright moved to approve the Consent Agenda.

The Consent Agenda was approved by voice vote (7-0).

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

#### a. <u>Policy Committee</u>

Mr. John Wright stated that the Policy Committee met on February 11, 2016, to consider Capital Improvements Program (CIP) Project applications for FY 17 - FY 21. Mr. Wright stated that applications were submitted for 15 projects with an aggregate cost of \$7 million in FY 17 and \$35.3 million for the entire five-year period. Mr. Wright noted that the projects included match funds for transportation improvement projects, three Parks & Recreation projects, Stormwater abatement projects and ten projects from the Williamsburg-James City County Schools. Mr. Wright stated that members from the various divisions were on hand to make presentations on their requests and to answer questions. Mr. Wright stated that the Committee members have individually considered the projects and ranked them based on weighted criteria. Mr. Wright stated that the Committee will meet on March 3, 2016, to discuss the rankings and forward a recommendation to the Planning Commission.

#### 5. <u>PUBLIC HEARINGS</u>

#### a. Case No. SUP-0001-2016. Columbia Gas Equipment Upgrade

Mr. José Ribeiro, Senior Planner II, stated that Mr. Clarence Clark of Columbia Gas has applied for a Special Use Permit (SUP) to replace and upgrade the technology and existing equipment necessary for the operation of the gas flow measuring and pressure regulating facility at 8955 Pocahontas Trail. Mr. Ribeiro further stated that the property is zoned M-2, General Industrial and is located near the James River, Commerce Center, the BASF property and the Greenmount Industrial Park. Mr. Ribeiro stated that the facility, which was built in 1960, measures gas flow and regulates gas pressure and supplies natural gas to the local distribution company, Virginia Natural Gas. Mr. Ribeiro stated that transmission pipelines, including pumping stations and accessory storage for natural gas require a SUP in the M-2 District. Mr. Ribeiro stated that, if approved, this request will bring the use into compliance with the zoning ordinance.

Mr. Ribeiro noted that a temporary staging area of approximately 11,000 square feet will be necessary to support the construction, will be located on adjacent property and approximately 6,295 square feet of clearing is proposed to accommodate the new equipment. Mr. Ribeiro stated that the property is accessed by a private road off the intersection of Pocahontas Trail and BASF Drive. Mr. Ribeiro stated that staff anticipates that there will be no impacts on public facilities and services. Mr. Ribeiro further stated that the station is unmanned and is only accessed by Columbia Gas employees to perform maintenance as needed. Mr. Ribeiro further stated that the temporary staging area will be returned to its natural state once construction is complete. Mr. Ribeiro stated that the property is surrounded by a forest buffer and there are no residential properties in the vicinity. Mr. Ribeiro stated that during the site visit no noise or odor was apparent.

Mr. Ribeiro further stated that staff finds the proposal compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors, subject to the recommended conditions.

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. Heath Richardson moved to recommend approval.

On a roll call vote the Commission voted to recommend approval of SUP-0001-2016, Columbia Gas Equipment Upgrade (7-0).

#### b. <u>Case No. AFD-09-86-01-2016. Gordon Creek Agricultural and Forestal District – 3703 Brick</u> <u>Bat Road Withdrawal</u>

Ms. Ellen Cook, Senior Planner II, stated that Mr. Will Holt, Kaufman & Canoles, has applied, on behalf of the Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust, to withdraw 1.45 acres of a +/- 58 acre property from the Gordon Creek Agricultural and Forestal District (AFD), in conjunction with a SUP application for operation of a Tourist Home.

Ms. Cook stated that on September 28, 2010, the Board of Supervisors adopted a policy governing withdrawal of property from AFDs. Ms. Cook noted that the policy states that it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts unless four criteria which, if met, would establish good and reasonable cause for a property owner to withdraw.

Ms. Cook stated that staff does not find that this request fully meets all four criteria; primarily the request does not fully meet Criteria "B" as it is not explicitly for a public purpose. Ms. Cook stated that staff does recognize that the proposed use of the property is consistent with broader community goals. Ms. Cook stated that with regard to Criteria "A" the property was in trust ownership prior to the last AFD renewal in 2014. Ms. Cook stated that the applicant has indicated that a change in circumstances occurred when a family member passed away in 2015. Ms. Cook stated that the request fully meets Criteria "C" and "D" by not causing damage or disruption to the existing district and by being submitted with a use that staff finds to be in conformance with the Comprehensive Plan.

Ms. Cook stated that the AFD Committee did recommend approval of the application. Ms. Cook further stated that because the request does not fully meet all four criteria in the Board of Supervisor's policy, staff cannot support the request and recommends that the Planning Commission recommend denial of this application to the Board of Supervisors.

Mr. Heath Richardson inquired if the property owner would have the option to remove this portion of the property from the AFD at the next renewal in 2018.

Ms. Cook stated that the property owner would be able to remove the property at the next renewal.

Mr. Richardson inquired whether the question about the death of a property owner qualifying as change in circumstances under State Code to permit a by right withdrawal had been resolved.

Ms. Cook stated that it was not resolved at the time of the AFD Committee meeting; however, it was resolved shortly thereafter by an opinion from the County Attorney's office. Ms. Cook stated that because the property was held in trust it would not qualify.

Mr. Richardson inquired whether this circumstance was something the AFD Committee considered in making the recommendation.

Ms. Cook stated that one of the factors the AFD Committee took into consideration was that there had been a death in the family.

Mr. O'Connor inquired whether the AFD Committee used the same four criteria to evaluate a withdrawal request.

Ms. Cook confirmed.

Mr. Krapf requested that Ms. Cook elaborate on the staff perspective on whether the proposed withdrawal meets a public purpose by generating tourism and meeting the objectives of the Rural Economic Development Committee by providing an economic value for rural lands.

Ms. Cook stated that staff agrees that the proposed use meets the broader community goals and is consistent with the goals of the Comprehensive Plan; however, it is not explicitly for a public purpose such as a school.

Mr. Wright requested confirmation that the 1.45 acres in question are not currently receiving land use valuation.

Ms. Cook confirmed and stated that while the entire parcel is enrolled in the AFD, the Commissioner of the Revenue generally excludes the home site and access from the land use valuation. Ms. Cook further stated that for this property, the house is being taxed at normal rates.

Mr. O'Connor inquired about the development potential for the almost 60-acre parcel should the owner choose not to renew the property at the next cycle.

Ms. Cook stated that it would be one unit per three acres.

Ms. Bledsoe opened the Public Hearing.

Mr. Will Holt, Kaufman & Canoles, 4801 Courthouse Street, stated that the AFD withdrawal is part of a two phase application and withdrawing the property form the AFD is necessary to be able to proceed with the application for the SUP. Mr. Will Holt stated that the Board policy should be interpreted broadly and the criteria evaluated individually. Mr. Will Holt further stated that if the criteria related to public purpose was construed narrowly to be a school or similar public building and all criteria had to be met, then that criteria would override the others.

Mr. O'Connor inquired if the property owners have operated other bed and breakfasts.

Mr. Will Holt stated that the property owners have operated other bed and breakfasts.

Ms. Bledsoe inquired if the barn was included in the property being withdrawn.

Mr. Will Holt stated that the barn is not included. Mr. Will Holt stated that the facilities included in the withdrawal are the house, the pool house and the driveway/parking area.

Mr. Richardson inquired whether the property would have qualified for withdrawal prior to the renewal date if the property had not been held in trust.

Mr. Will Holt confirmed.

Mr. Wright inquired if the owner is the only remaining member of the trust.

Mr. Will Holt confirmed that the owner is the only beneficiary.

Mr. Wright noted that he had discussed the application with Mr. Will Holt prior to the meeting.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe stated that she also had a discussion with Mr. Will Holt and called for disclosures from the other Commissioners.

Mr. Richardson stated that he also had spoken with Mr. Will Holt.

Ms. Bledsoe opened the floor for discussion by the Commission.

Mr. Basic requested that Mr. Max Hlavin explain the difference between a trust and outright ownership and how that affected the ability to use the State Code statute allowing by-right withdrawal of a property within two years of the death of a property owner.

Mr. Hlavin stated the State Code language limits the provision for a by-right withdrawal to any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest. Mr. Hlavin stated that by being in a trust the ownership does not fall under any of those categories.

Ms. Bledsoe stated that by placing the property in trust, the family was being prudent in estate planning. Ms. Bledsoe further stated that she believes the proposed use of the property does fulfill the public purpose criteria. Ms. Bledsoe stated that she supports the request.

Mr. Basic moved to recommend approval of the application.

Mr. Richardson stated that he understands the intent of the Board of Supervisors policy regarding withdrawal of property from an AFD. Mr. Richardson further stated that he believes the criteria for public purpose is not met by the proposed use. Mr. Richardson further stated that he understands the need to remove the property outside the normal renewal cycle.

Mr. Krapf stated that staff is required to look at the Board policy in its totality and interpret it narrowly, while the Planning Commission and Board have more latitude. Mr. Krapf stated that he can support the application because the area being withdrawn is only a small part of the property and because even though the request does not meet strict interpretation of the Board Policy, it does support the strategic initiative of encouraging rural economic development.

Mr. Basic noted that the strength of an AFD is in the contiguous acreage and that this represents a minute portion of the entire district.

Mr. O'Connor inquired if Mr. Hlavin concurred with Mr. Will Holt's comments regarding the narrow interpretation of Criteria B.

Mr. Hlavin stated that the Commission has more latitude than staff in interpreting the policy. Mr. Hlavin further stated that there is a catch all phrase in the policy that allows the Commission and the Board to consider other factors as they deem prudent.

Mr. O'Connor stated that he believes the proposed use will serve the public good and the amount of property being withdrawn would not be detrimental to the integrity if the AFD. Mr. O'Connor also stated that he believes this is a good use of the property to bring revenue to the County. Mr. O'Connor stated that he would support the application.

Mr. Danny Schmidt stated that one factor he finds particularly favorable is that the existing structure will not be changed or expanded.

On a roll call vote the Commission voted to recommend approval of AFD-09-86-01-2016, Gordon Creek Agricultural and Forestal District – 3703 Brick Bat Road Withdrawal (7-0).

#### c. Case No. SUP-0002-2016. 3703 Brick Bat Road Tourist Home

Ms. Ellen Cook, Senior Planner II, stated that Mr. Will Holt, Kaufman & Canoles, on behalf of the Carol Sansone Jamison Marital Trust Two and the Carol Sansone Jamison Family Trust, has applied for an SUP to operate a Tourist Home at 3703 Brick Bat Road. Ms. Cook stated that the Tourist Home will have rental of up to five rooms with no changes in the size of the house or other buildings. Ms. Cook stated that the property has an existing driveway and an existing parking area sufficient to accommodate guests.

Ms. Cook stated that the property is designated rural lands on the 2035 Land Use Map, as are all the surrounding parcels. Ms. Cook further stated that the use is consistent with the recommended uses in the Comprehensive Plan and meets rural lands development standards, given that the use would take place within existing structures and the forested and agricultural aspects of the property will be maintained. Ms. Cook stated that staff further finds the use to be consistent with the Comprehensive Plan goals for supporting implementation of the County's Strategy for Rural Economic Development.

Ms. Cook stated that staff finds the proposal to be consistent with surrounding development and the 2035 Comprehensive Plan. Ms. Cook stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors subject the suggested conditions and removal of the property from the AFD.

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

Mr. Richardson inquired why a separate application was required for the operation of a Tourist Home.

Ms. Cook stated that it is a separate matter and a separate vote is required for a recommendation on the SUP.

Ms. Bledsoe opened the Public Hearing.

Mr. Will Holt, Kaufman & Canoles, 4801 Courthouse Street, stated that he represents the property owner. Mr. Will Holt noted that the proposed use will not require any changes to the

existing structures; the property would be used as is with rooms rented out as a bed and breakfast.

Mr. O'Connor inquired if the property owner was comfortable with the five-room cap.

Mr. Will Holt confirmed.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe called for disclosures from the Commission.

There were no disclosures.

Ms. Bledsoe opened the floor for discussion.

Mr. Krapf moved to approve the application.

On a roll call vote the Commission voted to recommend approval of SUP-0002-2016, 3703 Brick Bat Road Tourist Home (7-0).

#### d. Case Nos. Z-0005-2015/MP-0002-2015/HW-0002-2015. Patriot's Colony Expansion

Ms. Leanne Pollock, Senior Planner II, stated that Mr. Todd Martin of Riverside Healthcare Associates has applied for a rezoning and master plan amendment for Land Bay M-10 of the Greensprings Plantation Master Plan. Ms. Pollock stated that this land bay contains the Patriot's Colony continuing care retirement community and is located at 3400 John Tyler Highway. Ms. Pollock stated that the land bay is adjacent to both First Colony and Green Spring National Historic Landmark. Ms. Pollock stated that the proposed amendment is to adjust unit types and unit type maximums resulting in an overall decrease in the density of the land bay. Ms. Pollock stated that Patriot's Colony is zoned R-4, Residential Planned Community with proffers and the area of the proposed expansion is designated Low Density Residential on the Comprehensive Plan Land Use Map. Ms. Pollock noted that the request includes a height limitation waiver for four hybrid apartment buildings for up to a maximum height of 70 feet above grade. Ms. Pollock stated that the height waiver will be considered by the Board of Supervisors with the rezoning and master plan amendment, but does not require a vote by the Planning Commission.

Ms. Pollock stated that the applicant has restated the original applicable proffers and has proposed additional voluntary proffers to address impacts of the development. Ms. Pollock stated that the revised proffers include a change to maximum building height with a height limitation waiver, a conservation management plan for threatened species, review of materials and design, limitations on lighting for the portions of the development that will face Greens Spring National Historic Landmark, undisturbed buffers along John Tyler Highway and adjacent to the Park Service property, development of water conservation standards and cash contributions for water. Ms. Pollock further stated that the original proffers addressed transportation improvements which have already been satisfied, archaeology, recreation, open space and prohibitions on timeshares. Ms. Pollock further stated that the proposal; however, does not meet several of the Board of Supervisors' policies and guidelines including the Housing Opportunities Policy, the Parks and Recreation Proffer Guidelines and the School Cash Proffer Policy.

Ms. Pollock stated that the application is unique due to the nature of the continuing care retirement community and similar facilities in the County have also not met all of the Board's policies. Ms. Pollock further stated that the applicant has demonstrated that age appropriate recreational facilities are provided for residents; has mechanisms in place to provide financial assistance to residents and prohibits permanent residents under the age of 18 through their proffers and residency agreements.

Ms. Pollock stated that staff has discussed the expansion with reviewing agencies and the National Park Service. Ms. Pollock further stated that agency comments can generally be addressed at the development review stage. Ms. Pollock stated that the National Park Service concurs that the development will not adversely affect the viewshed and cultural landscape at the Historic Green Spring Landmark, but recommended that an archaeologist be on hand to monitor land disturbing.

Ms. Pollock stated that 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.

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

Mr. Richardson asked for a summary of public input regarding the effect of the expansion on the viewshed.

Ms. Pollock stated that the comments center around concerns that the clearing needed for the one-story nursing facility will make the taller hybrid apartment buildings more visible. Ms. Pollock stated that a balloon test was done at the end of January and that the balloon was visible from the entrance to First Colony through the trees; however, it did not go above the tree line. Ms. Pollock further stated that staff worked with the applicant to identify areas for tree preservation along Patriot's Colony Drive to reduce that visibility.

Ms. Bledsoe inquired if the buffer areas would require time to mature.

Ms. Pollock stated that the tree preservation areas were on the masterplan and pertained to existing trees. Ms. Pollock stated that the 50-foot buffer adjacent to the National Park Service property would be supplemented by additional plantings to fill in the taller more mature trees with denser low-lying vegetation.

Mr. O'Connor inquired about what archaeology has been done on the property and the substance of the discussions with the National Park Service.

Ms. Pollock stated that since Land Bay M-10 was initially part of the Greensprings Master Plan, an archaeologist had conducted a full Phase I archaeological survey of the entire Greensprings Plantation area. Ms. Pollock noted that several sites were identified on the Patriot's Colony property and several Phase II studies have been performed. Ms. Pollock stated that one concern expressed by the National Park Service was that the distance between shovel tests might have been greater than desirable. Ms. Pollock further stated that a proffer is in place that all work will stop if a resource is uncovered during construction. Ms. Pollock noted that a road trace was previously discovered and that it is primarily within the 150-foot buffer along John Tyler Highway. Ms. Pollock stated that a Phase II study will be required prior to land disturbance in that area. Ms. Pollock stated that the National Park Service has

been included in the review process from the very beginning and has been provided with all materials.

Mr. Basic inquired if the methodology for the Phase I archaeological survey was approved by the State.

Ms. Pollock responded that the ultimate results of the Phase I study were approved by the Virginia Department of Historic Resources.

Mr. Schmidt inquired whether the representatives from the National Park Service were present for the balloon test.

Ms. Pollock responded that they were not able to see the balloon test due to technical difficulties with the lift; however, the applicant did fly an additional balloon during the site visit with the National Park Service and Planning Division staff provided them with photos taken during the balloon test.

Ms. Bledsoe opened the Public Hearing.

Ms. Molly Trant, 701 Town Center Drive, stated that she represents the applicant. Ms. Trant stated that Patriot's Colony is a continuing care retirement community that is available to retired and former officers of the seven uniformed services, retired and former civilian employees of the Federal government and their spouses; however, the health care facilities are open to the public. Ms. Trant noted that part of the current request focuses on providing more of those facilities to meet anticipated demand from the community.

Ms. Trant stated the height waiver is being requested to allow for parking under the four hybrid apartment buildings to minimize disturbance of greenspace. Ms. Trant further stated that there is an existing five-story apartment building with a mean height of 60 feet located on the property. Ms. Trant stated that the mean height of the proposed buildings are 65 feet. Ms. Trant further stated that the materials and colors to be used in the proposed buildings were chosen to ensure that the building would blend with the natural environment.

Mr. O'Connor asked if the proposal involved clearing for all of the project phases at this time.

Ms. Trant stated that the intent was to clear for Phase A first in order to maintain the community appeal and to maintain the integrity of the tree buffer for as long as possible.

Ms. Bledsoe inquired if a height waiver would be requested in Phase B.

