

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF JANUARY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT-CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

John J. McGlennon, Chairman, Jamestown District
James O. Icenhour, Jr., Vice Chairman, Powhatan District
Jay T. Harrison, Sr., Berkeley District
Bruce C. Goodson, Roberts District
M. Anderson Bradshaw, Stonehouse District

Larry M. Foster, Acting Assistant County Administrator
Adam R. Kinsman, Assistant County Attorney

B. MOMENT OF SILENCE

Mr. McGlennon requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Blake Sawyer, a first-grade student at Stonehouse Elementary School led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

Dr. David Trump, Director of the Peninsula Health District, introduced himself to the Board and citizens. Dr. Trump explained to the Board and citizens that the Peninsula Health District was the local health department for five jurisdictions, with the main office in Newport News at the Peninsula Health Center and a local office in Williamsburg. Dr. Trump explained some of the services provided including consultation and support for schools, nursing homes, private, and communicable disease control. He stated that his office works in cooperation with local officials in planning and preparedness for public health emergencies and disasters. He stated that environmental health programs have become in James City County the biggest service of his office, in which they provide food inspections, schools food service facilities inspections, investigation and control of outbreaks of food related illnesses, along with water health safety inspection of wells, water supplies, and septic systems, and many other health, wellness, prevention, and preparedness programs.

Mr. Bradshaw asked the best way for citizen to get in touch with the Peninsula Health District office.

Mr. Trump stated a citizen could consult the Peninsula Health District website or the Virginia Department of Health website for food inspection services, and contact information is available for himself and his staff in the telephone book and on the website.

Mr. McGlennon recognized Ms. Mary Jones, Planning Commissioner, in attendance.

E. PUBLIC COMMENT

1. Mr. Ray Basley, 4060 South Riverside Drive, commented on transportation safety at the intersection of Olde Towne Road and Richmond Road.

2. Mr. John Rhein, 3505 Hunter's Ridge, spoke on the National Federation of the Blind meetings on the third Saturday of the month at 1 p.m. at the Community Center, made a call for blind individuals in the community to attend, and commented on tax rates and expensive school structures.

3. Mr. Ed Oyer, 139 Indian Circle, commented on cleanup in his community; potholes on Route 60; railroad tracks at the Anheuser Busch Brewery crossing; and hiring of an employee to administer Route 60 VDOT project.

4. Ms. Kyra R. Cook, Chair of the Williamsburg Area Arts Commission, thanked the Board of Supervisors for support of the Arts Commission and the arts community. Ms. Cook stated the Commission increased the number of commissioners from seven to nine and introduced the members in attendance. Ms. Cook highlighted some activities of the Williamsburg Area Arts Commission including soliciting, reviewing, and monitoring arts program for Williamsburg and James City County and the selection of the public art project at Legacy Hall. She stated the Williamsburg Area Arts Commission has been working with regional partners for greater success of the arts in the region and the current arts calendar includes projects of the Williamsburg Area Arts Commission as well as the York County Arts Commission. Ms. Cook stated the Board would shortly receive the funding request for the commission for FY 2008.

Mr. McGlennon thanked Ms. Cook and the members of the Williamsburg Area Arts Commission for attending and for the work they have done for the community.

F. CONSENT CALENDAR

Mr. Icenhour asked to pull Item No. 3.

Mr. Goodson asked to pull Item No. 9.

Mr. Harrison made a motion to adopt the remaining items on the Consent Calendar.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

1. Appointment of Animal Control Officer

RESOLUTION

APPOINTMENT OF ANIMAL CONTROL OFFICER

WHEREAS, the Board of Supervisors of James City County is authorized to appoint Animal Control Officers; and

WHEREAS, the Animal Control Officers are vested with the authority to enforce the animal laws in the County pursuant to Virginia Code Sections 3.1-796.66, et. seq., and James City County Code Section 3-2.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Meredith Perkins is hereby appointed Animal Control Officer for James City County, Virginia.

2. Street Name Change: Stourhead Square to "Southbury Square"

RESOLUTION

STREET NAME CHANGE: STOURHEAD SQUARE TO "SOUTHBURY SQUARE"

WHEREAS, Mr. Jim Franklin of WindsorMeade of Williamsburg has requested that the Board of Supervisors change the name of Stourhead Square to "Southbury Square;" and

WHEREAS, Section 19-54 (b) of the James City County Subdivision Ordinance provides for street names to be changed upon approval by the Board of Supervisors; and

WHEREAS, the proposed street name change has been discussed with the Fire Department, Police Department, Planning Division, Williamsburg Post Office, and Real Estate Assessment and these agencies have found it acceptable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve renaming the street Stourhead Square to "Southbury Square."

3. Change of Employment Category for Colonial Community Corrections Positions

RESOLUTION

CHANGE OF EMPLOYMENT CATEGORY FOR COLONIAL COMMUNITY

CORRECTIONS POSITIONS

WHEREAS, Colonial Community Corrections (CCC) follows most, but not all of James County's Personnel Policies and Procedures, and

WHEREAS, positions in departments or offices which do not follow all or some of the County's Personnel Policies are categorized as "Other", in accordance with Section 2.3 of the James City County Personnel Policies and Procedures Manual; and

WHEREAS, positions in Colonial Community Corrections are currently categorized as "Limited-Term".

NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the employment category of the positions listed below are changed from Limited-Term to Other, effective January 9, 2007.

Transitional Services Liaison
Drug Screen Technician
CCC Pretrial Officer
CCC Probation Officer

CCC Case Coordinator
CCC Program Administrator
Secretary

4. Ratification of 800-MHz Motorola Radio Contract Amendment

RESOLUTION

RATIFICATION OF AMENDMENT TO 800-MHZ TRUNKED RADIO SYSTEM

WHEREAS, York County and James City County entered into a Contract dated August 20, 2003, to design and build an 800-MHz trunked radio communication system; and

WHEREAS, on September 30, 2005, York County and James City County accepted the system; and

WHEREAS, Gloucester County desires to become a party to the Contract to design, construct, and equip an expansion to the existing 800-MHz trunked radio system to provide services in Gloucester County; and

WHEREAS, in order for parties to receive favorable prices from Motorola, the Contract Amendment and Change Order needed to be signed before December 31, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby ratifies and confirms the Contract Amendment and Change Order, dated December 23, 2006, and executed by the County Administrator, which adds Gloucester County to the Contract and upgrades the 800-MHz trunked radio system.

5. Law Enforcement Mutual Aid Agreement - National Park Service

RESOLUTION

LAW ENFORCEMENT MUTUAL AID AGREEMENT – NATIONAL PARK SERVICE

WHEREAS, Virginia law authorizes local governments to enter into reciprocal agreements for mutual aid and for cooperation in the furnishing of law enforcement services; and

WHEREAS, it is beneficial to James City County to participate in a Mutual Aid Agreement with the National Park Service.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Law Enforcement Mutual Aid Agreement with the National Park Service.

6. Contract Award - Mobile Data Terminals

RESOLUTION

CONTRACT AWARD – MOBILE DATA TERMINALS

WHEREAS, it has been determined by the Purchasing Office, in consultation with the County's Police Chief and Fire Chief, that Motorola is the only source practicably available to provide mobile data terminals with guaranteed compatibility with the existing 800 MHz public safety communications radio system as required by the County; and

WHEREAS, the proposed rates have been determined to be reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the contract in the amount of \$276,800 for forty (40) mobile data terminals to Motorola.

7. Support for the Branding of "Hampton Roads, America's First Region"

RESOLUTION

SUPPORT FOR THE BRANDING OF "HAMPTON ROADS, AMERICA'S FIRST REGION"

WHEREAS, the Hampton Roads Partnership has adopted "Hampton Roads, America's First Region" as the brand for southeast Virginia; and

WHEREAS, the name honors the rich history of the region and encourages regional identity and citizenship among 1.6 million residents; and

WHEREAS, James City County is proud to be part of Hampton Roads and is a leader in promoting regional cooperation and regional competitiveness.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County endorses the brand, "Hampton Roads, America's First Region" and shall promote it in the future as appropriate.

8. County-State and County-Landowner Agreements for Maintenance of Portions of New Town Avenue Crossing over a Dam

Mr. Icenhour asked for clarification.