Ms. Trant responded that the building in Phase B would be a traditional single floor skilled nursing facility.

Ms. Bledsoe inquired if the reason for moving forward with Phase A first was to meet current needs.

Ms. Trant stated that 335 people are currently on the waiting list for independent living facilities. Ms. Trant further stated the Phase B facility is to address the future needs of those residents.

Mr. Schmidt noted that he shares the concerns voiced by the National Park Service regarding the existence of cultural resources on the property that may have been missed during the previous archaeological survey. Mr. Schmidt stated that he would be more comfortable if an archaeological review could be done once the clearing was complete.

Ms. Trant stated that they believe the entire site was tested appropriately and do not want to set a precedent of questioning or invalidating a Phase I archaeological survey that was previously accepted by the Virginia Department of Historic Resources.

Ms. Bledsoe inquired what guidance is given on recognizing historic resources to the workmen doing land disturbance.

Ms. Trant responded that the construction manager and staff are instructed to be watchful. Ms. Trant further stated that the applicant also has a construction management division and that they would work side by side with the construction crew.

Ms. Bledsoe inquired if that process was in place during the initial Patriot's Colony development.

Ms. Trant stated that she believed those precautions were taken during the initial development.

Mr. O'Connor inquired whether the conceptual Best Management Practice (BMP) was proposed as part of Phase A or Phase B.

Ms. Trant stated that it would be part of Phase B. Ms. Trant stated that once the entire site was disturbed, the BMP would be required.

Mr. O'Connor requested confirmation that the resource protection area buffer would not be developed.

Ms. Trant confirmed. Ms. Trant further stated that the greenbelt along John Tyler Highway would remain undeveloped.

Mr. Wright inquired about the demographics for the typical resident of the proposed apartment buildings.

Ms. Trant stated that the typical resident was a former member of the armed services or civilian Federal government employee in their 70s and their spouse.

Mr. Wright asked if there were any assurances that the apartments would not be sublet to other individuals.

Ms. Trant stated that there were stipulations in the residency agreement to prevent the units from being sublet. Ms. Trant further stated that there was also a strict policy on the length of visitor stays.

Mr. Wright stated that he was also looking for assurances that there would not be school-aged children in residence.

Ms. Trant confirmed that there was a strict policy prohibiting school-aged children from residing there long-term.

Mr. O'Connor requested information on the financial assistance available to residents to allow them to stay in their homes.

Ms. Trant stated that because the residents are also buying into a health care plan, it is not possible to meet the affordable housing guidelines; however, if someone encounters financial constraints while they are an active resident, there is a fund to provide financial assistance.

Mr. O'Connor inquired how this differed from an age-restricted apartment complex that was able to proffer a certain number of affordable units.

Ms. Trant stated that a continuing care retirement facility was different, because it also provides assisted living and skilled nursing in addition to the independent living so that there is a full spectrum of care available.

Ms. Bledsoe inquired about the relationship between Patriot's Colony and Riverside Hospital for continuity of care.

Ms. Trant stated that Riverside Healthcare is the parent organization for both Patriot's Colony and Riverside Doctor's Hospital. Ms. Trant further stated that medical staff from Riverside oversee the medical practice at Patriot's Colony. Ms. Trant state that the ability to share information with the hospital is an advantage to the residents.

Mr. Paul Treolo, 3017 Kitchums Close, stated that his residence is approximately a mile west from Patriot's Colony on Route 5. Mr. Treolo stated that he is a long-time James City County resident and a member of the Patriot's Colony Board of Directors. Mr. Treolo stated that the proposed expansion is well designed and is necessary to meet existing needs. Mr. Treolo stated that the project will benefit the County with an increase in job opportunities and revenue. Mr. Treolo requested that the Commission recommend approval of the application.

As no one else wished to speak, Ms. Bledsoe closed the Public Hearing.

Ms. Bledsoe called for disclosures from the Commission.

Ms. Bledsoe, Mr. Wright, Mr. Basic and Mr. O'Connor each stated that they had spoken with Ms. Trant.

Ms. Bledsoe opened the floor for discussion by the Commission.

Mr. Richardson noted that based on recent studies and reports, the County does have a need for affordable housing. Mr. Richardson further stated that Patriot's Colony is not a typical for-sale or for-rent development and by its nature it is hard to make it dovetail with the Housing Opportunities Policy and the School and Parks and Recreation Proffer Policies. Mr. Richardson stated that he could support the application.

Mr. Krapf stated that he would support the application. Mr. Krapf further stated that demographic trends support the need for this type of facility. Mr. Krapf noted that the project has several positive aspects including a reduction in the density of the development, a positive fiscal impact and that the development is environmentally friendly.

Mr. Schmidt stated that the level of inclusion of the National Park Service reassured him that measures will be taken to protect and preserve cultural resources.

Mr. Wright stated that the 2035 Comprehensive Plan data shows an increase in the number of seniors as well as a high percentage increase. Mr. Wright stated that this application addresses an unmet demand.

Mr. Basic stated that he appreciated the applicant's willingness to work with the Development Review Committee (DRC) as the application was developed. Mr. Basic noted that the application was stronger because of the DRC input.

Mr. O'Connor inquired if the reduction in density was for all of the Greensprings development or just Patriot's Colony.

Ms. Pollock stated that it was just for Land Bay M-10, Patriot's Colony. Ms. Pollock further stated that the current unit caps for Greensprings would remain in place.

Mr. O'Connor asked for clarification on how the reduction in density was achieved.

Ms. Pollock stated that part of the reduction came from skilled nursing beds and assisted living units being counted as institutional units rather than as residential dwelling units. Ms. Pollock further stated that the actual number of independent residential units is being decreased by about 38 units.

Mr. Richardson inquired if there would be more frequent site visits by an archaeologist as recommended by the National Park Service.

Ms. Pollock stated that as proposed in the proffers, an archaeologist would only be on-site if something is uncovered during the course of work.

Mr. Richardson inquired about the nature of concern with the archaeological study.

Ms. Pollock stated that the study was done in 1992 and that there was some concern over the distance between shovel tests. Ms. Pollock stated that there was no overall map showing the location of the shovel tests.

Mr. Richardson inquired if staff felt it would be wise to add a requirement for additional testing.

Ms. Pollock stated that staff is comfortable with the proffer. Ms. Pollock further stated that she was not aware of any legislative cases that required an archaeologist on-site monitoring land disturbance; however there have been a few by-right developments that have used this approach.

Mr. Richardson inquired which firm provided archaeological survey for Patriot's Colony.

Ms. Pollock stated that she believed it was Espy-Houston.

Ms. Bledsoe inquired if anything was found.

Ms. Pollock stated that several sites were found on the Patriot's Colony property – Land Bay M-10 – and a couple of sites were found across the broader Greensprings Plantation.

Ms. Bledsoe inquired if those sites were addressed at the time they were found.

Ms. Pollock stated that they are addressed as land disturbance takes place. Ms. Pollock stated that when the 24 independent living units were built, a Phase II study was conducted for the two sites identified in that area.

Ms. Bledsoe requested confirmation that a Phase II study would be done if any sites were identified.

Ms. Pollock confirmed.

Mr. Krapf made a motion to recommend approval of the application.

On a roll call vote the Commission voted to recommend approval of Z-0005-2015/MP-0002-2015, Patriot's Colony Expansion (7-0).

The Planning Commission was not required to vote on the height limitation waiver, which will be acted on by the Board of Supervisors.

#### 6. PLANNING COMMISSION CONSIDERATION

#### a. <u>Case No. Z-0001-2016</u>, Promenade Proffer Amendment

Ms. Savannah Pietrowski, Planner I, stated that Mr. Gary Werner of Franciscus Homes has submitted a request to amend Condition No. 2 of the adopted Proffers for the Promenade at John Tyler Highway. Ms. Pietrowski stated that the development consists of up to 204 dwelling units and commercial space. Ms. Pietrowski stated that 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. Ms. Pietrowski stated that 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 in accordance with the Housing Opportunities Policy. Ms. Pietrowski noted that 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.

Ms. Pietrowski stated that staff finds that the proposed amendment would not negatively impact the development and would ensure consistency with the Board's policy on affordable housing. Ms. Pietrowski stated that staff recommends that the Planning Commission recommend approval of the proffer amendment to the Board of Supervisors.

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

Mr. Richardson inquired whether the percentages have changed.

Ms. Pietrowski responded that the percentages have not changed.

Mr. Richardson inquired whether the price point would continue to adjust each year.

Ms. Pietrowski responded that the price point would still be updated every year.

Mr. Wright requested clarification on whether the Housing Opportunities policy was revised every year.

Ms. Pietrowski stated that each year the Office of Housing & Community Development reviews the price points that are set for affordable housing units to ensure that they are on par with the current economy.

Mr. Wright inquired whether the percentages of units allocated to those price points would change.

Ms. Pietrowski stated that the percentage of units that should be allocated to those price points does not change.

Ms. Bledsoe clarified that the reason for the amendment was to simplify the process by amending how the proffer language relates to the Housing Opportunities Policy.

Mr. Richardson requested that Mr. Vernon Geddy provide background on the genesis of the proffer amendment.

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, stated that 100% of the units were proffered at affordable housing price points. Mr. Geddy stated that while reviewing the project during site plan development, it was found that certain proffer language was inconsistent with the Housing Opportunities Policy and it was necessary to bring the language into conformity with the Board's policy.

Mr. Richardson moved to recommend approval of the proffer amendment.

On a roll call vote the Commission voted to recommend approval of Z-0001-2016, Promenade Proffer Amendment (7-0).

#### b. Case No. Z-0002-2016, The Village at Candle Station Proffer Amendment

Mr. José Ribeiro, Senior Planner II, stated that Tim Trant, of Kaufman & Canoles, has submitted a request to amend Proffer No. 4 of the adopted Proffers for the Village at Candle Station. Mr. Ribeiro stated that the Village at Candle Station was approved for construction for up to 208 dwelling units and self-storage units. Mr. Ribeiro stated that 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. Mr. Ribeiro stated that 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. Mr. Ribeiro stated that there will be no change in the number of affordable/workforce units that will be provided and no other proposed changes to the adopted proffers or master plan.

Mr. Ribeiro stated that staff finds that the proposed amendment would not negatively impact the development and would ensure consistency with the Board's policy on affordable housing. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the proffer amendment to the Board of Supervisors.

Ms. Bledsoe requested confirmation that this amendment is identical to the previous case.

Mr. Ribeiro confirmed.

Mr. Richardson inquired whether the language in the proffers was too specific and the amendment would allow for more flexibility to conform to the Housing Opportunities Policy.

Mr. Ribeiro confirmed that the proffer language was much more specific than the Board's policy.

Mr. Wright moved to recommend approval of the proffer amendment.

On a roll call vote the Commission voted to recommend approval of Z-0002-2016, The Village at Candle Station Proffer Amendment (7-0).

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

Mr. Paul Holt stated that in addition to the information provided in the Planning Commission packet he wanted to provide updates on two items.

Mr. Paul Holt stated that the Commission should have noted a change to the format of the staff report. Mr. Paul Holt stated that this was an effort to make the staff report a more effective communication tool for the Commission and the Board and to align the staff report with available technology. Mr. Paul Holt requested that the Commission provide feedback on the new format.

Mr. Paul Holt stated that the Commission had been provided with the tentative calendars for 2016 and 2017. Mr. Paul Holt noted that the Regular meetings remained on the first Wednesday of each month at 7 p.m. and that the Special Meeting would be the third Monday in March at 6 p.m. Mr. Paul Holt stated that the Special Meeting serves as the Organizational Meeting and the public hearing on the CIP projects. Mr. Paul Holt further stated that the calendars for the Policy Committee and the DRC remain on the same cycle. Mr. Paul Holt requested that the Commission consider whether any changes to the calendar might be necessary and noted that the calendar would be adopted at the Organizational Meeting. Mr. Paul Holt noted that the calendar would be adopted for one year out and that the second year was for placeholder and planning purposes.

Ms. Bledsoe inquired about the date for the upcoming Special Meeting.

Mr. Paul Holt stated that it was March 21 at 6 p.m.

Mr. O'Connor stated that he had the opportunity to address a class at the law school and they had inquired how the County views the tiny house movement. Mr. O'Connor noted that many of the tiny houses are on wheels and do not have fixed plumbing similar to recreational vehicles.

Mr. Paul Holt noted that there are two versions and it depends on how they are manufactured.

Mr. O'Connor stated that he wanted to bring the question to the attention of staff and the Policy Committee since it might be a subject worthy of further discussion.

Mr. Paul Holt stated that there are several variations for tiny homes. Mr. Paul Holt stated that the stick built homes are an easy determination since there is no minimum square footage requirement. Mr. Paul Holt stated that those that are manufactured as a recreational vehicle (RV) are more problematic because the zoning ordinance does not permit an RV to be used as a residence. Mr. Paul Holt further noted that there are also individuals who are interested in retrofitting steel shipping containers as homes as well as for creative storage solutions and even for farming. Mr. Paul Holt stated that these new to market ideas are moving across the nation and it will not be long before they come to James City County.

Mr. O'Connor stated that it might be helpful to consider adding the subject to upcoming work plans.

Ms. Bledsoe stated that this would be considered as a request for future discussion on the matter.

#### 8. <u>COMMISSION DISCUSSION AND REQUESTS</u>

Ms. Bledsoe officially welcomed Mr. Danny Schmidt to the Commission.

Ms. Bledsoe stated that the next Strategic Plan Advisory Group would meet on March 7 at 4 p.m.

Ms. Bledsoe stated that Mr. Wright would be the representative to the Board of Supervisors in March and Mr. Basic in April.

Ms. Bledsoe remind the Commission that the Special Meeting would be March 21 at 6 p.m.

Mr. Wright stated that in light of the General Assembly legislation regarding short-term home rental, he believed that the County should be prepared to consider this matter quickly.

Mr. Krapf inquired about time being advertised for the CIP public hearing.

Mr. Paul Holt stated that the advertisements would run on the same schedule as the regular Planning Commission meeting and that the meeting would begin at 6 p.m. Mr. Paul Holt stated that the public hearing would immediately follow the Organizational Meeting.

Ms. Bledsoe stated that the CIP timeline seems to be working well, especially in relation to the project applications form the WJCC School System.

Mr. O'Connor recommended that the Commissioners look at the rehabilitation of the old motel on Richmond Road as it is being repurposed to become part of Cretney Classic Car Care. Mr. O'Connor stated that he likes to see rehabilitation and repurposing of older or dilapidated buildings.

Mr. Paul Holt reminded the Policy Committee that there would be a meeting on March 3 at 4 p.m.

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

Ms. Bledsoe called for a motion to adjourn.

Mr. Wright moved to adjourn.

The meeting was adjourned at approximately 8:49 p.m.

Robin Bledsoe, Chairwoman

Paul D. Holt, III, Secretary

### AGENDA ITEM NO. F.1.

#### **ITEM SUMMARY**

DATE:	4/6/2016
TO:	The Planning Commission
FROM:	Jose Ribeiro, Senior Planner II
SUBJECT:	Case No. SUP-0005-2016. Tiki Tree Service Contractor's Office and Storage

### **ATTACHMENTS:**

	Description	Туре
D	Staff Report	Cover Memo
D	Location Map	Exhibit
D	Master Plan	Exhibit
D	Proposed SUP Conditions	Exhibit
D	Correspondence from citizen	Exhibit
а	Picture of Vehicles/equipment associated with Tiki	Exhibit

#### **REVIEWERS:**

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/30/2016 - 4:40 PM
Planning Commission	Purse, Jason	Approved	3/31/2016 - 8:05 AM
Publication Management	Burcham, Nan	Approved	3/31/2016 - 8:11 AM
Planning Commission	Holt, Paul	Approved	3/31/2016 - 9:00 AM

#### SPECIAL USE PERMIT-0005-2016. Tiki Tree Service Contractor's Office and Storage

#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

Applicant:	Mr. William Felts of LandTech Resources, Inc.	
Land Owner:	Mr. Timothy Soderholm	
Proposal:	A request to allow for the operation of a tree service and landscaping contractor's office and storage.	
Location:	4182 Mount Laurel Road	
Tax Map/Parcel No.:	1320100008	
Project Acreage:	+/- 4.50 acres	
Zoning:	A-1, General Agricultural	
Comprehensive Plan:	Rural Lands	
Primary Service Area:	Outside	
Staff Contact:	Jose Ribeiro, Senior Planner II	
DUDI IC HEADING DATES		

#### PUBLIC HEARING DATES

Planning Commission: April 6, 2016, 7 p.m. Board of Supervisors: May 10, 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.

#### FACTORS UNFAVORABLE

1. With the attached Special Use Permit (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 recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

#### **PROJECT DESCRIPTION**

Mr. Soderholm is currently operating a non-conforming contractor's office and storage use from his residence on Centerville Road, but plans to relocate both residence and the operation of this business to a property located on 4183 Mount Laurel Road. A contractor's office and storage is a specially permitted use on property zoned A-1, General Agricultural. According to information provided by the applicant, the operation is a professional tree and landscaping service with the following characteristics:

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 April 6, 2016, Planning Commission Public Hearing

- There are a total of three full-time employees (in addition to the owner) and also a few part-time employees;
- Vehicles and equipment associated with the operation generally consist of two pick up trucks, two bucket trucks, three trailers and other pieces of equipment such as a bobcat and a chipper;
- Hours of operation are generally between Monday through Saturday staring at 7 a.m. and ending around 5 or 6 p.m. (up to 7 p.m. during summertime);
- Low traffic generation mostly occurring during early a.m. hours and p.m. hours as employees come to the site in the morning, drop off their personal vehicles and pick up commercial vehicles to work off-site and returning to the site in the afternoon; and
- Customers do not come to the site.

According to information provided by the applicant, the first step toward development of the property will be to install an access driveway (there is currently no access drive into the property; access is taken from an adjacent parcel). The proposed workshop and shed structures would be the desired next phase of construction and the residential dwelling would be last.

#### SURROUNDING ZONING AND DEVELOPMENT

- Surrounding zoning designations include:
  - a. All surrounding parcels are zoned A-1, General Agricultural; and
  - b. Properties to the east are part of the Croaker Agricultural and Forestal District.