Mr. Icenhour made a motion to adopt Item No. 3.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

COUNTY-STATE AND COUNTY-LANDOWNER AGREEMENTS FOR MAINTENANCE OF PORTIONS OF NEW TOWN AVENUE CROSSING OVER A DAM

WHEREAS, New Town Associates has proposed the extension of New Town Avenue in Sections 3 and 6 of New Town as shown on the plat of subdivision entitled "Additional New Town Avenue Right-of-Way" drawn by AES Consulting Engineers and dated June 1, 2006; and

WHEREAS, there is a similar extension of New Town Avenue in Sections 2 and 4 as shown on the plat of subdivision entitled "Plat of Subdivision Showing Center Street, New Town Avenue, Block 5, and Common Area, (BMP Parcel #1)" drawn by AES Consulting Engineers and dated March 31, 2004; and

WHEREAS, the extensions of New Town Avenue will require dams to be built over BMP CO3 (Block 14, Parcel A) and BMP No. 53 (BMP Parcel No. 1) pursuant to the Virginia Department of Transportation's (VDOT) *2005 Subdivision Street Requirements*; and

WHEREAS, Dam Maintenance Agreements (Agreements) are required to address the legal requirements of VDOT to accept the maintenance responsibility for roadways over a dam on New Town Avenue; and

WHEREAS, the Agreements meet VDOT's requirements and protect the interests of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Agreements for New Town Avenue in Sections 3 and 6 and Sections 2 and 4 of New Town are approved and the Chairman is authorized to execute the Agreements on behalf of the County.

9. Resolution of Inducement - Virginia United Methodist Homes

Mr. Rich Batone, Project Director for the WindsorMeade project, on behalf of Virginia United Methodist Homes, was in attendance.

Mr. Goodson asked for clarification that there was no public expense for issuing these bonds and would not carry the full faith and credit of the County.

Mr. Kinsman stated this was correct and stated the Economic Development Authority (EDA) was acting as an agent to issue the bonds; there would be no cost to the County, and the EDA received a fee for issuing the bonds.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF JAMES CITY COUNTY, VIRGINIA**

The Economic Development Authority of James City County, Virginia (the "Authority"), has considered the application of Virginia United Methodist Homes of Williamsburg, Inc., a Virginia non-stock, nonprofit corporation (the "Borrower"), requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$130,000,000 (the "Bonds") to be issued at one time or from time to time to assist the Borrower in financing or refinancing the following: (1) the costs of the acquisition, construction and equipping of an approximately 460,276-square-foot continuing care retirement community, expected to contain approximately 207 units, consisting of 181 independent living units, 14 assisted living units, and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 WindsorMeade Way, James City County, Virginia, which is at the intersection of Monticello and WindsorMeade Way in James City County, Virginia, and (2) costs related to a debt service reserve fund, costs of issuance, capitalized interest, working capital, and other expenses in connection with the issuance of the bonds and the proposed project (the "Project").

The Authority held a public hearing on the Borrower's application on December 19, 2006, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"). Section 147(f) of the Code also provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds.

The Authority issues its bonds on behalf of James City County, Virginia (the "County"); the Project is located in the County; and the Board of Supervisors of James City County, Virginia (the "Board") constitutes the highest elected governmental unit of the County.

The Authority has recommended that the Board approve the issuance of the Bonds.

A copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA, that:

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code to permit the Authority to assist the Borrower in financing the Project.
2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.

G. PUBLIC HEARINGS

1. Pre-Budget Public Hearing - FY 2008 Budget

Ms. Sue Mellen, Assistant Financial and Management Services Manager, stated the purpose of the public hearing was to receive comments and suggestions to assist staff in preparing the budget for FY 2008. Ms. Mellen explained that no Board action was requested at this time and there would be other opportunities for citizens to speak to this matter, with Budget Work Sessions scheduled on April 12, 16, and 18, and the final budget scheduled to be adopted on Tuesday, April 23, 2007.

Mr. McGlennon stated the Board appreciated public input on the budget and noted that the current year's budget was on the County's website.

Mr. McGlennon opened the public hearing.

1. Ms. Sharon Kiefer, 107 Walnut Hills Drive, on behalf of the League of Women Voters Education Committee in the City of Williamsburg, thanked the Board for funding the Schools and asked for consideration of expansion of Bright Beginnings, a pre-school program for at-risk children.

2. Ms. Linda Rice, 2394 Forge Road, on behalf of Toano Implementation Study Committee, 2394 Forge Road, responding to the Toano Community Character Study, an implementation committee had compiled requests for funding for consideration in the upcoming budget with a total cost of roughly \$48,000. Ms. Rice explained the requests were divided into three sections that provided for enhancement of the Toano community: 1) Landscaping options; 2) Sidewalk repair; and 3) Signage. Ms. Rice indicated that the County would not be the only source of funds as the Committee had been contacting local businesses with current donations of \$600 in cash, landscape design services, and landscape materials.

3. Ms. Lisa Williams, 2779 Linden Lane, President of the Williamsburg-James City County Public Schools Parent-Teacher Association Council, requested that the Board in its budget considerations, provide funding for Schools to remain competitive with new technology initiatives, increase current programs, and for the selection of appropriate sites for a ninth elementary school and fourth middle school. Ms. Williams asked that the Board fully fund the School Board budget.

4. Mr. Mike Ludwick, 3012 Mossy Creek Drive, on behalf of Support Schools Now, asked the Board to fully fund the School Board budget, and consider reimbursement of emergency medical services fees from insurance companies to help generate revenue to fund the budget.

5. Mr. Ed Oyer, 139 Indian Circle, commented on debt carried by the County.

6. Mr. John Rhein, 3505 Hunter's Ridge, suggested the Board ask the City of Williamsburg for additional funds to fully support the School Board budget.

7. Ms. Mary Minor, 5813 Hawthorne Lane, thanked the Board for its service and support of early childhood learning and care; urged continued focus and support of these programs to provide quality accredited education, and safe and healthy care of the children.

Mr. McGlennon closed the Public Hearing and noted that there will be multiple opportunities for citizens to make comments on the budget process including multiple meetings, public comment segments of meetings, email, telephone, or meeting in person with staff or the Board.

2. Case No. Z-5-06/MP-7-06. New Town Sections 7 & 8 (continued from December 12, 2006)

Mr. Matthew Smolnik, Planner, stated Mr. Gregory Davis, on behalf of New Town and Associates, LLC, has applied to rezone 108.1 acres to MU, Mixed Use, with proffers. Mr. Smolnik stated if approved, the property would be primarily developed with residential development of up to 400 units and may include 62,300 square-feet of nonresidential development. Mr. Smolnik stated the property was located north of the intersection of Route 199 and Monticello Avenue, more specifically Parcel Nos. (38-4)(1-51) and (38-4)(1-56) on the James City County Real Estate Tax Map. Mr. Smolnik stated the parcels were zoned R-8, Rural Residential, with proffers and an approved master plan, and were located inside the Primary Service Area (PSA).

At its meeting on November 6, 2006, the Planning Commission voted 4-3 to recommend approval of this application.

Staff found that this application was generally consistent with the 1997 adopted New Town Master Plan and Design Guidelines, aside from the 150-foot Community Character Corridor buffer to be located along Route 199. Staff found this application consistent with current Design Guidelines, but inconsistent with the Comprehensive Plan.

Staff recommended denial on account of the application being inconsistent with the Comprehensive Plan but recommended that if the application was deferred, to defer the case until the Board's meeting on February 13, 2007.

Mr. Goodson asked the size of VDOT's right-of-way on Route 199.

Mr. Smolnik responded that the right-of-way was 80 feet from the edge of the pavement to the property line.

Mr. Goodson asked if this property was being held by VDOT for future expansion of Route 199.

Mr. Smolnik said he was unsure of future expansion on the VDOT right-of-way.

Mr. Goodson asked if there were plantings on this right-of-way.

Mr. Smolnik said there were volunteer pine trees and other shrubbery in this area.

Mr. Goodson asked if this could be additionally landscaped by the applicant to create an extension of the buffer along Route 199.

Mr. Smolnik said the applicant could landscape the buffer with the approval of VDOT.

Mr. Goodson said it would likely be 20 or 30 years before any expansion was done for Route 199 and by that time, the buffer and any plantings in the area by the applicant would have grown in heavily.

Mr. Smolnik stated this was correct.