#### **COMPREHENSIVE PLAN**

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

• Appropriate primary uses include traditional agricultural and forestal activities. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the Primary Service Area. However, appropriately-scaled and located direct agricultural or forestal-support uses, home-based occupations or certain uses which required very low intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Rural Lands Development Standards.

#### PUBLIC IMPACTS

Anticipated impact on public facilities and services:

- Streets. No impacts anticipated. According to the Virginia Department of Transportation a vehicular entrance must be designed in accordance with the Low Volume Commercial Entrance Standards. The traffic generated by the site is expected to be low (five trips in the morning and five trips in the afternoon) and staff finds that the existing Mount Laurel Road is equipped to handle this minimal increase in traffic.
- Schools/Fire/Utilities. No impacts anticipated. The site is not served public water and sewer. Prior to final site plan approval for this project, the applicant must obtain approval from the Health Department for septic tank and drain field capacity (SUP Condition No. 10).

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.

#### SPECIAL USE PERMIT-0005-2016. Tiki Tree Service Contractor's Office and Storage

#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

- Environmental/Cultural/Historic. No impacts anticipated. A combination of a Best Management Practice, level spreader, swales and berm will be used to address stormwater management. There is a Resource Protection Area located at the rear of the property and the applicant has indicated a desire to place this area under a conservation easement.
- Nearby and surrounding properties: The attached SUP conditions are proposed to mitigate impacts to nearby and surrounding properties, specifically impacts associated with visual screening and noise generation.

#### PROPOSED SUP CONDITIONS

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

#### **STAFF RECOMMENDATION**

With the attached conditions, 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 SUP05-16TikiTree

#### Attachments:

- 1. Location Map
- 2. Master Plan
- 3. Proposed SUP Conditions
- 4. Email and letter from adjacent property owners dated March 29, 2016.
- 5. Pictures of vehicles and equipment associated with Tiki Business.

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-0005-2016, Tiki Tree Service Contractor's Office and Storage







<u>COMPONENT</u>	PRESENT	<u>IMPACI</u>
IDAL WETLANDS	NOT PRESENT	NO IMPACT
IDAL SHORES	NOT PRESENT	NO IMPACT
IONTIDAL WETLANDS IN RPA	NOT PRESENT	NO IMPACT
00-FOOT RPA BUFFER	PRESENT	NO IMPACT
IONTIDAL WETLANDS IN RMA	NOT PRESENT	NO IMPACT
00-YEAR FLOODPLAIN	NOT PRESENT	NO IMPACT
SLOPES 25% OR GREATER	NOT PRESENT	NO IMPACT

NAME	SYMBOL	<u>SOIL GROUP</u>
CRAVEN-UCHEE COMPLEX	(11C)	С
EMPORIA COMPLEX	(15F)	С
KEMPSVILLE-EMPORIA FINE SANDY LOAM	(19B)	В
SLAGLE FINE SANDY LOAM	(29A)	С

### SUP conditions for SUP-0005-2016, Tiki Contractor's Office and Storage

- <u>Master Plan.</u> This Special Use Permit shall be valid for the operation of a contractors' warehouse, shed and office and accessory uses thereto ("the Project") as shown on the master plan titled "Lot 4, Estate of Ottoway Thorton for Timothy Soderholm" date stamped February 24, 2016 (the "Master Plan") on the parcel located at 4182 Mt. Laurel Road, and identified as James City County Real Estate Tax Map No. 1320100008 (the "Property"). Development of the Project shall be generally in accordance with the Master Plan with any deviations considered per section 24-23 (a)(2) of the Zoning Ordinance as amended.
- 2. <u>Limitations.</u> No work associated with the Project, except for administrative/office work, maintenance of equipment and vehicles, storage, and loading of materials on trucks and trailers shall be conducted on the Property. No retail sales including the sale of wood or wood-related products shall occur at the Property. No mulching or stump grinding shall occur at the Property. Neither soil stockpile as defined by Section 24-46 of the Zoning Ordinance, nor storage/stockpiling of landscaping debris shall be allowed in the Property.
- 3. <u>Indoor Storage</u>. Storage of equipment, machinery and materials associated with the Project, excluding trucks and other vehicles shall be located inside the "workshop" or the "shed" structures as shown on the Master Plan.
- 4. <u>Parking Areas.</u> Vehicles associated with the Project including employee vehicles shall be parked in the parking area as shown on the master plan and screened with fencing. Any such fence shall be of a natural wood color, and of a design and height to screen the parking area from adjacent properties. The design of the fence shall be submitted to the Director of Planning for review and approval prior to final site plan approval.
- 5. Landscape and Screening Plan. A landscape and screening plan shall be submitted to the Director of Planning or his designee for review and approval prior to final site plan approval. The landscape and screening plan shall show, at a minimum that such landscaping and/or fencing shall effectively screen the storage and parking areas associated with the Project from public roads and from adjacent properties. Specifically, there shall be provided an average 20 foot wide landscape area along the property lines adjacent to JCC Real Estate Tax Map Parcels 1320100009 and 1320100007, and the 20 foot wide landscape area shall be landscaped with upright evergreen planting materials. All landscape materials shall meet or exceed the landscape standards contained in the zoning ordinance section 24-96 for Genera Landscape Area Standards.
- 6. <u>Lighting.</u> All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to an approved by the Director of Planning or

his designee, which indicated no glare outside the property lines. All light poles shall not exceed 16 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

- 7. <u>Spill Prevention and Containment Plan.</u> Prior to final site plan approval, a spill prevention and containment plan which addresses chemical handling including but not limited to oil, diesel and gasoline, shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval.
- 8. <u>**RPA**</u>. No soil disturbance, parking and/or storage of equipment and/or vehicles associated with the Proposal shall occur within 15-feet of a RPA buffer.
- 9. <u>Signage.</u> No outdoor signage advertising the Project shall be allowed in the Property.
- 10. <u>Health Department Approval.</u> The applicant shall receive approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.
- 11. <u>SUP Amendment</u>. An amendment to this SUP application shall be necessary should the number of equipment associated with the Project exceed the storage capacity of the 1,800 square-foot woodshop and the 200 square-foot shed or if the number of vehicles associated with the Project exceeds the parking capacity of the 2,106 square-foot fenced parking area as shown on the master plan.
- 12. <u>Hours of Operation.</u> The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday, except for occasional afterhours and transportation related to storm clean up.
- 13. <u>Site Plan.</u> A site plan shall be required for this Project. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
- 14. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidated the remainder.

#### **Jose Ribeiro**

From: Sent: To: Cc: Subject: Attachments: Ronald St. Onge <ronaldst.onge@gmail.com> Tuesday, March 29, 2016 4:37 AM Jose Ribeiro Bobs3rd@gmail.com Opposition to Zoning Variance 4166 Mt.docx

Mr. Ribeiro,

Attached is a document containing our opposition to the request made by Mr. Soderholm for a zoning variance. We are currently out of the country and unable to attend the meeting of the Zoning Appeals Board. Our neighbor, Robert Sulouff, will represent our interests in our absence.

Thank you for considering our comments.

Ronald St. Onge

4166 Mt. Laurel Rd. Williamsburg, VA 23188 29 March 2016

Jose.Ribeiro@jamescitycountyva.gov

We write you in order to express our strong opposition to the zoning variance request by Mr. T.J. Soderholm for his recently acquired property on Mt. Laurel Rd. in James City County. We are motivated for the reasons that follow.

Having owned a number of parcels and lived on Mt. Laurel Rd. for twenty-two years, we have witnessed a dramatic increase in vehicular traffic, particularly since the creation of the Stonehouse development, many of whose residents now use our road as a shortcut to Croaker Rd. Ours is an old country road that was not built for such use, and there are a number of areas along it where two vehicles cannot meet without one having to pull off road in order to allow the other to pass. Such is the case, in fact, immediately in front of Mr. Soderholm's property. A visual inspection of this portion of the road will make obvious that the coming and going of commercial vehicles at this spot would be extremely dangerous.

Our area of the county is zoned Agricultural (A-1) and is highly residential in nature. The parcel now under consideration for variance is extremely narrow. In fact, if it had not been grandfathered, it would not meet current county regulations as a legitimately buildable lot. There are neighbors on both sides of this lot who would be quite inconvenienced by the proximity of a commercial establishment so close to their residences. There seems to be no justification for altering their lifestyles against their will in order to accommodate this new property owner.

Recently, Mr. Soderhom visited us and stated emphatically that he intended to build a residence on his property. He indicated that he would also build a storage barn/garage for equipment used in connection with his tree service business. Now it would seem that the commercial enterprise is taking precedence over the residential plans. We know from past experience with Mr. Soderholm, when he was leasing property on this same road, that he has a tendency to ignore zoning regulations when they do not suit him. Frankly, we do not have any confidence in the statements he is making with respect to his stated use of the property. To permit a zoning variance, in our estimation, would be to create a slippery slope that would fundamentally transform the nature of our thoroughly residential area.

We hope that you will agree with our assessment of the situation and deny any further transformation of the nature of our agricultural/residential area.

Sincerely yours,

Susan and Ronald St. Onge











### AGENDA ITEM NO. F.2.

#### **ITEM SUMMARY**

DATE:	4/6/2016
TO:	The Planning Commission
FROM:	Savannah Pietrowski, Planner I
SUBJECT:	Case No. Z-0003-2016, Tewning Road Proffer Amendment

### **ATTACHMENTS:**

	Description	Туре
D	Staff Report	Staff Report
D	Location Map	Backup Material
٥	Narrative Provided by Pete and Cindy Walker	Backup Material
٥	Adopted Proffers dated September 29, 1986	Backup Material
٥	Draft Proffers dated March 30, 2016	Backup Material
D	Case No. Z-0012-1986 Parcel Map	Backup Material

### **REVIEWERS:**

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/31/2016 - 3:15 PM
Planning Commission	Purse, Jason	Approved	3/31/2016 - 3:35 PM
Publication Management	Boles, Amy	Approved	3/31/2016 - 3:44 PM
Planning Commission	Holt, Paul	Approved	3/31/2016 - 3:48 PM

#### **REZONING-0003-2016. TEWNING ROAD PROFFER AMENDMENT**

#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

Applicant:	Pete and Cindy Walker, Williamsburg Gymnastics	
Land Owners:	Berry Revocable Living Trust, Jonathan Berry and Edwin Berry	
Proposal:	To amend the existing proffers to remove "indoor sports facilities" from the list of prohibited uses on the subject property	
Location:	144 Tewning Road	
Tax Map/Parcel No.:	3910100015	
Project Acreage:	+/- 2.0 acres	
Zoning:	M-1, Limited Business/Industrial, with proffers	
Comprehensive Plan:	Limited Industry	
Primary Service Area:	Inside	
PUBLIC HEARING DATES		

#### PUBLIC HEARING DATES

Planning Commission:	April 6, 2016, 7 p.m.
Board of Supervisors:	May 10, 2016, 6:30 p.m. (tentative)
Staff Contact:	Savannah Pietrowski, Planner I

#### **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 proposal relocates an existing business from an adjacent locality to James City County.

#### FACTORS UNFAVORABLE

1. Staff finds that there are no unfavorable conditions.

#### **SUMMARY STAFF RECOMMENDATION**

Approval and acceptance of the amended proffers.

#### **PROJECT DESCRIPTION**

Proposal to amend the existing proffers for the subject property on Tewning Road to remove "indoor sports facilities" from the list of prohibited uses, in order to allow for the construction and operation of a gymnastics facility. Indoor sports facilities including firing and shooting ranges are a permitted use in the M-1 Zoning district.

#### PLANNING AND ZONING HISTORY

• The Board of Supervisors adopted Case No. Z-0012-1986 for Casey Industrial Park on November 3, 1986. This changed the zoning of +/-13.6 acres of land at the end of Tewning Road from A-2, Limited Agricultural to M-1, Limited Business/Industrial.

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.

#### **REZONING-0003-2016. TEWNING ROAD PROFFER AMENDMENT**

#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

- The existing proffers for Case No. Z-0012-1986 prohibited many retail uses with the intent of creating a light industrial park. The majority of the land on surrounding properties has been developed.
- A site plan was approved for 144 Tewning Road in 2009 for the construction of two warehouse buildings with associated parking and site improvements, and is valid until July 1, 2017. The applicant intends to amend this site plan to provide additional parking and improve internal traffic flow for the gymnastics facility.
- The majority of the site has been cleared and being used as an equipment storage yard by the current property owner. The equipment onsite will be removed when the property is purchased by the applicant.

#### SURROUNDING ZONING AND DEVELOPMENT

- Located on Tewning Road across from the James City Service Authority (JCSA).
- Surrounding zoning designations include:
  - a. M-1, Limited Business/Industrial to the east and west (Tewning Business Center and vacant land); and
  - b. PL, Public Lands to the north and south (Eastern State Hospital and JCSA).

#### **COMPREHENSIVE PLAN**

• Designated Limited Industry on the 2035 Comprehensive Plan. Limited Industry uses within the Primary Service Area typically include warehousing, office, service industries, light manufacturing plants and public facilities that have moderate impacts on the surrounding area.

- Staff finds the gymnastics facility to be compatible with the Limited Industry designation for this site given the character of the other Limited Industry uses on Tewning Road, the Mixed Use designation of the adjacent parcel and the non-peak hours of operation for the gymnastics facility.
- The Comprehensive Plan identifies dust, noise, odor and other adverse environmental effects as primary considerations for determining whether land uses are acceptable in these areas. Staff notes that this proposal does not create any substantial adverse impacts.
- Surrounding Comprehensive Plan designations include:
  - a. Limited Industry to the east (Tewning Business Center);
  - b. Mixed Use to the west (vacant land); and
  - c. Federal, state and County land to the north and south (Eastern State Hospital and JCSA).

### PUBLIC IMPACTS

- 1. Anticipated impact on public facilities and services:
  - a. Streets. No impacts anticipated. The approved site plan for this site includes two entrances to Tewning Road approved by the Virginia Department of Transportation (VDOT). VDOT has also reviewed this application and did not identify any concerns.
  - b. Schools/Fire. No impacts anticipated.
  - c. Utilities. No impacts anticipated. Public water and sewer are available to the site. A proffer is proposed for the development of water conservation standards.

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.

#### **REZONING-0003-2016. TEWNING ROAD PROFFER AMENDMENT**

#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

- 2. Anticipated impact on environmental, cultural and historic resources: No additional impacts anticipated as the site has already been disturbed.
- 3. Anticipated impact on nearby and surrounding properties: No impacts anticipated. The site is located within an industrial area with no adjacent residential developments.

#### PROPOSED PROFFERS

- Proposed Proffer Amendment will remove "indoor sports facilities" from the list of prohibited uses in the existing proffers and provides the development of water conservation standards for the site.
- This Amendment will only apply to the property at 144 Tewning Road. The original proffers will remain in effect for all other parcels associated with Case No. Z-0012-1986. A map identifying these other parcels is attached.

#### **STAFF RECOMMENDATION**

Approval and acceptance of the amended proffers.

SP/ab R03-16TewningRd

#### Attachments:

- 1. Location Map
- 2. Narrative provided by Pete and Cindy Walker
- 3. Adopted Proffers dated September 29, 1986
- 4. Draft Proffers dated March 30, 2016
- 5. Case No. Z-0012-1986 Parcel Map

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.

# JCC-Z-0003-2016 Tewning Road Proffer Amendment




÷.	7-0003-2011
DATE:	February 24, 2016
TO:	James City County, Planning Department
FROM:	Pete and Cindy Walker
RE:	Rezoning Permit: Remove Proffer Language at 144 Tewning Road

We are requesting that a rezoning for the Property as referenced above in the form of a Modification to the current Proffers on the Property, specifically item 1.f, to remove the restricted application of "Indoor sport facility"

We are the owners of Williamsburg Gymnastics, and have been operating out of the W&M Gymnasium, in the City of Williamsburg, for 20 years. However, our business has grown and it is time to build our own facility to service the families in the greater Williamsburg/James City County area.

This property is well located for our use, and provides a zoning that would usually allow our small business to be located on it. However, when the Tewning Road corridor was developed a gymnasium was not seen as a viable use for this business corridor. However, as the corridor has developed it appears the business mix is certainly accepting and an appropriate location for our small business.

We appreciate your time and consideration of this matter and we look forward to working with you on this project.

Sincerely

C.C. Walker

Peter P Walker & Cindy C Walker Williamsburg Gymnastics

PROFFER STATEMENT

-12-86 Casey Proper

WHEREAS, ROBERT T. CASEY, CARLTON D. CASEY and C. LEWIS CASEY are the owners of approximately 13.6<sup>±</sup> acres of land located in the County of James City, Virginia, and more particularly described on a plat entitled, "Compiled Plat of 13.6<sup>±</sup> Acres Located in Berkeley District, James City County, Virginia, Prepared For the Purpose of Rezoning", a copy of which is attached hereto as Exhibit A, and have made application for a change in zoning of the subject property from <u>A-2</u> to <u>M-1</u>; and

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- WHEREAS, as a part of rezoning application, ROBERT T. CASEY, CARLTON D. CASEY and C. LEWIS CASEY voluntarily proffer conditions which shall be in addition to the limitations provided for in the zoning district; and
- WHEREAS, these conditions are proffered as a part of the requested rezoning and it is agreed that the limitations: (1) are required or arise because of the nature of the property and the rezoning sought, and (2) have a reasonable relation to the rezoning requested.
- THEREFORE, BE IT RESOLVED the following conditions are proffered in consideration for the rezoning of the above referenced property.

(1) See attached. ROBERT CASE CARLTON D. CASE STATE OF VIRGINIA AT LARGE CITY/COUNTY OF Krowshe , to-wit: be foregoing instrument was acknowledged before me this  $2^{11}$ , 1986, by ROBERT T. CASEY. Notary Public My Commission expires: 12/11 DEC 2 1986 👂 County Attorne

× E.,

These documents were printed from the JCC Official Records Management Imaging Site



# BUDH 331 MH 524

- (1) That the following uses otherwise allowed under James City County Code Section 20-350 shall not be permitted uses on the above-referenced property:
  - (a) Hotels, motels and conference or convention centers with accessory retail sales, barbershops and beauty shops located within the hotel, motel and conference or convention center for the principal benefit of the resident guest.
  - (b) Farmer's markets.
  - (c) Places of worship.
  - (d) Fire stations.
  - (e) Post offices.
  - (f) Indoor sport facilities, health clubs and exercise clubs.
  - (g) Retail food stores, bakeries and fish markets.
  - (h) Department stores, wearing apparel, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, pet, picture framing, stamp and coin, travel bureau, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.
  - (1) Drugstores, barber shops and beauty shops.
  - (j) Commercial banks, credit unions and other similar financial institutions.
  - (k) Employment services or agencies.
  - (1) Furniture and carpet stores.