Mr. Bradshaw asked if cash proffers were consistent with the standard in 1997 when the master plan was adopted or with the new Board policy.

Mr. Smolnik said the proffers corresponded with the new Board policy.

Mr. McGlennon asked what the Community Character Corridor (CCC) buffer requirement was for Mixed-Use development.

Mr. Smolnik said there is no requirement for Mixed-Use development, and the Comprehensive Plan offered only a suggestion.

Mr. McGlennon said many of the developments will be primarily residential, but the 150-foot buffer was not a requirement of Mixed-Use development as it was for residential developments.

Mr. Smolnik said this was correct.

Mr. McGlennon asked if WindsorMeade, which has a 150-foot corridor, was a Mixed-Use development.

Mr. Smolnik said WindsorMeade was identified as Mixed Use also.

Mr. McGlennon stated the Low Impact Design (LID) features not included in packet because the submittal was received within the deadline but too late to be reviewed in depth by staff due to a number of holidays.

Mr. Smolnik stated this was correct but the LID features were included in master plan received by the Board but the features were not able to be evaluated in depth.

Mr. McGlennon stated there was a chance for deferral of this item that provided for things to be clarified and asked what conditions were included for LID in Sections 7 and 8.

Mr. Smolnik said LID was comprised of 13.55 acres, an excess of 11.5 acres above and beyond the requirement.

Mr. McGlennon asked for confirmation that the entire east side of New Town with LID features included 17 original planned acres, with an additional 11.5 acres for a total of 28.5 acres of LID with this proffer.

Mr. Smolnik stated this was correct.

Mr. McGlennon asked that staff develop a proffer to guarantee that even if design here is not adopted, the end development would have the same effect and acreage of LID.

Mr. Smolnik stated that was staff's intention.

Mr. McGlennon asked what the funding would be for stream monitoring and remediation. He stated he understood there would be \$60,000 provided in an account for the homeowners association during the monitoring period for intervention, or remediation of the creek, and monitoring would begin at completion of build-out on for five years.

Mr. Smolnik stated this was correct.

Mr. McGlennon asked if there was a way to monitor and control water quality during construction.

Mr. Smolnik stated there were erosion and sediment control bonds in place during the development phase.

Mr. McGlennon asked for confirmation that the remediation fund of \$60,000 was not to mediate expected damage, but would preclude the likelihood of damage.

Mr. Smolnik explained that this measure was a failsafe effort, and if everything was implemented as it was designed, the development should not disturb the stream.

Mr. McGlennon asked how much impervious cover would be in the east side of New Town.

Mr. Smolnik stated that Sections 7, 8, and 9 were projected to have 39 percent impervious cover but the new predictions indicate the impervious cover may be as low as 38 percent.

Mr. McGlennon asked if this application included proffers for affordable housing to be priced at \$154,000.

Mr. Smolnik indicated affordable housing was included in the development.

Mr. McGlennon asked if the affordable housing would be provided through soft second mortgages to maintain these as affordable housing for a longer time.

Mr. Smolnik stated this would be the case.

Mr. McGlennon asked if the New Town homeowners association would require payment of full membership dues of those who lived in affordable housing.

Mr. Smolnik stated it would.

Mr. McGlennon asked who would be implementing the proposed water conservation measures.

Mr. Smolnik stated that though the water conservation measures would come through the Planning Division, they would be implemented through the developer and the James City Service Authority (JCSA), which reviews them and comments on water conservation standards, and ultimately the JCSA manager signs off on them. Mr. Smolnik indicated that greater detail would be provided on these water conservation standards later in the development state.

Mr. McGlennon stated he noticed a section removed from the roadway and asked if this was part of the proffered recreation areas.

Mr. Smolnik indicated it was not.

Mr. McGlennon asked if this space would count against the open space requirement for the development.

Mr. Smolnik stated this would not affect the overall requirement for open space.

Mr. Bradshaw asked if the water conservation measures included a ban on irrigation wells.

Mr. Smolnik stated he was unsure and would need to consult the JCSA for that information.

Mr. Bradshaw stated he had a problem with the word "utilized" in relation to the use of the \$60,000 deposit intended for remediation of the stream. He asked that staff work with the applicant for language to make it clear in the proffers that the funds would not be released unless at the end of the five-year period, there was no degradation that required remediation.

Mr. Smolnik stated staff would work with the applicant to get proper language to address this concern.

Mr. Bradshaw stated he felt that at this time it would be pertinent to address if a water quality analysis was done and there was degradation, it would take time to plan remediation action, to find a contractor, for the work to be done, and the money may exceed beyond five years. Mr. Bradshaw stated to be clear that the proffers addressed the condition of the stream and water in five years.

Mr. Smolnik confirmed this.

Mr. Bradshaw stated he believed the Comprehensive Plan designated different kinds of Community Character Corridors - agricultural, suburban, and urban. He stated he believed the area along Route 199 was considered an urban CCC.

Mr. Smolnik stated it was correct.

Mr. Bradshaw stated it was his understanding that each has a different character.

Mr. Smolnik stated this was correct.

Mr. Harrison asked why there was a window of nine months where the affordable housing would be offered at \$154,000.

Mr. Smolnik stated this time frame corresponded with other sections of New Town and was a window of opportunity to purchase the homes at a lower cost soon after the building permit was issued.

Mr. Harrison asked what the average value of the property is.

Mr. Smolnik stated the affordable housing units were offered at \$154,000 but were originally priced at \$110,000.

Mr. McGlennon asked when Sections 7 and 8 were approved as a master plan, what was the original residential count.

Mr. Smolnik stated the maximum number of residential units was 400 on the master plan, while current development was showing 334 residential units.

Mr. McGlennon asked the projection of the total number of residential units at build-out.

Mr. Smolnik stated he was unsure but he could find out.

Mr. Icenhour asked if there would be recontouring of roads where they were placed in areas where slopes were at grades of 25 percent or steeper.

Mr. Smolnik stated he was unsure; however, if there was recontouring, the process would go through environmental review by the Department of Environmental Quality, environmental engineers, and environmental staff. Mr. Smolnik stated if there was a disturbance of 25 percent or greater slopes, the Environmental Division Director would need to administer a waiver.

Mr. Icenhour stated there had been previous exceptions to the CCC buffer requirement and asked Mr. Smolnik to outline waivers in the past, as well as any significant benefit to the community in exchange.

Mr. Smolnik said two of the most recent exceptions were Michelle Point, which offered 20 percent affordable housing units, with buffers, along Route 30 ranging from 90 to 150 feet; and all areas less than 150 feet had supplemental evergreen landscaping; and Pocahontas Square which offered 100 percent affordable housing units with a 50-foot CCC buffer along Pocahontas Trail.

Mr. Icenhour stated that for him a CCC buffer aimed to screen the development from the road both visually and audibly.

Mr. Goodson asked for confirmation that the CCC buffer was not set by the location of the development but was set by zoning, and that part of New Town does not have the 150-foot buffer for mixed-use zoning. Mr. Goodson asked if previous sections were subject to this buffer requirement.

Mr. Smolnik said the property along Monticello Avenue did not have the 150-foot buffer because the buildings were double-sided so the façades would look like they were facing Monticello Avenue. Mr. Smolnik indicated the current buffer was acceptable with this particular facing.

Mr. Goodson asked if the buffer was 150 feet along Route 199.

Mr. Horne stated that at the business section the buffer was 50 feet.

Mr. Smolnik stated along the residential area in Section 7 the buffer was 150 feet but in Section 9 at Settler's Market it was 50 feet.

Mr. Goodson stated that the buffer was not intended to shield the development from being seen from the road but from the road being seen from the development.

Mr. Harrison stated the different use of the development made the larger buffer necessary.

Mr. Goodson asked for clarification that the buffer requirement was not set because of proximity to Route 199 but because of the zoning of the development.

Mr. Smolnik stated the buffer was set because there would be a residential development.

Mr. McGlennon opened the Public Hearing.