VIRGINIA: City of Williamsburg and County of Jamos City, to wit: In the Clerk's office of the Circuit Cour: glas presented with certificate annexor and admitted to record at \_\_\_\_\_\_ o'clock Teste: Helongy Vard, Clerk by Helese Sales Doging Clerk

MAN NECONDED IN

2 BOOM 331 MAN 523 STATE OF VIRGINIA AT LARGE CITY/COUNTY OF WILLIMSON to-wit: The foregoing instrument was acknowledged before me this , 1986, by CARLTON p. CASEY. day of Contain Notary 82 My Commission expires: STATE OF VIRGINIA AT. LARGE CITY/<del>COUNTY</del> OF <u>CLAMON</u> . to-wit: The foregoing instrument was acknowledged before me this <u>3</u> Notary My Commission expires: My Commission Expires June 10, 1988

#### **Proffer Modification Statement**

Whereas, the Berry Revocable Living Trust, Jonathan Berry, and Edwin Berry (collectively the "Owner") own 2.0+/- acres located at 144 Tewning Road, further identified as James City County Tax Map Parcel No. 3910100015 (the "Property"); and

Whereas, Williamsburg Gymnastics, LLC (the "Applicant") is the contract purchaser of the Property and, with consent of the Owner, has applied for a change in zoning from M-1, Limited Industrial with proffers to M-1, Limited Industrial with amended proffers; and

Whereas, the Property was previously rezoned by the Board of Supervisors on November 3, 2016 as Case No. Z-0012-1986 for approximately 13.6+/- acres described on a plat entitled "Compiled Plat of 13.6+/- Acres located in Berkeley District, James City County, Virginia, Prepared for the Purpose of Rezoning"; and

Whereas, this requested rezoning will only apply to the Property; and

Whereas, as part of the rezoning, for purposes of Proffer Modification, Williamsburg Gymnastics, LLC, voluntarily agrees to the proffer conditions which shall be in addition to the limitations provided for in the zoning district; and

Whereas, such modifications conform to the past and recent developments in the surrounding area, and have reasonable relation to the current business corridor.

Therefore, the following conditions are proffered in consideration for the rezoning of the Property:

- 1. <u>Prohibited Uses:</u> The following uses otherwise allowed under James City County Code Section 20-350 shall not be permitted uses on the above referenced property.
  - a) Hotels, motels and conference or convention centers with accessory retail sales, barbershops and beauty shop located within the hotel, motel and conference or convention center for the principal benefit of the resident guest.
  - b) Farmers market.

12.0

- c) Places of Worship.
- d) Fire Stations.
- e) Post offices.
- f) Health and exercise clubs.
- g) Retail food stores.
- h) Department stores, wearing apparel, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, pet, picture framing, stamp and coin, travel bureau, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.

- i) Drug Stores, barber shops and beauty shops.
- j) Commercial banks, credit unions and other similar financial institutions.
- k) Employment services and agencies,
- 1) Furniture and carpet stores.

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2. <u>Water Conservation:</u> The Applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority. The Applicant shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials, 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 James City Service Authority prior final site plan approval.

9 Pete Walker, Williamsburg Gymnastics, LLC Cindy Walker, Williamsburg Gymnastics, LLC te Walker and. Ides Walk State of Virginia at Large City/County of to witt: The foregoing Instrument was acknowledged before me this 30 day of 2016, by Notary My commission Expires: \_\_\_\_/ State of Virginia at Large Janeo \_, to witt: City/County of elle The foregoing Instrument was acknowledged before me this 30 day of Mon cla 2016, by Poto I in and Notary Public My commission Expires: 3/ 30 JOSEPHINE ELAINE VONCANNON NOTARY PUBLIC REGISTRATION # 323639 COMMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES JULY 31, 2018

# Properties Associated with Case No. Z-0012-1986





#### **ITEM SUMMARY**

SUBJECT:	Case No. Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment
FROM:	Roberta Sulouff, Planner I
TO:	The Planning Commission
DATE:	4/6/2016

### **ATTACHMENTS:**

	Description	Туре
D	Staff report	Staff Report
D	Location Map	Backup Material
D	Master Plan Sheet 1	Backup Material
D	Master Plan Sheet 2	Backup Material
D	Master Plan Sheet 3	Backup Material
D	Master Plan Sheet 4	Backup Material
D	Adopted Proffers (Sections 2&4)	Backup Material
D	Adopted Proffers (Sections 3&6)	Backup Material
D	Draft Proffers (Sections 2&4)	Backup Material
۵	Draft Proffers(Sections 3&6)	Backup Material

#### **REVIEWERS:**

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/31/2016 - 3:18 PM
Planning Commission	Purse, Jason	Approved	3/31/2016 - 3:36 PM
Publication Management	Burcham, Nan	Approved	3/31/2016 - 3:44 PM
Planning Commission	Holt, Paul	Approved	3/31/2016 - 4:04 PM

Staff Report for the April 6, 2016, Planning Commission Public Hearing

#### SUMMARY FACTS

- Applicant: Mr. Gregory Davis, Kaufman & Canoles
- Land Owner: New Town Associates, LLC
- Proposal: To amend proffers for Sections 2&4 and 3&6 to provide cash-in-lieu amounts for previously proffered transit infrastructure. The proposal would also amend the current proffer language to reflect proffers satisfied by earlier rezonings and site plans, and finalize the timing for the installation of a previously proffered traffic signal. The proposal also includes changes to the Master Plan to reflect changes to trail amenities in Sections 3&6 and 7&8, and to show existing playgrounds and bus pull-offs. The intent of the proposal is to simplify any remaining obligations, as these sections are approaching full build-out.
- Location: Sections 2&4, 3&6 and 7&8 of New Town, generally bounded by Ironbound Road to the east, Monticello Avenue to the south, Eastern State Hospital property to the north and Route 199 to the west. This application does not include the area known as Settler's Market, nor any property located on Tewning Road.

Project Acreage: ±266.3 acres Zoning: MU, Mixed Use, with proffers Proposed Zoning: MU, Mixed Use, with emended

#### Zoning: MU, Mixed Use, with amended proffers

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

#### **PUBLIC HEARING DATES**

Planning Commission:April 6, 2016, 7 p.m.Board of Supervisors:May 10, 2016, 6:30 p.m. (Tentative)

Staff Contact: Roberta Sulouff, Planner I

#### **FACTORS FAVORABLE**

- 1. With the proposed amended proffers, the proposal is not expected to impact surrounding development.
- 2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.
- 3. Does not propose any change in commercial or residential density.
- 4. Simplifies proffer tracking and clarifies current proffer statuses.
- 5. Provides a clear timeline for the installation of outstanding proffered bus pull-offs and a traffic signal. Provides the alternative of current cash-in-lieu amounts for items, such as bus shelters, which may otherwise take some time to fulfill, due to circumstances outside of the applicant's control (such as changing bus routes).
- 6. Leaves flexibility for the development of the three remaining, undeveloped parcels in Sections 2&4 and 3&6.

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 April 6, 2016, Planning Commission Public Hearing

- 7. Provides a more substantial and accessible trail connection between Sections 7&8.
- 8. Complements walkable development environment, including the existing network of trails and sidewalks of New Town as a whole.

#### FACTORS UNFAVORABLE

1. Does not fully comply with the Parks & Recreation Proffer Guidelines.

#### SUMMARY STAFF RECOMMENDATION

Approval of the proposed Master Plan amendment and rezoning, and acceptance of the voluntary proffers.

#### PLANNING AND ZONING HISTORY

The  $\pm$ 547-acre area, known then as the Casey Tract, was initially rezoned from R-8 to R-8 with proffers in 1997. This rezoning bound development to the original overall New Town Master Plan and density caps, and included proffers which required each section to be individually rezoned to MU, Mixed Use prior to any further development. This approach allowed maximum development flexibility given the long duration of time over which the project has unfurled. As each section was rezoned it was given its own master plan, design guidelines and set of proffers.

*Sections* 2&4 were originally rezoned together in 2001 under James City County Case No. Z-0003-2001/MP-0005-2001. The proffers were modified in 2003 (Z-06-03).

- Provisions for three bus pull-off areas and three bus stop shelters. *Currently, one pull-off area is complete with no shelters built to date.*
- Requires two playgrounds per Parks & Recreation Proffer Guidelines in effect at that time. *One playground has been built.*

*Sections 3&6* were originally rezoned together in 2004 under James City County Case No. Z-0005-2004/MP-0005-2004. Traffic proffers associated with this case were amended in 2006 (Z-07-06).

- Provisions for two bus pull-off areas and two bus shelters. *One bus* shelter *and pull-off currently built*.
- Requires turn lanes north- and southbound on Ironbound Road and for a traffic signal at the Watford Lane/Ironbound Road intersection. The turn lanes are installed. Per the Virginia Department of Transportation (VDOT) analysis of review of the signal warrant analysis submitted with this application, the signal is now warranted and will be installed by the applicant.

*Section* 7&8 were rezoned together in 2007 under James City County Case No. Z-0005-2006/MP-0007-2006.

- Master Plan shows two pedestrian crossings/nature trails between Sections 7&8.
- Proffers require one pool, one playground and archaeological interpretive park and two urban parks. All but one urban park has been installed. The outstanding park is planned for Section 8, which has not fully developed. The playground adjacent to the pool was built "oversized" according to guidance from Parks & Recreation staff.

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#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

#### **PROJECT DESCRIPTION**

- Re-states and amends proffers applicable to Sections 2&4 and 3&6.
- Proposed Changes to Section 2&4 Proffers:
- Adds language to satisfy the original requirement of two playgrounds, on the basis that one is already built and that the applicant intentionally "overbuilt" the playground adjacent to the Section 7 pool. Also adds language to satisfy previously proffered trail provisions.
- Provides locations for the two outstanding bus pull-offs, as well as cash-in-lieu amounts for the pull-offs should Williamsburg Area Transportation Authority (WATA), VDOT and Planning not approve facilities at the proposed locations within six months of the submittal of a conceptual plan.
- Provides a cash-in-lieu amount for the three outstanding bus shelters, to be paid in escrow within 90 days of Board approval of the proposed proffer amendment. These funds are to be used for transit related improvements within the New Town development.
- Proposed Changes to Section 3&6 Proffers:
- Provides a cash-in-lieu amount for the outstanding bus pull-off and shelter, should WATA, VDOT and Planning not approve facilities at the proposed location within six months of the submittal of a conceptual plan.
- Provides a clear timeline for the installation of the outstanding traffic signal at Watford Lane.

- Clarifies the status of affordable housing units in 3&6. All housing in Sections 3&6 are rental and as no homes were sold the affordable housing proffer does not apply to these units. The affordable sale units have been transferred, per an earlier agreement, to Sections 7&8.
- Adds language to satisfy original walking trail requirements.
- *Proposed Changes to the Master Plan:*
- Removes one of two smaller pedestrian connections between Sections 7&8. This removal was proposed in an earlier conceptual plan/master plan consistency review (C-46-14). At that time, it was proposed that the smaller path would be removed from the plan should the applicant agree to widen and pave the other path shown on the Master Plan. The conceptual plan proposal was deemed consistent with the Master Plan as provided for in Sec. 24-23(a)(2) of the Zoning Ordinance. This will result in an 8-foot-wide hard surface path, rather than a smaller soft surface trail.
- Eliminates a trail connection between Sections 3&6 and 7&8. The applicant states that the trail would pass by a storage building, which is now being planned for that area. The applicant states concern that the trail may provide direct access to what is intended to be a secure storage and work area.
- While this application does not propose a change in density or in the sliding scales used for Sections 2&4 and 3&6, staff notes that some cosmetic changes have been made to the layout of density tables shown on Sheet No. 1. Again, these changes are cosmetic in nature and only intended to simplify the reading experience. No changes have been made to density caps in any section of New Town.

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#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

#### SURROUNDING ZONING AND DEVELOPMENT

- Surrounding zoning designations include:
  - MU, Mixed Use to the east, west and south (Settler's Market, New Town West, Courthouse, Ironbound Square subdivision).
  - M-1, Limited Business/Industrial to the south (Courthouse Commons).
  - PL, Public Land to the north (Eastern State Hospital).
  - The City of Williamsburg to the south and east.

#### **COMPREHENSIVE PLAN**

- Surrounding Comprehensive Plan designations include:
  - Mixed Use (New Town), Low Density Residential (Ironbound Square) and federal/state/County land (Eastern State).
- Designated Mixed Use on the 2035 Comprehensive Plan.
- The 2035 Comprehensive Plan includes specific development standards for New Town areas designated Mixed Use:
  - New development or redevelopment in this area should follow the appropriate, governing master plan and design guidelines and strive to integrate uses as appropriate.
  - Principal suggested uses include a mixture of commercial, office and limited industrial with some residential as a secondary use.

#### PUBLIC IMPACTS

- 1. Anticipated impact on public facilities and services:
  - a. <u>Transportation</u>: The applicant submitted a signal warrant analysis with this application. This analysis indicated that the signal is in fact warranted now. VDOT has reviewed the study and concurs with its findings. The applicant has agreed to install the signal, following the applicable VDOT processes.
  - b. <u>Schools</u>: This application does not propose any additional residential dwelling units, therefore staff finds that it does not create any additional impacts in this area.
  - c. <u>Utilities</u>: The James City Service Authority has reviewed the Master Plan and proffers, and concurs with the proposal.
  - d. Parks and Recreation:
    - Parks & Recreation staff have reviewed the proposed changes and generally support the changes to playground proffers in Section 2&4.
    - Application does not fully comply with the Parks & Recreation Proffer Guidelines in effect at the time that these proffers were accepted. The applicable guidelines specify that .0026 linear feet walking trails should be built for every dwelling unit. Under these guidelines, a minimum of 3,638 linear feet of trail must be built (for the existing 265 residential units) to meet these guidelines. A total of 2,875 linear feet of trail is already built. Though the proposed removal potentially results in fewer linear feet of trail, staff notes the robust network of internal sidewalks, as well as several connections to the Ironbound

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#### Staff Report for the April 6, 2016, Planning Commission Public Hearing

Road and Monticello Avenue multi-use paths and sidewalk networks which contribute to the walkable environment of New Town as a whole.

2. Anticipated impact on environmental, cultural and historic resources:

Staff finds that the proposed proffer and Master Plan amendments do not create any such additional impacts beyond those assessed at earlier rezonings.

3. Anticipated impact on nearby and surrounding properties:

Staff finds that the proposed proffer and Master Plan amendments do not create any such additional impacts beyond those assessed at earlier rezonings.

#### **PROPOSED PROFFERS**

Signed proffers have been submitted in accordance with the County's Proffer Policy and are provided as Attachments No. 3 & 4. Please see "Project Description" above, for more information regarding specific changes. These changes are in addition to proffers that have been restated from earlier rezonings of Sections 2&4 and 3&6.

Staff notes that, at the time of this writing, WATA has indicated that the estimate provided in an earlier draft of the proffers only included the cost of shelter and excluded the cost of installing bus pull-offs. WATA has agreed to provide an estimate of that cost, however the applicant has made a good faith estimate of the cost of the outstanding pull-offs slated to be built on Casey Boulevard and is amenable to reviewing their estimate should there be a difference between the two estimates.

#### **STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and the 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.

RS/nb RZ04-16-MP01-16NTown

#### Attachments:

- 1. Location Map
- 2. Proposed Master Plan
- 3. Adopted Proffers (Sections 2&4)
- 4. Adopted Proffers (Sections 3&6)
- 5. Draft Proffers (Sections 2&4)
- 6. Draft Proffers (Sections 3&6)

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.





# DEVELOPMENT TYPES

- A SINGLE FAMILY
- B TWO/THREE/FOUR FAMILY
- C TWO STORY TOWNHOUSES AND APARTMENTS
- D THREE STORY TOWNHOUSES AND APARTMENTS
- E COMMERCIAL

NOTES:

- IS GREATER.
- TO A BEST MANAGEMENT PRACTICE (BMP).
- AREAS AS WATER QUALITY ENHANCEMENT FEATURES.
- ENVIRONMENTAL GROUP TO THE ENVIRONMENTAL DIVISION.

			LAND USE AND DEN	ISITY TABULATIONS			
EAST SIDE			RESIDEN	TIAL DENSITY			M
	Total Area	Devel. Area	Master Planned	Master Planned Open Space	Max. du at Max. Non-Res	Max res.	N
PERMITTED USES	(acres)	(acres)	Open Spaces (ac.)	% of Dev. Acres	Density	Density	
E,G,C,D,M(CE),M(GE),M(CG),M(GI),J	88.7	81.1	3.4	4.2%	375	803	
B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.5	63.6	2.2	3.5%	365	365	
A,B,C,D,E,G,I,J,M(CE),M(DE),M(CG),M(DG)	108.1	92.8	13.4	14.4%	400	400	
						1,568	

			LAND USE AND DEM	ISITY TABULATIONS			
EAST SIDE			NON-RESID	ENTIAL DENSITY			1
	Total Area	Devel. Area	Master Planned	Master Planned Open Space	Max. sf at Max. Res	Max. sf Max.	
PERMITTED USES	(acres)	(acres)	Open Spaces (ac.)	% of Dev. Acres	Density	Non-Res Density	
E,G,C,D,M(CE),M(GE),M(CG),M(GI),J	88.7	81.1	3.4	4.2%	357,500	655,000	
B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.5	63.6	2.2	3.5%	431,394	431,394	
A,B,C,D,E,G,I,J,M(CE),M(DE),M(CG),M(DG)	108.1	92.8	13.4	14.4%	62,300	62,300	
					851,194	1,148,694	

(1) AT THE DATE OF THIS MASTER PLAN AMENDMENT (FEBRUARY 2016) THERE REMAINS 44,976 SQUARE FEET OF NON-RESIDENTIAL / 9 RESIDENTIAL DENSITY WITHIN SECTIONS 2 & 4; 29,000 SQUARE FEET OF NON-RESIDENTIAL / 28 RESIDENTIAL DENSITY WITHIN SECTIONS 3 & 6 AND 53,590 SQUARE FEET OF NON-RESIDENTIAL / 202 RESIDENTIAL DENSITY WITHIN SECTIONS 7 & 8.