1. Mr. Greg Davis, on behalf of New Town Associates, gave a brief overview of the application, indicating it was the last residential section in New Town east of Route 199, and the only detached single-family development within the master plan. Mr. Davis highlighted the proffers submitted by the applicant and the affordable housing arrangements. Mr. Davis addressed the CCC and wetlands buffer issues and the impact preservation of these buffers has had on the development, stating that the original density of the master plan was 1,650 dwelling units with 596 in Sections 7 and 8, but due to buffer expansions, the total dwelling units was now at 1,100, with fewer than 334 in Sections 7 and 8. Mr. Davis stated the new plans reflected a 110-foot minimum buffer with a 118-foot average buffer and supplemental plantings in the Route 199 VDOT right-of-way and the proposed CCC buffer. He stated the landscape plan had been approved by the Planning Director and VDOT, and he felt the benefits offered justify the slight reduction. In relation to Resource Protection Area (RPA) buffers on the property, Mr. Davis indicated there would be 100 feet on either side of the stream despite approval received in 2004 for reduced buffer width below 100 feet. He stated three Best Management Practices (BMP) and three lots that encroached into the buffer were removed in the new plan. He stated the stormwater master plan was consistent with the new Powhatan Creek Watershed Management Plan and there were provisions for stream monitoring and water quality monitoring. He stated the property would consist of 39 percent impervious cover and LID on 13.5 acres. He stated there had been changes in the plan since the Planning Commission recommended approval due to feedback by citizen groups. Mr. Davis requested approval of the application.

Mr. Icenhour thanked the applicant for his response to the RPA buffer issue and inquired if all affordable housing would have a soft second mortgage.

Mr. Davis said all the affordable housing units would have the same soft second mortgage and that the plan transfers 16 units from other areas for a total of 28 in Sections 7 and 8.

Mr. Icenhour asked where the affordable housing units would be located.

Mr. Davis said these units would be integrated with the other residential units in the sections.

Mr. Icenhour asked beyond affordable housing, the diversity of the price range in homes, and if this would be an economically integrated community.

Mr. Davis stated the development would be a mix of multifamily and single-family detached units with various lot sizes. He stated the single-family units and multifamily units would have significantly different prices.

Mr. Icenhour stated that subsequent to grading at WindsorMeade, there were problems with clearing run-off and sedimentation. He asked if clearing would occur when construction begins or if the developer would preserve what vegetation was currently the CCC without clearing everything out and replanting.

Mr. Davis said there would be little need to clear that area as construction was planned outside that buffer. He stated that any clearing for a construction vehicle or lot clearing was subject to approval by the Planning Director prior to issuance of a land disturbance permit.

Mr. Icenhour asked the degree to which steep slopes could be recontoured.

Mr. Davis asked Mr. Bob Cosby from AES Consulting Engineers to answer that question and stated they do not have a field run topography map and what was displayed was based on aerial photos.

Mr. Bob Cosby stated the steep slopes are traditionally closer to the wetlands, or closer to, or within buffers, and generally not near road sections. Mr. Cosby added that there have been changing conditions found when resurveying the area and the slopes are not at grades of 25 percent or greater, but more likely 20 percent or less.

Mr. Icenhour asked if they would impact the roads.

Mr. Cosby stated he did not believe the roads would be placed on steep slopes or grades greater than 25 percent.

Mr. Icenhour asked if the water quality protections would start when the land-disturbing process began.

Mr. Davis said this was correct.

Mr. Icenhour asked if remediation would be at build out.

Mr. Davis stated monitoring would begin when a land-disturbance permit was issued and would continue for five years after build out.

Mr. Icenhour asked if any money could be used before build out if needed for remediation.

Mr. Davis stated they could.

Mr. Icenhour asked what the cost would be associated with monitoring the program.

Mr. Davis stated the monitoring program was estimated to last seven to nine years until build out. Mr. Davis said his client has taken on the obligation of providing the monitoring and so there were no exact calculations, but the applicant did not want to attribute the cost to the homeowners association or property owner.

Mr. Icenhour stated concern that if the \$60,000 fund was gone before the five years was up, the remediation of the stream became the responsibility of the homeowners association, which would entail charging residents to fund a program which has not been asked of any other developments.

Mr. Davis stated he could provide data to staff about costs of monitoring, but clarified that this was a layer of protection above existing layers of protection, and stormwater management was designed to protect against impact. He stated this measure would go into effect if all other measures failed.

Mr. Horne stated that \$60,000 was a fund for capital reconstruction or remediation costs and was not to be used for monitoring costs, as they are separate obligation.

Mr. Icenhour stated this was unclear.

Mr. Horne stated this fund would only be used if monitoring indicated a need to remediate.

Mr. Icenhour asked for confirmation that this fund would not be used for monitoring.

Mr. Horne stated this was his understanding.

Mr. McGlennon stated the \$60,000 fund was money for any remediation need to arise after build out, not during the build process, and the stream would more likely be affected by erosion and sediment control problems addressed by other bonding. He stated he had hoped that the total amount of \$60,000 would be available for remediation at build out.

Mr. Horne stated it was his belief that it would work in that way.

Mr. Harrison asked for clarity as to how \$60,000 was decided to be an appropriate number.

Mr. Davis stated that engineers and consultants were asked and they arrived at that number.

Mr. Goodson stated it would not be a special tax district, but it would be an arrangement with the homeowners association to pick up the cost.

Mr. Icenhour stated his concern that the governing body would impose a monetary obligation on a certain group of people.

Mr. Goodson stated that property owners in this development would understand that they were buying into a community, and stated the homeowners association has a certain amount of responsibility to maintain a planned community such as this.

Mr. Davis stated the Virginia Property Owners Association Act required a developer to disclose this kind of reserve to the homeowners association and stated the \$60,000 was a capital fund intended for remediation, not monitoring. He stated there was no standard for this kind of proffer.

Mr. Kinsman stated the cost of monitoring would be covered by the applicant and the \$60,000 fund was for the remediation effort. He stated none of the proffers addressed the cost of monitoring, and the homeowner or homeowners association would assume that responsibility after build out, but he did not know if the cost to the homeowners association was outlined in the proffers.

Mr. McGlennon asked for clarification that monitoring would begin at build out.

Mr. Kinsman stated the monitoring began at the issuance of a land-disturbance permit and that the owner assumes these costs until build out. Mr. Kinsman stated if the owner agreed to handle these costs after build out through the five years the concern for these costs being imposed on the homeowners association or homeowner would be alleviated.

Mr. Bradshaw asked for clarification that the applicant was amenable to clarifying the language to indicate that the funds would not be returned unless at the end of monitoring period, and there was no required remediation.

Mr. Davis stated there was no intention to recover the funds, but the applicant did not desire to leave funds in an account without dispensation.

Mr. Bradshaw stated that according to the Comprehensive Plan, an urban CCC should be built for the environment and the landscaping should be more formal. He stated the CCC designation would provide enhanced landscaping, with specimen trees and shrubs, berming that enhanced visual quality of the CCC. Mr. Bradshaw stated the enhanced samples provided consisted of mostly evergreen trees and shrubs, which help with screening the development, and asked if the applicant would be amenable to additional ornamental plantings and working with staff to change proffer language to provide for this type of landscaping.

Mr. Davis stated New Town Associates would work with staff to do this.

2. Mr. David McGinnis, 3408 Clydsworth Circle Road, stated in his experience the most physical impact on a human body is highway noise; commented this on application's master planning and stormwater management; importance of stream preservation; the fiscal impact on growth and; the cost to develop for residential purposes including impacts on infrastructure and services.

3. Ms. Ann Hewitt, 147 Raleigh Street, Friends of Powhatan Creek Watershed, stated the Friends oppose this case and request a denial or deferral as with the unanimous denial of Jamestown Retreat for the same noncompliance issues. Ms. Hewitt requested decreased impervious cover, decreased grading, better site design, use of pervious pavers, narrowing roadways, and reduction of the development footprint. She commented on the need for 15-year small whorled pagonia monitoring, independent stream monitoring, an independent stream restoration specialist, and fair financial responsibility for the applicant when stream restoration was needed. She asked that the Environmental Division work with the applicant to address concerns.

4. Mr. John Schmerfield, 172 Red Oak Landing Road, commented on stream protection, and asked what criteria was being used to develop the plan. He stated a five-year time frame was too short and over a certain percentage of impervious cover stream degradation would occur regardless of protection efforts. He stated he had met with staff to design a seminar or workshop for stream monitoring and restoration and hoped the applicant would be willing to learn about that. He stated that the homeowner association which would be financially responsible may or may not exist, and membership maybe voluntary. He commented that the cost of water remediation was very expensive so prevention efforts were key.