- WHOLESALE AND WAREHOUSES F
- OFFICE G
- H INDUSTRIAL
- INSTITUTIONAL AND PUBLIC
- COMMON OPEN SPACE
- M MIXED USE STRUCTURES



VICINITY MAP

SCALE: 1"=5,000'

SHEET 1 OF 4

1. UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR AND EXCEPT FOR APPROVED ROAD AND UTILITY CROSSINGS, ALL DEVELOPMENT WITHIN NEW TOWN SECTIONS 2 AND 4 SHALL BE EAST OF THE EASTWARD LINE OF THE JAMES CITY SERVICE AUTHORITY GRAVITY SEWER EASEMENT AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, OR ANY JURISDICTIONAL WETLANDS DELINEATED AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, WHICHEVER

2. UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR, ALL PIPED STORMWATER OUTFALLS WILL BE DIRECTED

3. AS PRACTICABLE, OWNER WILL EVALUATE THE POSSIBLE USE OF CIVIC SPACES, PARKING ISLANDS, AND OTHER LANDSCAPED

4. PRIOR TO COMPLETION OF BUILD-OUT OF NEW TOWN SECTIONS 2 AND 4, IN ADDITION TO THE BMPS SHOWN ON THE PLAN DEPICTED ON THIS SHEET 2 OF 2, THAT BMP IDENTIFIED AS BMP #2 ON THE "MASTER STORMWATER PLAN, OPTION 4 CASEY PROPERTY", DATED 1/8/00, ON FILE WITH THE ENVIRONMENTAL DIRECTOR, OR OTHER SUITABLE ALTERNATIVE BMP(S) AS APPROVED BY THE ENVIRONMENTAL DIRECTOR, SHALL BE COMPLETED. THE TIMING OF CONSTRUCTION OF BMP #2 OR ALTERNATIVE BMP(S) SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE INTERIM STORMWATER MANAGEMENT PLAN DEVELOPED FOR THE CASEY PROPERTY AS PRESENTED IN A LETTER DATED NOVEMBER 18, 1997, FROM WILLIAMSBURG

				NEW TOW	/ \	
				COVER SHEET MASTER PLAN		
du\ac at non—res. ensity	Max du\ac at Max res. Density	BE	RKELI	EY DISTRICT JAMES CITY COUNTY August 25th, 2006 Revised on Dec 28th, 2006 Revised on FEBRUARY, 2016	/	VIRGINIA
4.2 5.3 3.7	9.1 5.3 3.7	LA	ND F	DEVELOPER: NEW TOWN ASSO LANNER: COOPER, ROBERTSON . ENGINEER: AES CONSULTING E	& P.	ARTNERS
		MAF	PREP	ARED BY		
sf\ac at ax res. ensity	Max sf\ac at Max Non-res. Density			5248 Olde Towne Road, Suite 1 Williamsburg, Virginia 23188 Phone: (757) 253-0040 Fax: (757) 220-8994 www.aesva.com		
4,031 3,165 576	7,385 7,913 576		CONSUL	TING ENGINEERS oads   Central Virginia   Middle Peninsula		
	1					
95		2	3/16	REVISIONS PER JCC COMMENTS UPDATE BUILDING LINES TO ALIGN WITH BUILT CONDITIONS	JAG JAG Revised	
		Rev.	Date	Description	By	





6632\E\00-MasterPlans\dwg\Mater plan revisions for greg davis\663201MP revised Sec 3-6 sht 3 2-12-16.dwg, 3/31/2016 2:29:55 PM, System K Series - B



MAP PREPARED BY



5248 Olde Towne Road, Suite Williamsburg, Virginia 23188 Phone: (757) 253-0040
 Fax: (757) 220-8994

Hampton Roads | Central Virginia | Middle Peninsula

2	3/16	REVISIONS PER JCC COMMENTS	JAC
1	2/16	UPDATE BUILDING LINES TO ALIGN WITH BUILT CONDITIONS	JAG
Rev.	Date	Description	Revise By

AES JOB #: 6632-E-18

SHEET 3 OF 4



## 010 023715

#### NEW TOWN - SECTIONS 2 and 4 - PROFFERS

THESE PROFFERS are made as of this 1<sup>st</sup> day of November, 2001, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Associates") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

#### <u>RECITALS</u>

<u>R-1</u>. Associates is the owner of certain real property in James City County, Virginia, being more particularly described on <u>EXHIBIT A</u> attached hereto and made a part hereof (the "Property").

<u>R-2</u>. The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no. 980001284.

<u>R-3</u>. The New Town Proffers provide for development of the Property in accordance with (i) a conceptual master land use plan entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Master Plan"), and (ii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines").

<u>R-4.</u> In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Associates, as the owner of the Property, has applied for a rezoning of the Property from MU, Mixed-Use, in part, and R-8, Rural Residential, in part, to MU, Mixed-Use, with proffers. The rezoning of the Property to MU, with proffers, is in fact consistent both with the

-

land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance").

<u>R-5.</u> Associates has submitted an update to the Community Impact Statement previously filed with the County's Director of Planning which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which update to the Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and accepted by the County in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the Community Impact Statement, are on file with the County's Director of Planning.

<u>R-6.</u> Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

<u>R-7.</u> Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County's Planning Commission and to the County's Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed master plans and guidelines in future rezonings of the property subject to the New Town Proffers.

<u>R-8.</u> Associates has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a master plan entitled "NEW TOWN SECTIONS 2 & 4 MASTER PLAN", dated June, 2001, revised September 14, 2001 (the "Sections 2 and 4 Master Plan") and design guidelines entitled "NEW TOWN SECTIONS 2 & 4 DESIGN GUIDELINES", dated June 21, 2001 (the "Sections 2 and 4 Guidelines") for the Property, copies of which Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines are on file with the County's Director of Planning.

<u>R-9.</u> The provisions of the Zoning Ordinance, Section 24-1, et seq., may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Associates, in furtherance of its application for rezoning, desires to proffer certain conditions which are specifically limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

<u>R-10</u>. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Sections 2 and 4 Master Plan, the Sections 2 and 4 Guidelines and all related documents described herein, and pursuant to Section 15.2-2296, <u>et seq</u>., of the Virginia Code, Section 24-16 of the Zoning Ordinance and the New Town Proffers, Associates agree that all of the following conditions shall be met and satisfied in developing the Property.

#### PROFFERS:

#### PROFFERS APPLICABLE TO ALL THE PROPERTY

1. <u>Application of New Town Proffers, Master Plan and Design Guidelines.</u> Unless otherwise specifically noted herein, these Proffers shall supercede and amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines, but only as to the Property.

2. <u>New Town Owner's Association</u>. Either a supplemental declaration (the "Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a

portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as documents no. 980013868, the articles of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof, or, in the alternative, for any of the Property not submitted by the Supplemental Declaration, a separate association (the "Residential Association") shall be formed. In addition to the Commercial Association and Residential Association, one or more separate owners or condominium associations may be organized for the Property (each individually a "Separate Association") and supplemental restrictive covenants may be imposed on the Property. The Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with separate owner's associations for the Property (collectively, the "Governing Documents"), if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer. The Governing Documents shall (i) require that the applicable association adopt an annual maintenance budget and assess all members for the maintenance of the properties owned or maintained by such association, (ii) grant such association the power to, and require that such association, file liens on member's properties for non-payment of such assessments and for the cost to remedy violations of, or otherwise enforcing, the Governing Documents, and (iii) provide that the DRB is to serve as a design review board for each association formed with respect to the Property.

3. Development Process and Land Use.

(a) <u>Development</u>. All the Property shall be developed, in one or more phases, generally in accordance with the Sections 2 and 4 Master Plan and the Sections 2 and 4 Guidelines; provided, however, there are two categories of certain specifically identified development items

depicted on or described by the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines. These categories and their respective development items are as follows:

"Fixed Development Items":

• • •

- (i) land uses,
- (ii) densities,
- (iii) streets designated on Sections 2 and 4 Master Plan as "REQUIRED" ("Required Streets")
- (iv) "Civic Green", "Court Square", "Pecan Square", and "Village Community Spaces" (as those terms are defined in Section 6 hereof), and
- (v) buffer areas

"Flexible Development Items":

- (i) pedestrian connections,
- (ii) streets other than Required Streets,
- (iii) areas of commercial use, office use, residential use, parking placement zones, view triangles, "build-to zones" and frontage zones and all other structures and improvements that are not Fixed Development Items.

The Sections 2 and 4 Master Plan provides for the location of the Fixed Development Items, but only the general location of the Flexible Development Items. Flexible Development Items are shown on the Sections 2 and 4 Master Plan for illustrative purposes only, and may be altered, moved or eliminated subject to DRB review and approval pursuant to subsection 3(b) below. Notwithstanding the aforesaid, all of such development shall be expressly subject to such changes in configuration, composition, and location as required by all other governmental authorities having jurisdiction over such development and provided such changes are in compliance with the Zoning Ordinance, are reviewed by the County Planning Director pursuant to subsection 3(c) below and receive DRB review and approval.

(b) <u>DRB Authority, Duties and Powers</u>. All subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled

"NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY", as the same may be amended by the DRB from time to time, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines. Evidence of DRB approval of plans required to be submitted to the County for approval shall be provided with any submission to the County Department of Development Management of such plans. The County shall not be required to review any subsequent development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines. The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable Sections 2 and 4 Guidelines and/or the Sections 2 and 4 Master Plan and the reasons for such finding and suggestions for curing the inconsistencies. The DRB may approve development plans that do not strictly comply with the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines, if circumstances, including, but not limited to, topography, natural obstructions, hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures and improvements and open space, wetlands and other natural features on the Property shall be constructed, improved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

(c) <u>Procedures for Changes to Sections 2 and 4 Master Plan and Sections 2 and 4</u> <u>Guidelines</u>. Applications to change the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines are to be made to the Planning Commission or the Board of Supervisors, as appropriate, as hereinafter provided and in accordance with the Zoning Ordinance. In accordance with Section 24-518 of the Zoning Ordinance, all of such amendments shall be subject to the approval of the County Planning Commission if, after reviewing written confirmation from the County's Director of Planning, the Planning Commission concludes that the changes do not significantly alter the character of the land uses or other features or conflict with any conditions placed on the approval of the rezoning.

No amendment of the Sections 2 and 4 Master Plan and/or Sections 2 and 4 Guidelines which significantly alters the character of land uses or other material features or conflicts with any conditions placed on approval of the rezoning as determined by the County's Director of Planning, and, if applicable under Section 24-518 of the Zoning Ordinance, the Planning Commission, shall be effective unless approved by the County Board of Supervisors.

Any change or amendment shall apply after its effective date but shall not require modification or removal of any previously approved construction.

(d) <u>Limitation of Liability</u>. Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, or ordinances or regulations. Neither the Associates, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

4. <u>Traffic Study and Road and Signal Improvements/Traffic Signal Preemption</u> Equipment.

(a) In accordance with the requirements of Section 4 of the New Town Proffers, Associates has submitted to the County an updated traffic study entitled "TRAFFIC STUDY FOR SECTIONS 2 & 4 OF NEW TOWN (CASEY PROPERTY), JAMES CITY COUNTY,

VIRGINIA", dated June 2001, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County's Director of Planning.

(b) The following entrance and road improvements shall be completed (or bonded pursuant to the County Code) for the "North Boulevard" (as designated in the Traffic Study) connection to Ironbound Road when warranted by VDOT:

- (i) A northbound left turn lane on Ironbound Road
- (ii) A southbound right turn lane on Ironbound Road
- (iii) On North Boulevard, a minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road.

A traffic signal shall be designed and installed (or bonded pursuant to the County Code) as required by the Virginia Department of Transportation ("VDOT") when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the James City County Fire Department.

(c) There shall be completed (bonded pursuant to the County Code) on "Court Street" (as designated in the Traffic Study) two lanes approaching Monticello Avenue and two lanes departing Monticello Avenue, when warranted by VDOT. A traffic signal shall be designed and installed as required by VDOT when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the County Fire Department.

(d) For the "Center Street" (as designated in the Traffic Study) connection to Monticello Avenue, the following entrance and road improvements shall be completed (or bonded) when warranted by VDOT:

- (i) On "Center Street" (as designated in the Traffic Study), two lanes approaching and two lanes departing Monticello Avenue.
- (ii) A westbound right turn lane on Monticello Avenue at Center Street.

After opening of the Center Street connection to Monticello Avenue, a traffic signal shall be designed and installed (or bonded) as required by VDOT when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the County Fire Department.

(e) Prior to occupancy of greater than 175,000 square feet of office space or, if sooner, equivalent p.m. peak hour trip generation from the Property, the following road improvements shall, subject to section 23-4.01 of the Virginia Code, as applicable, be completed (or bonded pursuant to the County Code) at the intersection of Monticello Avenue with Ironbound Road:

- (i) A second through lane on eastbound Monticello Avenue and on westbound Monticello Avenue.
- (ii) Right turn lanes on eastbound and westbound Monticello Avenue.

(f) The road improvements identified in items (b), (c), (d) and (e) above shall be installed to VDOT standards and specifications.

5. <u>Mix of Housing Types</u>. A minimum of fifteen (15) residential dwelling units constructed in Sections 2 and 4 of the Property combined shall be initially offered for sale for a period of nine (9) continuous months (if not earlier sold pursuant to such offer) after the issuance of a building permit for such units at a price at or below \$105,000, subject to adjustment as set forth herein, and a minimum of twenty-five (25) residential dwelling units constructed in Sections 2 and 4 of the Property combined shall be initially offered for sale for a period of six (6) continuous months after the issuance of a building permit for such units at prices between \$105,000 and \$140,500, subject to adjustment as set forth herein. The \$105,000 and \$140,500 prices set forth herein shall be increased by adjusting such price by the cumulative rate of inflation as measured by the Consumer Price Index – Urban, U.S. City Average for the period from January 2003 until the date of the settlement for the dwelling unit in question. The Director of Planning shall be provided

with a copy of the listing agreement and sales literature for each residential dwelling unit offered for sale at a price at or below the adjusted price set forth above, and with respect to the sale of such units, consultation shall be made with, and referrals of qualified buyers shall be accepted from, the County Department of Housing and Community Development.

6. Community Spaces. The Sections 2 and 4 Master Plan and the Sections 2 and 4 Guidelines set forth (i) a "Village Green" and a "Village Square" or such alternative centrally located village community space as the DRB may approve as consistent with the Sections 2 and 4 Guidelines (collectively, the "Village Community Spaces"), (ii) a "Civic Green" ("Civic Green"), (iii) a "Court Square" ("Court Square"), and (iv) "Pecan Square" ("Pecan Square"). The construction of the Civic Green and Court Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising twenty-five percent (25%) of the allowable non-residential density of Section 2. The construction of the Village Community Spaces shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising sixty percent (60%) of the allowable non-residential density of Section 2. The construction of Pecan Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising fifty percent (50%) of the allowable residential or non-residential density of that portion of Section 2 identified on the Sections 2 and 4 Master Plan as fronting Ironbound Road, lying between Pecan Square and the Civic Green, and bounded on two sides by Required Streets. In lieu of such completion, but in order to provide completion assurances, an agreement may be made with the County and the County may be furnished with a certified check, bond with surety or letter of credit in an amount equal to one hundred fifty percent (150%) of the estimated cost to complete the respective improvements based upon preliminary site development plans approved by the DRB, in form satisfactory to the County, along with such other agreements which are satisfactory to and approved by the County Attorney, all as more particularly set forth in the County Code. Notwithstanding the aforesaid, the configuration, composition and location of the design of the Civic Green, the Court Square, the Pecan Square, the "Neighborhood Green" (as designated on the Sections 2 and 4 Master Plan), and the Village Community Spaces (collectively, the "Community Spaces") are subject to the provisions of paragraph 3(c) hereof, and shall be further expressly subject to such changes in configuration, composition and location as required by governmental authorities, other than the County, having jurisdiction over said areas, provided such changes are in compliance with the Zoning Ordinance, are reviewed by the County Planning Director and receive DRB review and approval. The Community Spaces shall be maintained by the Commercial Association, the Residential Association and/or a Separate Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the responsible association; provided, however, no permanent barriers shall be erected or maintained to prohibit pedestrian access to such Community Spaces and such Community Spaces shall be open to the owners of the Property, their respective mortgagees, and tenants and occupants of buildings constructed on the Property and the respective subtenants, licensees, concessionaires, business invitees, employees and customers of all such persons.

7. <u>Open Spaces</u>. The Property shall comply with applicable County open space requirements, including Section 24-524 of the Zoning Ordinance. The applicable open space requirements in developing the Property may be met by specifically designating open space on the remainder of the "R-8 Property" (as defined in the New Town Proffers) as and when the Property is developed and such open space requirements applicable to the Property cannot reasonably be met by identifying open space located on the Property. Such designation of open space on the remaining R-8 Property may be subject to change with the prior written approval of the County's Department of Development Management. At the request of the County, Owner shall subject that

portion of the Property designated on the Sections 2 and 4 Master Plan as the "Woodland Preserve" to an open space (for Section 24-524 compliance) or a natural open space easement, as appropriate, to ensure compliance with open space requirements with respect to such area. Further, Associates may utilize Community Spaces, in part, to meet the open space requirements for the Property.

At such time as VDOT is prepared to improve 8. Ironbound Road Right-of Way. Ironbound Road, there shall be conveyed, free of charge to the County or VDOT, in a single conveyance, an additional variable width portion of the Property and of the R-8 Property lying adjacent to, and along, Ironbound Road as is necessary for the upgrade of Ironbound Road to a variable width four lane road with medians and bikeways generally as described in the Sections 2 and 4 Guidelines, which area conveyed shall be limited to, but not necessarily include all of, that portion of the Property and the R-8 Property, as shown on Figure 8 in the Sections 2 and 4 Guidelines, "Ironbound Comprehensive Plan and Section", as follows: (1) along the easterly property line of Section 2 of the Property adjacent to Ironbound Road thereby providing a right of way for Ironbound Road up to a maximum width of 126 feet (when combined with existing right of way) which total width is measured from the existing eastern right of way line of Ironbound Road, and (2) along the easterly property line of Section 3 of the R-8 Property adjacent to Ironbound Road thereby providing additional right of way for Ironbound Road up to a maximum additional area conveyed of 76 feet in width which additional width is measured from the existing western right-ofway line of Ironbound Road.