5. Ms. Sarah Kadec, 3504 Hunter's Ridge, on behalf of the James City County Concerned Citizens Group, expressed concerns in December, and said the applicant has made concessions, but she still thought there were issues needed to be addressed: 1) not enough time to review carefully what is being proposed; and 2) homeowners association responsibilities, traffic problems, and the scale and architecture of the houses, which she felt did not complement those in the City of Williamsburg as intended as they were not the same style. Ms. Kadec requested denial or deferral of the application.

6. Mr. Gerald Johnson, 4513 Wimbledon Way, commented on issues not addressed to handle traffic situation and remediation expenses given the probability for stream remediation was high. Mr. Johnson asked what the triggering mechanism would be to decide when the stream was considered damaged. He stated the monitoring needs to be done by an independent body. Mr. Johnson stated there needed to be greater emphasis on land stewardship. He requested deferral at this time.

7. Ms. Kensett Teller, 126 Lake Drive, Lakewood Homeowners Association Chair, commented on the lack of infrastructure and traffic to support this development; threat to the Powhatan Creek Watershed; and stated due to changes made to the plan on December 28, 2006, between holidays, more time is needed to consider the proposal. She asked the Board for denial or deferral of the application.

8. Mr. Bill Geib, 104 Allwoodly, requested denial on the basis of the reduction of the 150-foot buffer, noise, and safety compromised without adequate buffer. He stated the \$60,000 for remediation that was proposed was not nearly sufficient if there was a major issue that affected water quality.

9. Ms. Mary Jones, Planning Commissioner, responded to issues relating to the CCC buffer and stated the Planning Commission encouraged the applicant that the minimum of 150 feet be provided for residential development, but the Comprehensive Plan specifically stated the "preferred width" of the buffer would be 150 feet. Ms. Jones stated the Planning Commission supported CCC buffers at the minimum of 150 feet but she felt a case where there was a mixed-use land use designation called for flexibility in planning, and the variable width CCC buffer was one area where flexibility was applied.

Mr. McGlennon stated that he would normally close the Public Hearing at this point, but looked to the Board for a motion in the event of a deferral to February 13, 2007, with a continuance of the public hearing.

Mr. Icenhour made a motion to continue the Public Hearing to February 13, 2007, as requested by the applicant.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

Mr. McGlennon continued the Public Hearing to February 13, 2007.

Mr. Icenhour stated he would like to address how to determine when remediation would be needed and said the recommendation that monitoring by an independent or outside group merited discussion.

Mr. McGlennon asked if the proffer spoke to monitoring by an independent or outside specialist.

Mr. Horne stated he believed the proffer indicated the monitoring would be done independently and the decision to remediate was given to the Environmental Director.

Mr. Icenhour stated in monitoring, multiple things would be considered for water quality, but if there was a BMP failure and tremendous damage was done to the stream channel, Mr. Icenhour asked who would make the determination that remediation was necessary and to what level.

Mr. Bradshaw stated that the proffers stated this responsibility would be that of the Environmental Director, which he preferred over an outside consultant.

Mr. McGlennon asked Mr. Davis if the question had been posed to VDOT to allow enhanced landscaping on their right-of-way.

Mr. Davis stated VDOT had been approached and this type of request had been honored in the past; however, not enough time was given to get that approval in advance. He stated this was not an unusual request, and he was optimistic it would be granted.

Mr. McGlennon asked that this be indicated formally by VDOT. He asked for more information regarding the transfer of funds from Newport News to New Town Associates, LLC, for protection of the small whorled pagonia.

Mr. Davis deferred to Ms. Susan Guthrie of Williamsburg Environmental Group (WEG).

Ms. Guthrie said along with the Corps of Engineers for permits and would be helping Newport News mitigate the small whorled pagonia and part of the mitigation would be on this site. She stated the Casey family was generous to let researchers do the research on the site, so this colony would be considered one of the best researched in the area. She stated the preference was to continue to do the research at this site, though there was an alternative site in Gloucester County. She stated WEG was anxious to work with the applicant and other departments on this.

Mr. McGlennon asked if this mitigation effort from Newport News was because of the reservoir.

Ms. Guthrie stated this was correct.

Mr. McGlennon asked if this counted against any obligation for mitigation or protections set aside in the proffers.

Ms. Guthrie stated it was a progressive ability for New Town to set aside this buffer and there would be measures such as fence monitoring, and invasive species control, as well as methods to address other issues because the City of Newport News and New Town would be working together in this effort.

Mr. McGlennon asked if these measures would be double counted.

Ms. Guthrie stated it would not be double counted and stated it would be mitigation credits for the colony and stated they would not be impacting any pagonias.

Mr. McGlennon stated there would be an opportunity to review these matters before the February 13, 2007, Public Hearing and the submittal date for the revised proffers would be February 3, 2007, but in the mean time, there was still an opportunity to discuss issues that may arise.

Mr. Harrison stated there was a suggestion that those who have background in stream restoration get together with staff and the applicant to determine adequate measures stating this would be beneficial.

Mr. McGlennon stated he would be in favor of staff, the applicant, and the Friends of Powhatan Creek Watershed meeting to discuss methods of monitoring. He stated he was pleased to hear that the applicant planned to fully integrate affordable housing with other housing and would like to see that stated as a proffer.

At 9:48 p.m., Mr. McGlennon recessed the Board for a short break.

At 9:55 p.m., Mr. McGlennon reconvened the Board.

3. Case No. Z-6-06. Charlie's Antiques

Mr. David German, Planner, stated Mr. Timothy O. Trant, II, on behalf of the property owners, Mr. Charles D. and Mrs. Susan L. Crawford, has applied to rezone a portion (approximately 7.60 acres) of the subject property located at 7709 Richmond Road, from A-1, General Agriculture, to B-1, General Business, with proffers, for the purpose of relocating the Charlie's Antiques operation from its current location to this new site. The subject property is a total of 22.65 acres in size, and is also known as Parcel No. (1-3) on James City County Real Estate Tax Map No. (13-3).

Staff found the proposal to rezone a portion of the subject parcel from A-1 to B-1 to be inconsistent with the 2003 Comprehensive Plan.

At its meeting on December 4, 2006, the Planning Commission recommended approval of this application by a vote of 7-0.

Staff recommended that the Board of Supervisors deny the application to rezone on the basis of its inconsistency with its land-use designation in the Comprehensive Plan.

Mr. Icenhour asked where the original location of the business was on the map.

Mr. German pointed the location out on the map.

Mr. Icenhour asked what portion of the property would be rezoned and what the shape of the balance of the property would be.

Mr. German illustrated on the map the approximate rezoned acreage.

Mr. Icenhour asked if there would be street access to the A-1 zoned property or if the entire frontage would be zoned B-1.

Mr. German stated the entire frontage would be zoned B-1, and stated that an adjacent lot owned by the property owner would have an access road brought through it if the lower portion of the property was developed.

Mr. McGlennon opened the Public Hearing.

1. Mr. Tim Trant, of Kaufman and Canoles and on behalf of Charlie and Susan Crawford of Charlie's Antiques, gave a brief overview of the application and presented the human element of the Crawford's and Charlie's Antiques' impact on the Toano area. Mr. Trant indicated that the application proposed a park-like setting, with a well designed warehouse for inventory and a well-lit and organized retail facility. Mr. Trant showed the portions of land to be rezoned and the orientation to the area. Mr. Trant stated that limited commercial establishment was permitted in this area, and this business should fall within that even though it was not clearly defined. Mr. Trant recognized that the business was homegrown and existed with the surrounding area for over 30 years with minimal traffic generation. Mr. Trant stated the application was consistent with the Toano Community Character Area guidelines, and the applicant had hosted a community meeting, and all input from the meeting has been incorporated into the application. Mr. Trant stated this application provided extensive open space, a CCC buffer that met and exceeded protection of the viewshed on Route 60. Mr. Trant requested approval of the application.

Mr. Goodson asked Mr. Trant if the garden area could be subdivided from the property.

Mr. Trant said the proffers were silent on this issue, but he was not aware of subdivision intentions, and the proffers apply even in change of ownership.

2. Mr. Daniel Tucciarone, Fairfax Station, VA, spoke in support of the application, and stated that as a visitor from out of town, he comes to Williamsburg to go to Charlie's Antiques, and while in the area he facilitates many of the County's other business and area attractions. He stated Charlie's Antiques was a unique place that drew visitors back to the area to shop and enjoy the restaurants, lodging, and attractions of the area.