9. <u>Streetscapes</u>. All site development and subdivision plans for development within the Property shall include (i) pedestrian connections on the Property, or the portion thereof so developed, along main roads adjoining the Property, (ii) streetscape plans for adjacent streets within the Property, and (iii) streetscape plans for those portions of the Property adjacent to Ironbound Road and Monticello Avenue, all of which pedestrian connections and streetscapes shall be

consistent with the Sections 2 and 4 Guidelines applicable to the Property. The approved streetscape plans, including, where required by the DRB pursuant to the Sections 2 and 4 Design Guidelines, street trees, the town wall or fence, sidewalks, walking trails, crosswalks, street lighting, street furniture, and bike lanes, and any other miscellaneous improvements required by the Sections 2 and 4 Design Guidelines and approved by the DRB, shall be implemented when the adjacent portion of the Property is developed.

10. <u>Bus/Transit Facilities</u>. At least three (3) bus pull-off areas and bus stop shelters shall be constructed on the Property, one each on the proposed Court Street and North Boulevard within Sections 2 and 4, respectively, of the Property and the third elsewhere on the Property, or at such reasonable alternative locations as approved by the County Transit Administrator. Design of the pull-offs and shelters shall be approved in advance by the DRB. The pull-offs and shelters shall be installed when the adjacent roadways are constructed.

11. <u>Recreation Facilities</u>. The Property is being developed in furtherance of a comprehensive town plan that is subject to the Section 2 and 4 Guidelines and the Section 2 and 4 Master Plan which provide for a more urban approach to the design of buildings and public spaces to avoid conventional suburban patterns and promote a walking environment, and implementation of such development design will provide for a network of sidewalks, alleyways and community areas. Specifically, in furtherance of the County Comprehensive Parks and Recreation Plan proffer guidelines (the "County Recreation Guidelines"), as in effect on the date hereof, recreation facilities in the form of the Community Spaces to be established at the Property shall be provided, open to all residential Association and/or a Separate Association. Further, prior to issuance of certificates of occupancy for more than one hundred (100) residential dwelling units in Section 4 of the Property, there shall be installed in Section 4 at least two (2) urban scale playgrounds or such alternative

neighborhood recreation or urban park area(s) as approved by the DRB and the County's Director of Planning. At least two (2) such playground, recreation or park areas shall have installed thereon either playground equipment consistent with County Recreation Guidelines or such acceptable alternative equipment as approved by the Planning Commission's Development Review Committee.

12. <u>Water Conservation</u>. The owner(s) of the Property, the Residential Association and/or the Commercial Association shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority (the "JCSA"). The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total irrigated area of the Property in order to accomplish the limitation on use of public water and groundwater. The standards shall be approved by the JCSA prior to approval of the first site plan for development of the Property or any portion thereof.

13. <u>Contribution for Public Facilities</u>.

(a) <u>Water; Recreation</u>. A contribution shall be made to the County in the amount of Seven Hundred Dollars (\$700), for each individual residential dwelling, house, condominium or other residential unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Facilities Contribution"). The County shall make these monies available for development of water supply alternatives and recreational facilities, the need for which is deemed by the County to be generated by the development of the Property. The Per Unit Facilities Contribution shall be payable for each of the Residential Units developed within the Property at the time of issuance of a building permit by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

(b) <u>School Facilities</u>. A contribution shall be made to the County in the amount of Two Hundred Ninety-five Dollars (\$295), for the initial 370 Residential Units developed on the Property (the "Per Unit School Contribution"). The calculation of such contributions is premised upon a need for a total financial contribution for the entire New Town of \$240,000, said need being deemed by the County to be generated by the anticipated development of the residential components of New Town. The County shall make these monies available for acquisition of school sites and/or construction of school facilities, the need for which is deemed by the County to be generated by the development of the Property. Such contributions shall be payable for each of the initial 370 Residential Units developed within the Property at the time of issuance of a building permit by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

(c) The Per Unit Facilities Contribution and Per Unit School Contribution (collectively, the "Per Unit Contributions") paid in each year shall be adjusted annually beginning January 1, 2003 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the respective Per Unit Contributions be adjusted to a sum less than the amount initially established by this Proffer Agreement. The adjustment shall be made by multiplying each of the Per Unit Contributions for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Per

Unit Contributions shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (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 Contributions to approximate the rate of annual inflation in the County.

14. As stated on the Sections 2 and 4 Master Plan, all streets Private Streets. within Sections 2 and 4 of the Property have the potential to be private; however, the intention is that all streets within the Property be public and constructed in conformance with VDOT construction standards unless VDOT will not approve any streets as substantially described in the Sections 2 and 4 Guidelines, in which event such streets not approved as public shall be private. Pursuant to Section 24-528 of the County Code, private streets within the Property shall be maintained by the Residential Association, Commercial Association and/or a sub-association, as The party responsible for construction of a private street shall deposit into a applicable. maintenance fund to be managed by the applicable Residential Association, Community Association, or sub-association responsible for maintenance of such private street an amount equal to one hundred fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT – Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee amount at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the street to be designated as private.

15. <u>Archaeological Study</u>. Pursuant to the New Town Proffers, a Phase I Archaeological Study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o

Virginia Landmark Corporation by the William and Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning. A further Phase II study was conducted for all sites at the Property that were recommended in the Phase I study referenced above for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places, the results of which Phase II study shall be submitted to, and approved by, the Director of Planning. Based upon the Phase I and Phase II studies, a Phase III Treatment Plan has been prepared and submitted to, and shall be subject to the approval of, the Director of Planning. All Phase I, Phase II and Phase III studies referenced in these Proffers shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards.

16. <u>Small Whorled Pogonia.</u> The owner of the Property shall cause a survey to be conducted of the Property for small whorled pogonias. The location of any small whorled pogonias located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of the small whorled pogonias identified, if any, on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning.

17. <u>Prohibition of Restrictions on Vehicular Access.</u> Notwithstanding anything in the New Town Master Plan, the New Town Design Guidelines, the New Town Proffers, the Sections 2 and 4 Master Plan, the Sections 2 and 4 Guidelines and/or these Proffers to the contrary, no private streets installed pursuant to the provisions of Section 14 above for the purpose of providing access from Ironbound Road or Monticello Avenue to the Property or the R-8 Property now owned by Associates shall have erected thereon at Monticello Avenue or Ironbound Road any permanent fence, gate or other structure to prohibit or restrict (except for curbs, landscaping features and other forms of traffic control measures, including, without limitation, one way streets, truck traffic limitations and traffic signals) public vehicular access from Monticello Avenue and/or Ironbound Road to the Property and/or the R-8 Property now owned by Associates.

#### MISCELLANEOUS PROVISIONS

18. Disposition of Proffered Property and Payments. In the event payment of cash and dedication of real property are proffered pursuant to these Proffers and any of such property and cash payments are not used by the County or, with respect to real property, the Commonwealth of Virginia, for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts and property not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County's capital improvement plan, the need for which is deemed by the County to be generated by the development of the Property.

19. <u>Successors and Assigns</u>. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of Associates hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

20. <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 clause, sentence, paragraph, section or provision hereof.

21. <u>Conflicts</u>. In the event there is a conflict between: (1) these Proffers, the Sections 2 and 4 Guidelines, and/or the Sections 2 and 4 Master Plan; and (2) the New Town Proffers, the New Town Master Plan and/or the New Town Guidelines, then these Proffers, the Sections 2 and 4 Guidelines and the Sections 2 and 4 Master Plan shall govern. 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 Supervisors and the Courts or as otherwise provided by law.

22. <u>Signature by the County</u>. The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings and submissions described herein and confirming approval by the Board of Supervisors of the rezoning of the Property with these Proffers by resolution dated  $\underline{December}$ , 2001.

23. <u>Headings</u>. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

24. <u>Conditions Applicable Only To The Property</u>. Notwithstanding anything in these Proffers 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 Associates and its successors in interest to develop its other property in accordance with the other applicable provisions of the County Zoning Ordinances.

19

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

ullin By:

Its: <u>Authorized Representative</u>

## THE COUNTY OF JAMES CITY, VIRGINIA

By: ECTOR OF PLANNING. Its:

APPROVED AS TO FORM:

act County Attorney

# STATE OF VIRGINIA\_ CHY/COUNTY OF James (ity\_, to wit:

The foregoing instrument was acknowledged before me this <u>I</u> day of <u>December</u>, 2001 by James D. Franklin as Authorized Representative of New Town Associates, LLC, a Virginia limited liability company, on its behalf, under Limited Power of Attorney, dated October 19, 2001.

<u>Sala</u> LA R. St. G S

My commission expires: 3 - 31 - 2004

STATE OF VIRGINIA CITY/COUNTY OF <u>JAmes City</u>, to wit:

The foregoing instrument was acknowledged before me this <u>13</u> day of <u>Mecember</u>, 2001 by <u>O MARUIN Sources</u> as <u>Director of PLANNING</u> for the County of James City, Virginia.

<u>(arole C' Giuliano</u> NOTARY PUBLIO

My commission expires: may 31, 2002

#6015332 v7 - New Town 2&4 Proffers

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That portion of that certain piece or parcel of land located in James City County, Virginia, shown and set out as "Southern Civic District Section 1" on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997, lying north of Monticello Avenue.

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Those certain pieces or parcels of land shown and set out as Sections 2 and 4 on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997.

Parcels I and II above comprise approximately 82.8 acres.

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#6015332 v7 - New Town 2&4 Proffers

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#### Z-05-04/MP-05-04/MP-08-04. New Town Section 3 & 6 Proffers

NEW TOWN - SECTIONS 3 and 6 - PROFFERS

THESE PROFFERS are made as of this 25th day of October, 2004, by NEW TOWN **ASSOCIATES,** LLC, a Virginia limited liability company (together with its successors and assigns, "Owner") (index as a "grantor"), and the **COUNTY** OF **JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County") (index as the "grantee").

#### RECITALS

<u>R-1</u>. Owner is the owner of certain real property located in James City County, Virginia, being more particularly described on <u>EXHIBIT A</u> attached hereto and made a part hereof (the "Property"). Owner is also the owner of certain real property, including the Property, located in James City County, Virginia, being more particularly described on <u>EXHIBIT B</u> attached hereto and made a part hereof (the "New Town Property").

<u>R-2</u>. The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as Instrument Number 980001284.

<u>R-3</u>. The New Town Proffers provide for development of the Property in accordance with (i) a conceptual plan of development (the "New Town Master Plan") entitled, "NEW TOWN PLAN", dated July 23, 1997, revised December 8, 1997, prepared by Cooper, Robertson & Partners and AES Consulting Engineers, and (ii) design guidelines (the "New Town Design Guidelines") entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA", dated September 3, 1997, prepared by Cooper, Robertson & Partners. A copy of the New Town Master Plan and New Town Design Guidelines are on file with the County Planning Director.

<u>R-4</u>. In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Owner has applied for a rezoning of the Property from R-8, Rural Residential with proffers to MU, Mixed-Use with proffers. The rezoning of the Property to MU, with proffers, is consistent both with the land use designation for the Property on the County Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County Zoning Ordinance, Section 24-1 *et seq.* of the County Code of Ordinances, in effect on the date hereof (the "Zoning Ordinance").

<u>R-5</u>. Owner has submitted an update to the Community Impact Statement entitled "Community Impact Statement for the Casey Newtown", dated March 21, 1997, previously filed with the County Planning Director which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which update to the Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and accepted by the County in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the original Community Impact Statement, are on file with the County Planning Director.

<u>R-6</u>. In accordance with the requirements of paragraph 4 of the New Town Proffers, Owner has submitted to the County an updated traffic study (the "Traffic Study") entitled "TRAFFIC STUDY FOR SECTIONS 3 & 6 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA", dated June 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia, which is on file with the County Planning Director. <u>R-7</u>. Pursuant to subparagraph 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

<u>R-8</u>. Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County Planning Commission and to the County Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed master plans and design guidelines in future rezonings of the property subject to the New Town Proffers.

<u>R-9</u>. Owner has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a conceptual plan of development (the "Sections 3 and 6 Master Plan") entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated June 1, 2004, revised June 21, 2004, prepared by AES Consulting Engineers, and design guidelines (the "Sections 3 and 6 Guidelines") entitled "New Town Discovery Park Sections 3 & 6 Design Guidelines", dated September 2, 2004, prepared by Cooper Robertson & Partners, for the Property, copies of which Sections 3 and 6 Master Plan and Sections 3 and 6 Guidelines are on file with the County Planning Director.

<u>R-10.</u> A Phase I Archaeological Study (the "Casey Study") was conducted on the Property as detailed in that certain report entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, which report has been submitted to, reviewed and approved by the County Planning Director. The Casey Study identified only one (1) area of archaeological significance on the Property, Site 44JC617, and recommended such site for Phase II evaluation. Subsequent to the Casey Study, Owner commissioned a second Phase I Archaeological Study (the "Associates Study") of, *inter alia*, Site 44JC617 as detailed in that certain report entitled "Phase I Archaeological Investigations of Sites 44JC617, 44JC618, 44JC619, and 44JC620 on the New Town Tract James City County, Virginia", dated January, 2004, prepared by Alain C. Outlaw, Principal Investigator, Timothy Morgan, Ph.D., and Mary Clemons, which report has been submitted to, reviewed and approved by the County Planning Director. The Associates Study determined that Site 44JC617 is an isolated finds area and recommended no further treatment of the site.

R-11. A small whorled pogonia survey was conducted on the Property revealing that no small whorled pogonia plants exist on the Property. The report generated from that survey "SEARCHES FOR THE SMALL WHORLED POGONIA, is entitled ISOTRIA MEDEOLOIDES. ON THE CASEY TRACT. CHISEL RUN WATERSHED, WILLIAMSBURG/JAMES CITY COUNTY, VIRGINIA SPRING/SUMMER 1996" (the "1996 Report"), prepared by Dr. Donna M. E. Ware of the College of William & Mary for Williamsburg Environmental Group, Inc. The results of the 1996 Report are illustrated on sheet 6, entitled "Master Stormwater Plan", of the New Town Master Plan. A copy of the 1996 Report is on file with the County Planning Director.

<u>R-12</u>. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning

Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

<u>R-13.</u> The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Sections 3 and 6 Master Plan, the Sections 3 and 6 Guidelines and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance and the New Town Proffers, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

#### PROFFERS:

1. <u>Application of New Town Proffers, Master Plan and Design Guidelines.</u> These Proffers, the Sections 3 and 6 Master Plan and the Sections 3 and 6 Design Guidelines shall supercede, amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines, but only as to the Property. Accordingly, this document contains the only proffers hereinafter applicable to the Property.

2. <u>New Town Owner's Association.</u>

(a) A supplemental declaration ("Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as Instrument Number 980013868 (including the articles of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof).

(b) For any of the Property not submitted by Supplemental Declaration to the Commercial Association, a separate association (the "Residential Association") shall be formed. In addition to the Commercial Association and the Residential Association, one or more separate owners or condominium associations may be organized for portions of the Property (each individually a "Separate Association") as subordinate associations of the Commercial Association and/or Residential Association and supplemental restrictive covenants may be imposed on the corresponding portions of the Property.

(c) The Residential Association and the Commercial Association shall develop shared facilities agreements ("Shared Facilities Agreements") between the associations as necessary to fairly and reasonably apportion fiscal responsibility for the operation and maintenance of common elements, recreation facilities, stormwater management facilities, roadways, or other facilities benefiting or serving the members of both associations. The apportionment of such fiscal responsibility shall be based upon such factors as impervious surface area, building square footage, numbers of "Residential Units" (hereinafter defined) within a particular association, number of members, land area of the membership, intensity of use of such shared facilities by the membership of each association and/or such other factors agreed to between the associations.

(d) Any Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with the Residential Association or a Separate Association for the Property (collectively, the "Governing Documents") and the Shared Facilities Agreements, if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer. The Governing Documents shall (i) require that the applicable association adopt an annual maintenance budget and assess all of its members for the maintenance of the properties owned or maintained by such association, (ii) grant such association the power to, and require that such association, file liens on its member's properties for non-payment of such assessments and for the cost to remedy violations of, or otherwise enforce, the Governing Documents, (iii) provide that the DRB shall serve as a design review board for each association formed with respect to the Property, and (iv) provide for the implementation and enforcement of the water conservation standards proffered herein.

#### 3. <u>Development Process and Land Use.</u>

(a) <u>Development.</u> The Property shall be developed in one or more phases generally in accordance with the Sections 3 and 6 Master Plan and the Sections 3 and 6 Design Guidelines, including, but not limited to, the land uses, densities and design set forth therein. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

(b) <u>DRB Authority, Duties and Powers.</u> All site plans, exterior architectural plans, building materials, building elevation plans and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled "NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY" as the same may be amended by the DRB from time to time, a copy of which is on file with the County Planning Director, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Sections 3 and 6 Master Plan and Sections 3 and 6 Guidelines. Evidence

of DRB approval of plans required to be submitted to the County for approval shall be provided with any submission of such plans to the County Department of Development Management. The County shall not be required to review any development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Sections 3 and 6 Master Plan and/or the Sections 3 and 6 Guidelines. The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable Sections 3 and 6 Guidelines and/or the Sections 3 and 6 Master Plan and the reasons for such finding and suggestions for curing the inconsistencies. The DRB may approve development plans that do not strictly comply with the Sections 3 and 6 Master Plan and/or the Sections 3 and 6 Guidelines, if limited to, topography, circumstances, including, but not natural obstructions. design/development hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures, improvements, open space, wetlands and other natural features on the Property shall be constructed, improved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

(c) <u>Limitation of Liability.</u> Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, ordinances or regulations. Neither Owner, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

4. <u>Transportation Improvements.</u> Owner shall construct/install the following entrance and road improvements ("Transportation Improvements<sup>"</sup>) to Virginia Department of Transportation ("VDOT") standards and specifications for the Watford Lane (as designated in the Traffic Study) intersection with Ironbound Road:

- (a) A northbound left turn lane on Ironbound Road at Watford Lane;
- (b) A southbound right turn lane on Ironbound Road at Watford Lane;
- (c) A minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road on Watford Lane in New Town Section 3; and
- (d) A traffic signal which shall include: i) signal coordination equipment at the request of VDOT, and ii) traffic signal preemption equipment acceptable to the County Fire Chief.