3. Mr. Rich Krapf, 2404 Forge Road, on behalf of Friends of Forge Road in Toano, recommended approval of the application and stated that although low-density residential development was consistent with the surrounding area, this application had additional benefits to the County and less impact on infrastructure than residential development.

4. Ms. Betsy Tuton, 105 Paddock Lane, contracted with Charlie Crawford to do stonework, stated to consider the character of the individuals as well as the type of business, an outstanding contractor.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw stated it was important to articulate that it should be approved, though it is in conflict with the Comprehensive Plan, and other considerations such as the owner's character, the uniqueness of the store, and the expansion of a business without residential impacts were not reasons to disregard the

Comprehensive Plan's strong discouragement of commercial use east of Bush Springs Road. Mr. Bradshaw stated the proposal was an extraordinary proposal that facilitated a greater purpose of the Comprehensive Plan for a clear visual separation between the villages of Norge and Toano, and this achievement of a greater purpose of the Comprehensive Plan was his reason behind supporting the application.

Mr. Goodson stated he normally does not vote against the Comprehensive Plan, but due to the quality of the project planned and reasons articulated by Mr. Bradshaw, he would support the application.

Mr. Harrison stated he does not have the same discomfort with the noncompliance with the Comprehensive Plan, because when the Toano Community Character Area study was done it was recognized that there needed to be flexibility to accomplish the vision, and stated his support for the application.

Mr. Icenhour concurred with Mr. Bradshaw's comments and stated his concern for refining the proffer for hours of operation and delivery. Mr. Icenhour said he felt that goal was reached with the new proffers and he hoped people in the community were comfortable with the business hours. Mr. Icenhour stated he felt the level of community support for this business was fantastic.

Mr. McGlennon commented on public support, and stated this was an issue of where people recognize that though the Comprehensive Plan says the application is not consistent with what should be in the area, it would fit what people believe they should have in their community.

Mr. Wanner commented that this application was with the amended proffers handed out tonight.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

CASE NO. Z-06-06/MP-08-06, CHARLIE'S ANTIQUES

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-06-06/MP-08-06, with Master Plan, for rezoning 7.6 acres from A-1, General Agricultural, to B-1, General Business, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 4, 2006, recommended approval, by a vote of 7 to 0; and

WHEREAS, the property is located at 7709 Richmond Road, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (13-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. Z-06-06/MP-08-06 and accept the voluntary proffers.

4. Case No. SUP-15-06. Mann Service Station

Mr. David German, Planner, stated Mr. Joseph Kniatt has applied for a Special Use Permit (SUP) to convert an existing unused building into a contractor's warehouse and office, which is a SUP use in the A-1 Zoning District. Mr. German stated the property was located at 9447 Richmond Road, also identified as Parcel No. (1-48) on James City County Real Estate Tax Map No. (2-4), southeast of the intersection of Diascund

Road (Route 603) and Richmond Road (Route 60). Mr. German explained that the former *Esso* service station was taken out of operation in September 1972, and at that time, the underground fuel storage tanks utilized by the service station were drained. Mr. German stated to facilitate the redevelopment of the property, the empty underground fuel storage tanks were removed and disposed of on November 8, 2005. Mr. German stated plans for the conversion of the property include: i) subdividing a 1.43-acre parcel from the existing 4.46-acre parcel; this new parcel will be home to the new operation; ii) clearing accumulated rubbish and debris from the property; iii) converting the fuel island apron into a five-vehicle parking lot to serve the new operation; iv) installing a 3,000-square-foot screened-in outdoor storage yard with access driveway, toward the rear of the site for parking of two work trucks and a backhoe; and v) renovating the service station building into a small warehouse and office structure. This renovation will utilize the existing building and will not require the construction of any new structures.

Staff considered this application to be of positive benefit to James City County, as it provides an adaptive reuse of an existing unused commercial building, results in the clean up of a site, creates no new significant burdens on neighboring properties or uses, and found the proposal to be in accordance with the 2003 James City County Comprehensive Plan.

At its meeting on December 4, 2006, the Planning Commission recommended approval of this application by a vote of 7-0.

Staff recommended the Board approve the SUP.

Mr. Icenhour asked if the SUP only applied to 1.43 acres.

Mr. German stated the understanding that it would be subdivided from the existing area and sold to the applicant.

Mr. McGlennon opened the Public Hearing.

1. Ms. Bettye G. Jones, 9438 Richmond Road, commented on greenspace and concern for excessive commercial frontage on Route 60 in the area.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Bradshaw asked Mr. German about restrictions on lighting.

Mr. German stated there were conditions in place on the applications if approved that restricted lighting to restrict glare beyond the property lines, as well as extensive landscape buffering requirements.

Mr. Bradshaw asked how the property looked at this point.

Mr. German stated the property looked as it did in the 1970s with piles of trash, and commented there was a lot of work involved to improve the site.

Mr. Bradshaw asked if there was any landscaping around the current building.

Mr. German showed there were some trees to the side and rear of the building, but the building was in no way shielded from the roadway, and the conditions call for a landscaping buffer to be installed.

Mr. Bradshaw asked if there were different conditions for a reuse of property as opposed to a new commercial development.

Mr. German stated that because this was previously an abandoned service station, a redevelopment in this case was a less invasive use, and he believed it would be more difficult to stand behind an application where greenspace was used to construct a commercial development of this nature.

Mr. Bradshaw asked how many businesses are around Old Route 60 between Anderson's Corner and the property.

Mr. German stated there were several businesses and many single-family homes, both of which the facades were not in the best condition. He stated the applicant has tried to improve the look of the area with an enhanced façade.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw stated he appreciated Ms. Jones' comments but the property was an eyesore for the community and adaptive reuse would be superior to what existed at the site. He felt the stipulations prevented it from going beyond a modest operation.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

CASE NO. SUP-15-06. MANN SERVICE STATION CONVERSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Joseph Kniatt has applied for an SUP to allow for a contractor's warehouse and office to be placed in an unused existing building on a parcel approximately 1.43 acres in size and zoned A-1, General Agriculture; and

WHEREAS, the proposed contractor's warehouse and office is shown on a Master Plan entitled "Master Plan for Joseph Kniatt, Revised 10-27-06"; and

WHEREAS, the subject property can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. (2-4)(1-48); and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 4, 2006, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, following a public hearing, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 15-06 as described herein with the following conditions:

- I. Master Plan and Use: This Special Use Permit (SUP) shall be valid for the operation of contractors' warehouses, sheds, and offices, and accessory uses thereto. Development of the site shall be generally in accordance with, and as depicted on, the SUP Master Plan drawing, entitled "Master Plan for Joseph Kniatt, Revised 10-27-06," and that was submitted as part of the application for this SUP, as determined by the Planning Director

of James City County (Planning Director). Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development. Tree clearing and land disturbance shall be done at the minimum level necessary to accommodate the uses shown on the Master Plan as determined by the Planning Director.

2. **Lighting:** Any new exterior site or building lighting shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.
3. **Site Plan Approval Required:** Final site plan approval, for the use proposed in this application, must be obtained within two years of the issuance of this SUP, or the SUP shall become void.
4. **Landscape Plan:** A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor buffer along Richmond Road (Route 60 West), (except for the paved driveway/parking area), as shown on the Master Plan, so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
5. **Building Elevation:** The architectural drawings/plans for the renovation of the existing building shall be generally consistent with color building rendition submitted by the Applicant on 29 August 2006, entitled "Exhibit A, Mann Service Station Architectural Elevation Drawing," (the "Rendition"), as determined by the Planning Director. Minor changes to the architectural drawings/plans, which shall be turned in with the Site Plan, may be approved by the Planning Director provided that they are generally in keeping with the elevation depicted in the Rendition.
6. **Junk Removal:** The applicant shall remove all junk from the property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, wood, lumber, concrete or construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material. This junk shall be properly disposed of in a State-approved facility. The James City County Zoning Administrator shall verify, in writing, that all junk has been properly removed from the property.
7. **Entrance and Parking Area:** A plan showing that the entryway to the property is reduced in width to meet VDOT standards, and that the parking stalls are realigned such that no backing or turning maneuvers are performed in the VDOT right-of-way to enter or exit from a parking space, shall be submitted and approved by the Planning Director prior to final site plan approval. The modifications depicted in this plan, once approved, shall be in place prior to the issuance of any Certificate of Occupancy for the site.
8. **Screening of Fenced Storage Area:** A plan for the landscape screening of the fenced rear vehicle storage area shall be submitted to the Planning Director for review and approval prior to final site plan approval for the property.

9. Severance Clause: This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. SUP-27-06. Homestead Garden Center

Ms. Melissa Brown, Acting Zoning Administrator, stated Mr. Stanley Treleaven of T&S Associates, Inc. has applied for an SUP to allow the retail sale of plant and garden supplies in conjunction with the existing commercial greenhouses located on the site. This property is located at 4109 Rochambeau Drive and is zoned A-1, General Agriculture. It is designated Rural Land on the 2003 Comprehensive Plan Land Use Map and can be further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4).

Staff found this proposal generally inconsistent with the Comprehensive Plan Land Use Designation because the proposed use was neither agricultural nor forestal in nature; however, staff believes the proposal to be generally consistent with the previous uses of the existing structures on the site as well as with the Rural Land Use Standards of the Comprehensive Plan.

At its meeting on December 4, 2006, the Planning Commission recommended approval of this application by a vote of 7-0.

Staff recommended the Board approve the application.

Mr. McGlennon asked for confirmation that this application does not materially change the use of the land and structures, but the applicant did not expect any additional uses through this SUP.

Ms. Brown indicated this was correct.

Mr. McGlennon opened the Public Hearing.

1. Mr. Stanley Treleaven, 118 Woodland Road, on behalf of Homestead Garden Center, stated he was available to answer questions.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

CASE NO. SUP-27-06. HOMESTEAD GARDEN CENTER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance, specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicant has requested a SUP to allow for retail sale of plant material in an A-1, General Agricultural District, located at 4109 Rochambeau Drive, further identified as a Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4); and

WHEREAS, the Planning Commission, following a public hearing on December 4, 2006, recommended approval of this application by a 7-0 vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve the issuance of SUP-27-06 as described herein with the following conditions:

1. Master Plan: The plan of development shall be generally consistent with the Master Plan of Development titled, "Homestead Garden Center" prepared by Mitchell-Wilson and Associates, P.C. sealed and dated July 3, 2006, and revised on November 11, 2006, as determined by the Director of Planning.
2. Lighting: Any new exterior site or building lighting shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Glare, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.
3. Hours of Operation: Hours of operation shall be limited to the hours between 7:00 a.m. and 9:00 p.m.
4. Deliveries: The daily hours for deliveries shall be limited to the hours between 7:00 a.m. and 7:00 p.m.
5. Outdoor Speakers: No outdoor loud speakers in connection with the operation of the Garden Center shall be audible outside the boundaries of the garden center property.
6. Waste Disposal: Dead plant material and containers must be disposed of through trash collection and shall not be stockpiled on the garden center property.
7. Plant Material: At any given time, a minimum of 75 percent of the plant material offered for sale must be grown on the site and limited to 3,450 square feet of retail sale area.
8. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Lease Approval - Jamestown Yacht Basin

Ms. Stephanie Ahrendt, Purchasing Services Director, stated this was the lease approval for management and operation of Jamestown Yacht Basin. Ms. Ahrendt stated staff created a Request for Proposals (RFP) and this lease would initially be a short-term lease with a possibility of a longer term. Ms. Ahrendt indicated staff received five proposals, and in cooperation with many County departments, selected Master Marine. She stated she was available to solicit comments and questions about the potential use of the parcel.

Mr. Icenhour asked what the initial lease length would be.

Ms. Ahrendt stated it would be two years.

Mr. Icenhour asked if the lease would provide an option for renewal or if it went out for RFP at the end of the term.

Mr. Ahrendt stated there was language that provided for first term and an option for renewal beyond that.

Mr. McGlennon stated this would allow us to continue to provide services without interruption to those who are currently using this Marina.

Ms. Ahrendt stated that for the time being it was in the County's best interest to continue the current use of the parcel, though the use of this parcel and the Campground parcel was in ongoing considerations for land uses.

Mr. McGlennon opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, stated this was competition with private enterprise because the County was receiving money indirectly, which he considered applied to Item Nos. 6, 7, and 8.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Goodson stated as a member of the business community that government has to provide where businesses are unable.

Mr. McGlennon asked as the owners did the County allow private enterprises to compete for the opportunity to operate on this parcel.

Mr. Goodson stated that was what was done in the process.

Mr. Goodson made a motion to approve the resolution.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

LEASE APPROVAL – JAMESTOWN YACHT BASIN

WHEREAS, a request for proposals for the operation and management of the Jamestown Yacht Basin was advertised, five interested firms submitted proposals; and

WHEREAS, staff reviewed the proposals, selected Chesapeake Mastercraft, Ltd., dba Master Marine, as the most fully qualified and best suited to the County's needs as defined in the Request for Proposals and negotiated a lease for the operation and management of the Yacht Basin; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the operation and management of the Jamestown Yacht Basin to Chesapeake Mastercraft, Ltd., dba Master Marine under the terms and conditions of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a lease with Chesapeake Mastercraft, Ltd., dba Master Marine, for the operation and management of the Jamestown Yacht Basin.

7. Lease Approval - Jamestown Beach Campground Cottage No. 1
8. Lease Approval - Jamestown Beach Campground Cottage No. 2

Ms. Ahrendt stated these were leases for two structures on the Jamestown Beach Campground property. Ms. Ahrendt indicated that the lease for Cottage No. 1 provided for caretaker duties of an 18th century building on the property and for the inhabitant to check this house on a daily basis and survey the perimeter of the property and Campground store, reporting any problems or suspicious activity. She stated these activities would be performed on-site, and this would be a typical residential lease, which has been reviewed by the County Attorney's office.

Ms. Ahrendt stated that while the lease for Cottage No. 2 was similar to the lease for Cottage No. 1, this lease was strictly a residential arrangement, with the County to benefit from the tenant's familiarity with the property and ability to give guidance to facility staff about utility locations on the property and similar matters. Ms. Ahrendt stated the lease terminated at the end of March.

Mr. McGlennon opened the Public Hearing simultaneously.

As no one wished to speak to these matters, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to adopt the resolutions simultaneously.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

RESOLUTION

LEASE APPROVAL – JAMESTOWN BEACH CAMPGROUND COTTAGE NO. 1

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the Jamestown Beach Cottage No. 1 to Rhonda Scott under the terms and conditions of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a lease with Rhonda Scott for the Jamestown Beach Campground Cottage No. 1.

RESOLUTION

LEASE APPROVAL – JAMESTOWN BEACH CAMPGROUND COTTAGE NO. 2

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the Jamestown Beach Cottage No. 2 to Douglas Scott and Lena Worchester under the terms and conditions of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a lease with Douglas Scott and Lena Worchester for the Jamestown Beach Campground Cottage No. 2.

H. PUBLIC COMMENT

1. Mr. Bruce Abbott, 4478 Centerville Road, commented on washout on Jolly Pond Road when traveling equipment needed road opened; encouraged that road be reopened.

2. Mr. Ed Oyer, 139 Indian Circle expressed his displeasure at how the issue with Jolly Pond Road has been handled.

Mr. McGlennon stated there will be a Work Session related to dam safety on January 23, 2007.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the 2007 County Calendars were available at County buildings and that a rural residential public forum would be held and citizens were encouraged to attend. He stated more information could be found on the County website at www.jccgov.com/rurallands. Mr. Wanner stated that Monday, January 15, 2007, was a Federal, State, and County holiday observing the birth of Dr. Martin Luther King, Jr. Mr. Wanner stated that though a Closed Session was scheduled, the Board did not have to go into Closed Session to make PDR reappointments. Mr. Wanner stated when the Board completed its business it should recess to 8 a.m. on Saturday, January 20, 2007, for a Retreat relating to the upcoming budget and other business that is taking place at Legacy Hall in New Town. Mr. Wanner stated that on this date, the Board should adjourn to 4 p.m. on Tuesday, January 23, 2007, for a Joint Work Session with the Economic Development Authority in relation to the Business Climate Task Force, as well as work sessions on dam safety.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw made a motion to reappoint Mr. Thomas Belden and Ms. Linda Rice to the Purchase of Development Rights (PDR) Committee for a three-year term to expire February 14, 2010, eliminating the necessity for a Closed Session.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

Mr. Icenhour commented on dam safety issues and asked for details on road closures as a result of dam failure.