The Transportation Improvements shall be completed or guaranteed ("Guaranteed") in accordance with Section 15.2-2299 of the Virginia Code (or such successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a "Guarantee" or "Guarantees") prior to final site plan or subdivision plan approval for residential and/or non-residential construction on the Property exceeding 400,000 square feet unless earlier warranted and/or deemed needed by VDOT. The deadline established by the preceding sentence may be extended by the County Planning Director based upon such objective criteria as, *inter alia*, the rate of residential development of the New Town Property and/or traffic generated by development of the New Town Properties.

5. Mix of Housing Types. A minimum of six (6) "Residential Units" constructed on the Property shall be initially offered for sale for a period of nine (9) continuous months (if not earlier sold pursuant to such offer) after the issuance of a building permit for such "Residential Units" at a price at or below One Hundred Nine Thousand Thirty-Four Dollars (\$109,034), subject to adjustment as set forth herein, and a minimum of ten (10) "Residential Units" constructed on the Property shall be initially offered for sale for a period of nine (9) continuous months after the issuance of a building permit for such "Residential Units" at prices between One Hundred Nine Thousand Thirty-Four Dollars (\$109,034) and One Hundred Forty-Five Thousand Eight Hundred Ninety-Eight Dollars (\$145,898), subject to adjustment as set forth herein. The County Planning Director shall be provided with a copy of the listing agreement and sales literature for each "Residential Unit" offered for sale at a price at or below the adjusted price set forth above, and with respect to the sale of such "Residential Units", consultation shall be made with, and referrals of qualified buyers shall be accepted from, the County Department of Housing and Community Development. With the approval of the County Planning Director, Owner may satisfy the requirements of this proffer by encumbering, in a manner satisfactory to the County Attorney, other property within the New Town Property with the obligation to construct and offer for sale the "Residential Units" with the above-proffered pricing upon the same terms and conditions. Such encumbrance on other New Town Property may be changed with the prior written approval of the County Planning Director.

6. <u>Community Spaces.</u> The Sections 3 and 6 Master Plan and the Sections 3 and 6 Guidelines set forth a "Northern Focal Open Space" ("Northern Community Space"). The site plan for the Northern Community Space shall be submitted to the County prior to fmal approval of the site plan for that portion of New Town Avenue located on Sections 3 and 6. The Northern Community Space shall be completed or Guaranteed on or before the earlier of: i) such date as the road way striping for that portion of New Town Avenue located on Sections 3 and 6 is completed, and ii) such date that any widening of the portion of Ironbound Road adjacent to the Property has been completed. Other open space areas ("Neighborhood Community Spaces") shall be constructed on the Property as generally depicted on the Sections 3 and 6 Master Plan. Each Neighborhood Community Space shall be completed or Guaranteed prior to the issuance of certificates of occupancy for the first building(s) adjacent to such Neighborhood Community Space. The configuration, composition, location and design of the Northern Community Space and the Neighborhood Community Spaces (collectively, the "Community Spaces") is subject to the provisions of paragraph 3(b) hereof, and shall be further expressly subject to such changes in configuration, composition and location as required by governmental authorities, other than the County, having jurisdiction. The Community Spaces shall be maintained by the Commercial Association, the Residential Association and/or a Separate Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the responsible association; provided, however, no permanent barriers shall be erected or maintained to prohibit pedestrian access to the Community Spaces and the Community Spaces shall be open to the owners of the Property, their respective mortgagees, and tenants and occupants of buildings constructed on the Property and, inter alia, the subtenants, licensees, concessionaires, business invitees, employees and customers of all such persons.

7. <u>Open Spaces.</u> The Property shall be developed in compliance with applicable County open space requirements, including Section 24-524 of the Zoning Ordinance. With the approval of the County Planning Director, the applicable open space requirements in developing the Property may be met by specifically designating open space on other property within the New Town Property as and when the Property is developed if such open space requirements applicable to the Property cannot reasonably be met by identifying open space located on the Property. Such designation of open space on the New Town Property may be changed with the prior written approval of the County Planning Director. Owner may utilize the Community Spaces or portions thereof to meet the open space requirements for the Property, provided such space meets the applicable definition of open space contained in the Zoning Ordinance.

8. <u>Ironbound Road Right-of-Way.</u> At such time as VDOT is prepared to improve Ironbound Road, there shall be conveyed, free of charge to the County or VDOT, in a single conveyance, an additional variable width portion of the Property lying adjacent to, and along, Ironbound Road as is necessary for the upgrade of Ironbound Road to a variable width four lane road with medians and bikeways generally as described in the Sections 3 and 6 Guidelines, which area conveyed shall be limited to, but not necessarily include all of, that portion of the Property along the easterly property line of Section 3 of the Property adjacent to Ironbound Road thereby providing additional right-of-way for Ironbound Road of a variable width up to a maximum additional area conveyed of 72 feet in width which additional width is measured from the existing western right-of-way line of Ironbound Road as shown on the applicable VDOT roadway plans on the date of conveyance.

9. <u>Streetscapes.</u> All site plans and subdivision plans for development within the Property shall include: (i) pedestrian connections on the Property, or the portion thereof so developed, along main roads adjoining the Property; (ii) streetscape plans for streets within the subject portion of the Property: and (iii) streetscape plans for those portions of the Property adjacent to Ironbound Road, all of which pedestrian connections and streetscapes shall be consistent with the Sections 3 and 6 Guidelines applicable to the Property. The approved

streetscape plans, including, where required by the DRB pursuant to the Sections 3 and 6 Design Guidelines, street trees, the town wall or fence, sidewalks, walking trails, crosswalks, street lighting, street furniture, and bike lanes, and any other miscellaneous improvements required by the Sections 3 and 6 Design Guidelines and approved by the DRB, shall be implemented incrementally when development on adjoining portions of the Property is completed.

10. <u>Bus/Transit Facilities.</u> At least two (2) bus pull-off areas with bus stop shelters shall be constructed on the Property at locations along the proposed Discovery Boulevard and/or New Town Avenue within Sections 3 and 6 of the Property or, at the request of Owner, at such reasonable alternative locations as are approved by the County Planning Director. Design of any pull-offs and shelters shall be approved in advance by the DRB. The pull-offs and shelters shall be installed at the direction of the Planning Director, but in no event before the adjacent roadways are constructed.

11. <u>Recreation Facilities.</u> The Property is being developed in furtherance of a comprehensive town plan that is subject to the Sections 3 and 6 Guidelines and the Sections 3 and 6 Master Plan which provide for a more urban approach to the design of buildings and public spaces in order to avoid conventional suburban patterns and promote an environment conducive to walking. Implementation of such development design will provide for a network of sidewalks, alleyways and community areas. Specifically, in furtherance of the County Comprehensive Parks and Recreation Plan proffer guidelines (the "County Recreation Guidelines"), as in effect on the date hereof, recreation facilities in the form of the community spaces to be established on the Property shall be provided, open to all residents of the development, and maintained and regulated by the Commercial Association, the Residential Association and/or a Separate Association. Further, prior to final site plan or subdivision plan approval for more than one

hundred (100) "Residential Units<sup>"</sup> on the Property, Owner shall install or Guarantee: (i) one (1) playground; (ii) one (1) urban park area; and (iii) a system of pedestrian/jogging paths as shown on the Sections 3 and 6 Master Plan, all in accordance with the currently adopted version of the County Parks and Recreation Master Plan and as approved by the DRB and County Planning Director. Subject to review by the County Planning Director, Owner may utilize the Community Spaces to meet the aforementioned requirement to construct an urban park area.

12. <u>Water Conservation.</u> The owner(s) of the Property, the Residential Association, the Commercial Association and/or Separate Association(s) shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority ("JCSA"). The standards shall address such water conservation measures as limitations on use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by the County Attorney for general consistency with this proffer and shall be approved by JCSA prior to final approval of the first site plan or subdivision plan for development of the Property or any portion thereof.

#### 13. <u>Contribution for Public Facilities.</u>

(a) <u>Water.</u> A contribution shall be made to the County in the amount of Seven
Hundred Eighty Dollars (\$780), for each individual residential dwelling unit (individually, a
"Residential Unit", and collectively, the "Residential Units") developed on the Property (the

"Per Unit Water Contribution"). The County shall make these monies available for development of water supply alternatives, the need for which is deemed by the County to be generated by the development of the Property.

(b) <u>Recreation.</u> A playground contribution shall be made to the County in the amount of Sixty-Seven Dollars (\$67), for each Residential Unit developed on the Property in excess of two hundred ninety-four (294) Residential Units (the "Per Unit Playground Contribution"). A courts/softball field contribution shall be made to the County in the amount of Seventy-Four Dollars (\$74), for each Residential Unit developed on the Property (the "Per Unit Courts/Softball Field Contribution"). The County shall make these monies available for development of recreational facilities, the need for which is deemed by the County to be generated by the development of the Property.

(c) <u>School Facilities.</u> A contribution shall be made to the County in the amount of Five Hundred Eighteen Dollars (\$518) per Residential Unit for the initial one hundred fifty-five (155) Residential Units developed on the Property (the "Per Unit School Contribution"). The County shall make these monies available for acquisition of school sites and/or construction of school facilities, the need for which is deemed by the County to be generated by the development of the Property.

(d) <u>Library Facilities.</u> A contribution shall be made to the County in the amount of Sixty Dollars (\$60.00) for each Residential Unit developed on the Property (the "Per Unit Library Contribution"). The County shall make these monies available for the development of library space, the need for which is deemed by the County to be generated by the development of New Town.

(e) <u>Fire/EMS Facilities.</u> A contribution shall be made to the County in the

amount of Seventy Dollars (\$70.00) for each Residential Unit developed on the Property (the "Per Unit Fire/EMS Contribution"). The calculation of such contributions is premised upon a need for a total financial contribution for the entire New Town development of Seventy Thousand Dollars (\$70,000.00) (in 2004 dollars), said need being deemed by the County to be generated by the anticipated development of New Town. Such contribution is deemed by the County to satisfy the entire need for fire and rescue equipment and facilities generated by New Town. The County shall make these monies available for the acquisition of fire and rescue facilities and equipment, the need for which is deemed by the County to be generated by the development of New Town.

(f) The Per Unit Water Contribution, Per Unit Playground Contribution, Per Unit Courts/Softball Field Contribution, Per Unit School Contribution, Per Unit Library Contribution, and Per Unit Fire/EMS Contribution (collectively, the "Per Unit Contributions") shall be payable for each of the Residential Units to be developed within the Property at the time of final site plan or subdivision plan approval for the particular Residential Unit or grouping of Residential Units or at such other time as may be approved by the County Planning Director.

(g) Notwithstanding any other provision of these Proffers, none of the Per Unit Contributions shall be assessed for any Residential Unit with proffered pricing at or below One Hundred Nine Thousand Thirty-Four Dollars (\$109,034) as such amount may be adjusted in accordance with paragraph 17 of these Proffers.

14. <u>Private Streets.</u> Any and all streets within Sections 3 and 6 of the Property may be private. Pursuant to Section 24-528 of the Zoning Ordinance, private streets within the Property shall be maintained by the Residential Association, Commercial Association and/or a Separate

Association, as applicable. The party responsible for construction of a private street shall deposit into a maintenance fund to be managed by the applicable Commercial Association, Residential Association, or Separate Association responsible for maintenance of such private street an amount equal to one hundred fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT – Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee amount at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the street to be designated as private.

15. <u>Prohibition of Restrictions on Vehicular Access.</u> Notwithstanding anything in the Sections 3 and 6 Master Plan, the Sections 3 and 6 Guidelines and/or these Proffers to the contrary, no private streets installed pursuant to the provisions of paragraph 14 above for the purpose of providing access from Ironbound Road to the Property or adjacent properties now owned by Owner shall have erected thereon at Ironbound Road any permanent fence, gate or other structure to prohibit or restrict (except for curbs, landscaping features and other forms of traffic control measures, including, without limitation, one way streets, truck traffic limitations and traffic signals) public vehicular access from Ironbound Road to the Property and/or adjacent properties now owned by Owner.

16. <u>Building Setback from Wetland and Other Areas.</u> The Sections 3 and 6 Master Plan identifies a "Var. Width RPA Buffer" and a "Variable Width Non-RPA Buffer" (collectively, the "Buffer<sup>"</sup>) on the Property. No building shall be constructed on the Property within fifteen (15) feet of the Buffer.

#### MISCELLANEOUS PROVISIONS

17. <u>Consumer Price Index Adjustment.</u> All cash contributions and pricing PR-079-C Page 17 contained in these Proffers (collectively, the "Proffered Amounts"), to include but not be limited to housing sales prices and Per Unit Contributions, shall be adjusted annually beginning January 1, 2005 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the Proffered Amounts be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the Proffered Amounts for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Proffered Amounts shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (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 Proffered Amounts to approximate the rate of annual inflation in the County.

18. <u>Disposition of Proffered Property and Payments.</u> In the event payment of cash and dedication of real property are proffered pursuant to these Proffers and any of such property and cash payments are not used by the County or, with respect to real property, the Commonwealth of Virginia, for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts and property not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County capital improvement plan, the

### PR-079-C Page 18

need for which is deemed by the County to be generated by the development of the Property.

19. <u>Successors and Assigns.</u> This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

20. <u>Severability.</u> In the event that any clause, sentence, paragraph, subparagraph, 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, subparagraph, 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.

21. <u>Headings.</u> All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.

WITNESS the following signature, thereunto duly authorized:

## EXHIBIT A

All those certain pieces, parcels, or tracts of land shown as "Section 3" and "Section 6" on that certain plan entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated April 26, 2004, prepared by AES Consulting Engineers, a copy of which is on file with the County Planning Director.

## EXHIBIT B

All those certain lots, pieces or parcels of land owned by New Town Associates, LLC as of the date of execution of these Proffers lying and situate in Sections 2, 3, 4, 6, 7, 8, and 9 of the "New Town" development area in the Berkeley District, James City County, Virginia, as the same are shown on that certain plat entitled <sup>"</sup>Master Plan" dated July 23, 1997, revised December 2, 1997, prepared by AES Consulting Engineers and Cooper, Robertson & Partners, a copy of which is on file with the James City County Planning Director as a part of case number Z-04-97.

#### **NEW TOWN – PROFFER AMENDMENT**

## **SECTIONS 2 AND 4**

THIS PROFFER AMENDMENT is made as of this 31<sup>st</sup> day of March, 2016, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (together with its successors and assigns, "Associates") (to be indexed as Grantor) and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (to be indexed as Grantee.)

## **RECITALS**

R-1. Associates is the developer of New Town, a mixed use development, located in James City County, Virginia, occupying in part certain real property more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property").

R-2. The Property was originally subject to the New Town Proffers dated December 9, 1997, of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia ("Clerk's Office") as document number 980001284. Upon previous rezonings, Sections 2 and 4 of New Town became subject to (i) proffers (the "New Town-Sections 2 and 4 Proffers") dated November 1, 2001 of record in the Clerk's Office as document number 010023715, and (ii) Supplemental Proffers, dated October 3, 2003 of record in the Clerk's Office as document number 030032005. The foregoing proffers are referred to below collectively as the "Existing Proffers."

R-3. The Existing Proffers provide for development of the Property in conformity with a master plan (the "New Town Master Plan") and certain design guidelines (the "New Town Design Guidelines"). A design review board (the "DRB") has been established by the Existing Proffers to administer the New Town Design Guidelines and oversee development of the Property.

R-4. The New Town Master Plan is supplemented by a master plan specific to Sections 2 and 4 of New Town, likewise described in the Existing Proffers (the "Sections 2 and 4 Master Plan".)

R-5. The development of the Property is nearing completion. As development has progressed, topography, environmental considerations, amenities usage by residents of New Town and evolving policies and laws affecting real estate development have led Associates to seek amendments to the Existing Proffers and the Sections 2 and 4 Master Plan, which said proffer amendments are described below.

NOW, THEREFORE, for and in consideration of the approval by the County Board of Supervisors of certain amendments to the Sections 2 and 4 Master Plan and the proffer amendments described below, and pursuant to Sections 15.2-2302 and 2303 of the Code of Virginia, Section 24-16 of the James City County Code, and the Existing Proffers, Associates hereby amends the Existing Proffers as applicable to the Property as follows:

#### PROFFER AMENDMENTS

1. **Development of Conformity with Master Plan.** The Property shall be developed generally in accordance with (i) the Existing Proffers as amended hereby and (ii) the Sections 2 and 4 Master Plan as amended pursuant to approval of the James City County case no. MP-0001-2016.

2. <u>Playgrounds</u>. No playgrounds or alternative neighborhood recreation or urban park areas in lieu of playgrounds which are not established as of the date hereof shall be required in Sections 2 and 4 of New Town. This Amendment is based upon establishment and

construction of a larger playground located in Sections 7 and 8 of New Town adjacent to the swimming pool available to residents of New Town. This section shall replace and supersede the playgrounds proffered by paragraph 11 of the New Town Sections 2 and 4 Proffers.

Bus/Transit Facilities. This section amends, supersedes, and replaces paragraph
10 of the New Town Sections 2 and 4 Proffers.

A. One (1) bus stop total shall be constructed within Sections 2 and 4 of New Town. Such facility has been completed, located at Legacy Hall, and includes a pull-off and signage.

B. Associates shall establish bus pull off areas on both sides of Casey Boulevard at or near the Roper archeological site, subject to the approval of design and location by the County, the DRB, VDOT and the Williamsburg Area Transit Authority. In the event that the approvals described in the proceeding sentence have not been received within six (6) months of the submittal to the County of a plan, exhibit, or conceptual plan for approval of a bus pull off area, Associates may satisfy this proffer at any time thereafter by paying to the County the sum of Three Thousand and 00/100 Dollars (\$3,000.00.)

C. In lieu of the bus stop shelters and any other bus facilities originally proffered for New Town Sections 2 and 4, Associates makes the following cash proffer:

i. Associates shall pay to the County in escrow the sum of Thirty-Seven Thousand Two Hundred Fifty and 00/100 Dollars (\$37,250.00) within ninety (90) days of the date of approval of this Proffer Amendment by the County Board of Supervisors.

ii. The escrow funds described above shall be utilized by the County for transportation improvements benefitting the Property, as determined by the Director of Planning. Such transportation improvements may include but shall not be limited to bus stop or bus shelter infrastructure supporting the Williamsburg Area Transit Authority.

iii. In the event that the escrow funds paid to the County pursuant to this Proffer have not been utilized by application as described above within ten (10) years of the date of approval of this Proffer Amendment by the County Board of Supervisors, such sum (without interest) shall be distributed one-half (1/2) to the New Town Commercial Association Inc. and one-half to the New Town Residential Association Inc. (the two (2) property owners' associations created pursuant to the terms of the Existing Proffers) or their successors.

4. <u>Recreation Facilities: Trails</u>. No additional trails (biking, jogging, walking or otherwise) which are not constructed as of the date hereof shall be required on the Property. This change shall be applicable regardless of the New Town Master Plan, the provisions of the Existing Proffers, and the County Comprehensive Parks and Recreation Plan Proffer guidelines in effect now or at the time of acceptance of the Existing Proffers.

5. <u>Interpretation</u>. Except as expressly modified hereby, the terms of the Existing Proffers shall remain unchanged.

6. **Defined Terms**. Terms capitalized in this document shall have the same meaning ascribed to such terms in the Existing Proffers.

7. **Headings**. All section or paragraph headings contained within this document are for convenience only and shall not be deemed a part of the Proffer Amendment.

WITNESS the following signatures and seals:

NEW TOWN ASSOCIATES, LLC

By:\_\_\_\_

Lawrence Salzman

Title: President

APPROVED AS TO FORM:

County Attorney

COMMONWEALTH OF VIRGINIA

AT LARGE, to-wit:

The foregoing instrument was subscribed and sworn before me this  $31^{st}$  day of March, 2016, by Lawrence Salzman, President of New town Associates, LLC,  $\square$  who is personally known to me or  $\square$  who has produced satisfactory evidence of identity.

My Commission expires:\_\_\_\_\_\_ Notary Registration no.:\_\_\_\_\_\_

Notary Public [Affix Notarial Stamp]

## EXHIBIT A-1

## LEGAL DESCRIPTION OF LANDLORD'S PROPERTY – NEW TOWN SECTIONS 2 & 4

Ι

That portion of that certain piece or parcel of land located in James City County, Virginia, shown and set out as "Southern Civic District Section 1" on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997, lying north of Monticello Avenue.

#### Π

Those certain pieces or parcels of land shown and set out as Sections 2 and 4 on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997.

### III

Those certain pieces or parcels of land shown and set out as "AREA ADDED TO SECTION 4" on the NEW TOWN Sections 2 and 4 AMENDED MASTER PLAN prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated June, 2001 and last amended June 23, 2003.

#### **NEW TOWN – PROFFER AMENDMENT**

## **SECTIONS 3 AND 6**

THIS PROFFER AMENDMENT is made as of this 31<sup>st</sup> day of March, 2016, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (together with its successors and assigns, "Associates") (to be indexed as Grantor) and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (to be indexed as Grantee).

## **RECITALS**

R-1. Associates is the developer of New Town, a mixed use development located in James City County, Virginia, occupying in part certain real property more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property").

R-2. The Property was originally subject to the New Town Proffers dated December 9, 1997, of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia ("Clerk's Office") as document number 980001284. Upon previous rezonings, Sections 3 and 6 of New Town became subject to (i) proffers ("the New Town Sections 3 and 6 Proffers") dated October 25, 2004 of record in the Clerk's Office as document number 040027471, and (ii) Supplemental Proffers dated December 21, 2006 of record in the Clerk's Office as document number 070005135. The foregoing proffers are referred to below collectively as the "Existing Proffers."

R-3. The Existing Proffers provide for development of the Property in conformity with a master plan (the "New Town Master Plan") and certain design guidelines (the "New Town Design Guidelines"). A design review board (the "DRB") has been established by the Existing Proffers to administer the New Town Design Guidelines and oversee development of the Property.

R-4. The New Town Master Plan is supplemented by a master plan specific to Sections 3 and 6 of New Town, likewise described in the Existing Proffers (the "Sections 3 and 6 Master Plan".)

R-5. The development of the Property is nearing completion. As development has progressed, topography, environmental considerations, amenities usage by residents of New Town and evolving policies and laws affecting real estate development have led Associates to seek amendments to the Existing Proffers and the Sections 3 and 6 Master Plan, which said proffer amendments are described below.

NOW, THEREFORE, for and in consideration of the approval by the County Board of Supervisors of certain amendments to the Sections 3 and 6 Master Plan and the proffer amendments described below, and pursuant to Sections 15.2-2302 and 2303 of the Code of Virginia, Section 24-16 of the James City County Code, and the Existing Proffers, Associates hereby amends the Existing Proffers as applicable to the Property as follows:

#### PROFFER AMENDMENTS

#### 1. <u>Bus/Transit Facilities</u>.

A. Two (2) bus stops with shelters shall be provided on the Property.

B. One (1) of such bus stops with pull off and shelter exists on New Town Avenue, south of the intersection with Watford Lane.

C. The other bus stop with shelter is proposed for the northeast side of Discovery Park Boulevard between Ironbound Road and New Town Avenue, subject to the approval of the bus stop design and location by the County, the DRB, VDOT, and the Williamsburg Area Transit Authority. In the event that the approvals described in the proceeding sentence have not been received within six (6) months of the submittal to the County of a plan, exhibit, or conceptual plan for approval of a bus stop and/or bus shelter, Associates may satisfy this proffer at any time thereafter by paying to the County in escrow the sum of Eleven Thousand and 00/100 Dollars (\$11,000.00.)

i. The escrow funds described above shall be utilized by the County for transportation improvements benefitting New Town, as determined by the Director of Planning. Such transportation improvements may include but shall not be limited to bus stop or bus shelter infrastructure supporting the Williamsburg Area Transit Authority.

ii. In the event that the escrow funds paid to James City County pursuant to this Proffer have not been utilized by application as described above within ten (10) years of the date of approval of this Proffer Amendment by the County Board of Supervisors, such sum (without interest) shall be distributed one-half (1/2) to the New Town Commercial Association Inc. and one-half to the New Town Residential Association Inc. (the two (2) property owners' associations created pursuant to the terms of the Existing Proffers) or their successors.

D. This provisions superseded Paragraph 10 of the New town Sections 3 and6 Proffers.

2. <u>Mix of Housing Types</u>. Paragraph Number 5 of the New Town Sections 3 and 6 Proffers is deemed satisfied based upon transfer of the obligation to provide housing as described in such paragraph to the New Town residential areas known as New Town Sections 7 and 8.

3. <u>Recreation Facilities: Trails</u>. No additional trails (biking, jogging, walking or otherwise) which are not constructed as of the date hereof shall be required on the Property. This

change shall be applicable regardless of the New Town Master Plan, the provisions of the Existing Proffers, and the County Comprehensive Parks and Recreation Plan Proffer guidelines in effect now or at the time of acceptance of the Existing Proffers.

4. <u>Development of Conformity with Master Plan.</u> The Property shall be developed generally in accordance with (i) the Existing Proffers as amended hereby and (ii) the Sections 3 and 6 Master Plan as amended pursuant to approval of the James City County case no. MP-0001-2016.

5. <u>Interpretation</u>. Except as expressly modified hereby, the terms of the Existing Proffers shall remain unchanged.

6. **Defined Terms**. Terms capitalized in this document shall have the same meaning ascribed to such terms in the Existing Proffers.

7. <u>Headings</u>. All section or paragraph headings contained within this document are for convenience only and shall not be deemed a part of the Proffer Amendment.

WITNESS the following signatures and seals:

NEW TOWN ASSOCIATES, LLC

By:\_\_\_\_

Lawrence Salzman

Title: President

APPROVED AS TO FORM:

County Attorney

COMMONWEALTH OF VIRGINIA

AT LARGE, to-wit:

The foregoing instrument was subscribed and sworn before me this  $31^{st}$  day of March, 2016, by Lawrence Salzman, President of New town Associates, LLC,  $\square$  who is personally known to me or  $\square$  who has produced satisfactory evidence of identity.

My Commission expires:\_\_\_\_\_\_ Notary Registration no.:\_\_\_\_\_\_

Notary Public [Affix Notarial Stamp]

## EXHIBIT A

All those certain pieces, parcels, or tracts of land shown as "Section 3" and "Section 6" on that certain plan entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated April 26, 2004, prepared by AES Consulting Engineers, a copy of which is on file with the County Planning Director.

## **ITEM SUMMARY**

4/6/2016
The Planning Commission
Paul D. Holt, III, Planning Director
Planning Director's Report - April 2016

# **ATTACHMENTS:**

	Description	Туре
D		Staff Report
٥	Spreadsheet listing new applications received - April 2016	Exhibit

## **REVIEWERS:**

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/30/2016 - 12:59 PM
Planning Commission	Purse, Jason	Approved	3/31/2016 - 8:05 AM
Publication Management	Boles, Amy	Approved	3/31/2016 - 8:10 AM
Planning Commission	Holt, Paul	Approved	3/31/2016 - 8:59 AM

## **MEMORANDUM**

DATE:	April 2016
TO:	The Planning Commission
FROM:	Paul D. Holt, III, Director of Planning
SUBJECT:	Planning Director's Report

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

- <u>New Town</u>: The New Town Design Review Board (DRB) did not meet in March. The DRB did electronically review elevations and landscaping for a single-family home in Charlotte Park, an amendment to WindsorMeade plans and a supplemental planting plan for the embankment adjacent to Roper Homestead Park. New Town Associates submitted a rezoning and master plan amendment to adjust final obligations, which is under consideration by the Planning Commission in April. A special DRB meeting was held on March 31 to address the proffer amendments. The DRBs next regular meeting is May 19.
- <u>Capital Improvements Program (CIP)</u>: The Policy Committee finalized CIP rankings at its March meeting and held a special meeting on March 21 to consider the recommendations. These will be forwarded to the Board of Supervisors as a reading file in April to consider as part of the overall budget process.
- <u>Monthly Case Report</u>: For a list of all cases received in the last month, please see the attached documents.
- <u>Board Action Results</u>:
  - February 26, 2016
    - SUP-0010-2015. Jamestown Beach SUP Amendment Approved (4-1)
    - LU-0002-2014. 8491 Richmond Rd (Taylor Farm) Land Use Designation Change Deferred (5-0)
    - SO-0001-2016. Vacation of Record Plat Approved (5-0)
    - SUP-0001-2016. Columbia Gas Equipment Upgrade Approved (5-0)

PDH/nb DirectorsReport04-2016

			New Cases for April 2016			
Case Type	Case Number	Case Title	Address	Description	Planner	District
	C-0014-2016	McLaws Circle, Subdivision of Common Area	MCLAWS CIRCLE	Potential subdivision to separate buildings and adjust owners assocation.	Ellen Cook	05-Roberts
	C-0015-2016	1804 Jamestown Road Subdivision	1804 JAMESTOWN ROAD	Commercial development and potential re-alignment of Sandy Bay Rd	Ellen Cook	03-Berkeley
	C-0016-2016	3069 Chickahominy Road Minor Subdivision	3069 CHICKAHOMINY RD	Subdivision to create 1 lot off Friendship Drive	Leanne Pollock	01-Stonehouse
	C-0017-2016	7206 Merrimac Trail Tourist Home	7206 MERRIMAC TRAIL	A conceptual plan for for the use of "rental of rooms" in an R-2 zoning district	Roberta Sulouff	05-Roberts
	C-0018-2016	Christ Community Church Multi-Purpose Building	9001 RICHMOND ROAD	A conceptual plan proposing a 11,000 square foot multi purpose building.	Jose Ribeiro	02-Powhatan
	C-0019-2016	122 Howard Drive Subdivision	122 HOWARD DRIVE	A conceptual plan to subdivide one lot into four.	Roberta Sulouff	05-Roberts
	C-0020-2016	5435 Richmond Rd. Penske Truck Rental	5435 RICHMOND ROAD	Proposal to keep Penske trucks on site for rental by customers.	Savannah Pietrowski	04-Jamestown
Concentual Plan	C-0021-2016	3116 Ironbound Rd. Penske Truck Rental	3116 IRONBOUND ROAD	Proposal to keep Penske trucks on site for rental by customers.	Savannah Pietrowski	03-Berkeley
(	C-0022-2016	8777, 8787 and 8799 Barnes Road Subdivision	8787 BARNES ROAD	A conceptual plan proposing the subdivision (including boundary line) of three parcels into four	Jose Ribeiro	02-Powhatan
	C-0023-2016	8251 Richmond Rd. Expansion	8251 RICHMOND ROAD	Review for either development of a place of public assembly or rezoning for commercial/industrial uses	Ellen Cook	02-Powhatan
	C-0024-2016	1524 Jamestown Rd. Rental	1524 JAMESTOWN ROAD	A conceptual plan proposing a tourist home.	Jose Ribeiro	05-Roberts
	C-0025-2016	Powhatan Plantation Verizon Tower	COMMON AREA	Proposal for a 130' slick stick tower.	Savannah Pietrowski	03-Berkeley
	C-0026-2016	208 Powhatan Secondary Drainage Ditch and 108 Shields Poynt Sewer Easement	208 POWHATAN SECONDARY	Potential conversion of common area lots with draininage and utility constraints to house lot	Ellen Cook	04-Jamestown
				A conceptual plan to pave an exisiting gravel parking lot and to repave an existing paved driveway, both of		
	C-0027-2016	4871 Longhill Rd., Wellspring United Methodist Church	4871 LONGHILL ROAD	which serve the church.	Roberta Sulouff	04-Jamestown
	C-0028-2016	EIR for VDOT Croaker AHQ Building	8528 CROAKER ROAD	Environmental Impact Study for VDOT	Scott Whyte	01-Stonehouse
Master Plan				A request to amend the master plans for Sections 2&4, 3&6, and 7&8. Master Plan amendments include		
				changes to trails currently shown on the plans for these sections. Please see Z-0004-2016 for information		
	MP-0001-2016	New Town Sec. 2 and 4, Sec. 3 and 6 Proffer Amendment	VARIOUS	regarding accomanying proffer amendments.	Roberta Sulouff	04-Jamestown
Subdivision	S-0012-2016	Settlement at Powhatan Creek, Lot 41, Rear Setback Vacation	4101 POGGIO FIELD	A subdivision vacating a 18 foot rear setback at Lot No 41.	Jose Ribeiro	03-Berkeley
	SP-0011-2016	Ford's Colony Golf Clubhouse Patio Renovation	190 FORDS COLONY DR	Case was withdrawn by applicant but would have extended the patio area and added a bar and fire pit	Leanne Pollock	02-Powhatan
	SP-0012-2016	Columbia Gas, Newport News Pod #2 Rebuild	8955 POCAHONTAS TR	A site plan for the upgrade of a metering and regestring gas station.	Jose Ribeiro	05-Roberts
	SP-0013-2016	Williamsburg Landing 3008 Willow Springs Court Sunroom & Deck SP Amend.	5700 WILLIAMSBURG LANDING DR	Plan in for internal approval	Scott Whyte	05-Roberts
Site Plan	SP-0014-2016	Williamsburg Landing 3006 Spotswood Cay Sunroom & Deck SP Amend.	5700 WILLIAMSBURG LANDING DR	Plan in for internal approval	Scott Whyte	05-Roberts
Site Plan	SP-0015-2016	Olive Branch Christian Church Entry Renovations	7643 RICHMOND ROAD	A plan to replace an existing entry ramp with an accessible ramp, and for other entry way improvements	Roberta Sulouff	01-Stonehouse
	SP-0016-2016	10039 Old Stage Rd. T-mobile Tower SP Amend.	10039 OLD STAGE ROAD	A site plan proposing the replacement of antennas and equipment.	Jose Ribeiro	01-Stonehouse
	SP-0017-2016	8766 Pocahontas Trail, Dollar General	8766 POCAHONTAS TR	Site plan submitted concurrently with SUP application SUP-0006-2016. Plan for a Dollar General retail store	Roberta Sulouff	05-Roberts
				Proposed expansion of existing restaurant and parking lot, including shared access with Extra Mile		
	SUP-0003-2016	Two Drummers Smokehouse SUP Amendment	8864 RICHMOND ROAD	Landscapes.	Savannah Pietrowski	01-Stonehouse
Special Use Permit				Proposed expansion of existing contractor's office, including shared access with Two Drummers		
Special Use Permit	SUP-0004-2016	Extra Mile Landscapes, Expansion	8856 RICHMOND ROAD	Smokehouse.	Savannah Pietrowski	01-Stonehouse
	SUP-0005-2016	Tiki Tree Service Contractor's Warehouse, Mt. Laurel Road	4182 MT LAUREL ROAD	A proposal to establish a contractor's office and warehouse on a 5-acre lots parcel zoned A-1	Jose Ribeiro	01-Stonehouse
	SUP-0006-2016	8766 Pocahontas Trail, Dollar General	8766 POCAHONTAS TR	SUP submitted concurrently with SP-0017-2016. Proposal for a Dollar General retail store.	Roberta Sulouff	05-Roberts
	Z-0003-2016	Tewning Road Commercial Park Proffer Amendment	144 TEWNING ROAD	Proposal to amend adopted proffers for Casey Industrial Park to allow indoor sports facilities.	Savannah Pietrowski	04-Jamestown
Deer				A request to amend the adopted proffers for Sections 2&4 and 3&6, Amendments include modifications to		
Rezoning				traffic, transit, and recreation proffers . Please see MP-0001-2016 for information regarding accompanying		
	Z-0004-2016	New Town Sec. 2 and 4. Sec. 3 and 6 Proffer Amendment	VARIOUS	master plan amendments.	Roberta Sulouff	04-Jamestown