Mr. Wanner stated he would get that info from VDOT because that department closes the roads.

Mr. Harrison referenced emails in relation to addressing unacceptable behavior of gatherings of young people in the County. He stated on January 19, 2007, in the Work Session room, a consortium of individuals including local pastors, law enforcement, and the Department of Social Services would convene to discuss this matter. He asked what provisions the curfew policy had for young people below high school age, and asked the legal authority of creating an ordinance for charging young people aged 12 and under who commit public disorder, as well as accountability for lack of parental supervision.

Mr. Kinsman stated the County Attorney's office was looking at the trespassing ordinance that came before the Board a few months ago, and the County already enforced a curfew ordinance and a disorderly conduct ordinance. Mr. Kinsman said the curfew limits minors to be out from midnight to 6:00 a.m. and State Code would allow for the curfew to be at 10:00 p.m. Mr. Kinsman stated a curfew violation was a Class 4 penalty, which constituted a fine of \$250 or less, but could be moved up to a Class 3 penalty. Mr. Kinsman continued that a disorderly conduct violation was a Class 1 penalty subject to 12 months in jail or a \$2,500 fine. Mr. Kinsman stated there were no citations of the Code from which to derive authority to impose fines or

fine. Mr. Kinsman stated there were no citations of the Code from which to derive authority to impose fines or penalties on the parents of a violator for lack of supervision, but the County Attorney's office would look into this matter.

Mr. Bradshaw thanked Mr. Harrison for bringing this to light and stated this was a good way to let young people know the County is serious about disorderly conduct and disregard for authority, and young people can solve it on their own, and if they cannot or will not the County and law enforcement would step in to control the situation.

Mr. Goodson stated that he was able to spend time in the Sister City of Ipswich, England, and indicated the County has Ipswich charter hangings to be displayed during Anniversary Weekend. Mr. Goodson stated the Mayor provided gifts for the Board as well as a print of the town hall in Ipswich, which he hoped to display in Legacy Hall.

Mr. Harrison stated that Vice President Dick Cheney would be at Jamestowne Island on January 10, 2007, the opening of the General Assembly as part of the 400th Anniversary Commemoration, and indicated that he was asked to be on the welcoming committee.

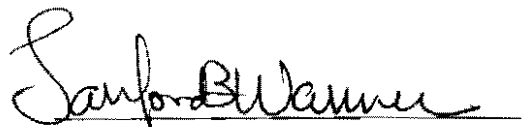
Mr. Bradshaw commented on the death of Mrs. Gertrude Binns Hunt of Hill Pleasant Farms, who was the grandmother of Planning Commissioner Donald C. Hunt, and extended his condolences to the family.

K. RECESS

Mr. Harrison made a motion to recess.

On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5)
NAY: (0)

At 11:14 p.m., Mr. McGlennon recessed the Board until 8 a.m., Saturday, January 20 for a Budget Retreat.


Sanford B. Wanner
Clerk to the Board

Tax Parcel I.D. Number: a portion of 1330100003

070 003659

PROFFERS
CHARLIE'S ANTIQUES

Prepared by:
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, Virginia 23188

10814

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CHARLIE'S ANTIQUES – PROFFERS

THESE PROFFERS are made as of this 9th day of January, 2007, by **CHARLES D. CRAWFORD** and **SUSAN L. CRAWFORD** (collectively, "Owner") (index as the Grantor), and the **COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County") (index as the Grantee).

RECITALS

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

R-2. Owner has filed a rezoning application and master plan application (collectively, the "Application") with the County requesting a change in the zoning of the Property from A-1, Agricultural, to B-1, General Business, with proffers. The Application has been designated by the County as case number Z-06- 06 / MP-08-06. The rezoning of the Property to B-1, 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 B-1 zoning district set forth in Section 24-389 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").

R-3. A conceptual plan of development ("Master Plan") entitled "REZONING EXHIBIT FOR CHARLIE'S ANTIQUES 7709 RICHMOND ROAD PARCEL ID: 1330100003", dated October 19, 2006, revised November 22, 2006, prepared by LandTech Resources, Inc., has been submitted to the County Planning Director for review by the County in connection with the Application. The Master Plan is on file in the office of the County Planning Director.

R-4. Conceptual architectural elevations ("Elevations") of the buildings proposed for construction on the Property entitled "REZONING EXHIBIT FOR CHARLIE'S ANTIQUES 7709 Richmond Road, James City County, Virginia", dated October 20, 2006, prepared by Paul C. White, has been submitted to the County Planning Director for review by the County in connection with the Application. The Elevations are on file in the office of the County Planning Director.

R-5. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing the character 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.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above 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, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS

1. Master Plan. The Property shall be developed generally in accordance with the Master Plan with only minor changes thereto that the County Development Review Committee determines do not change the basic concept or character of the development. The Master Plan is a conceptual plan for proposed development on the Property and provides only for the general

location of buildings, parking, drainage facilities, areas of open space, garden areas, outdoor storage and display areas, setbacks, and buffer areas. 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.

2. Limitation on B-1 Permitted Uses. The following uses which are generally permitted in the General Business, B-1 zoning district, unless otherwise approved by the County Planning Director, are hereby prohibited on the Property:

- a. Automobile service stations;
- b. Drug stores;
- c. Dry cleaners and laundries;
- d. Houses of worship;
- e. Hotels and motels;
- f. Health clubs, exercise clubs, and fitness centers;
- g. Indoor sport facilities;
- h. Indoor theater;
- i. Parking lots and garages;
- j. Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement;
- k. Radio and television stations and accessory antenna or towers and tower mounted wireless communication facilities, which are 60 feet or less in height;
- l. Retail food stores, restaurants, fast food restaurants and taverns; and
- m. Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communication Facilities.

3. Landscape Buffer. Prior to issuance of a building permit for any building located on the Property, Owner shall establish or guarantee ("Guarantee") in a form acceptable to the County Attorney and 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 variously as a "Guarantee", as "Guarantees", or as being "Guaranteed") the establishment of a fifty (50) foot landscape buffer

in the area shown as “50’ MINIMUM LANDSCAPE BUFFER” on the Master Plan comprised of (i) a minimum of fifty percent (50%) native, evergreen trees and shrubs with all plantings exceeding existing ordinance requirements by a minimum of twenty-five percent (25%) in terms of size of the plantings, (ii) fencing, or (iii) a combination of landscaping and fencing that achieves the same or greater effect, all in accordance with a landscape plan (the “Buffer Plan”) designed to enhance the visual buffer from adjacent properties and development on the Property. The Buffer Plan shall be prepared by a landscape architect licensed in the Commonwealth of Virginia and submitted to the County Planning Director for review and approval with any site plan for development on the Property.

4. Community Character Corridor Setback and Buffer. No building shall be constructed within one hundred (100) feet of the northerly boundary line of the Property adjacent to Virginia Route 60. Prior to issuance of a building permit for any building located on the Property, Owner shall establish or Guarantee the establishment of a fifty (50) foot Community Character Corridor Buffer in area shown as “50’ COMMUNITY CHARACTER CORRIDOR LANDSCAPE BUFFER” on the Master Plan comprised (i) landscaping that consists of predominately native trees and shrubs and that exceeds existing ordinance requirements by twenty-five percent (25%) in terms of size of the plantings, (ii) fencing and/or stone walls, or (iii) a combination of landscaping and fencing and/or stone walls that achieves the same or greater effect, all in accordance with a landscape plan (the “CCC Plan”) designed to enhance the building and site design of the development on the Property. The CCC Plan shall be prepared by a landscape architect licensed in the Commonwealth of Virginia and submitted to the County Planning Director for review and approval with any site plan for development on the Property.

5. Garden/Display Area. Prior to issuance of a building permit for any building located on the Property, the area shown as “GARDEN/DISPLAY AREA” on the Master Plan shall be established or Guaranteed to be established as “open space” (as such term is currently defined in the Zoning Ordinance) in accordance with an open space plan (the “Open Space Plan”) designed to reinforce the boundaries of Norge and Toano. The Open Space Plan shall include one or more garden area, walking path, pond, landscaping, gazebo, statuary, stone wall, and/or fence, or such other elements as may be approved by the County Planning Director. The Open Space Plan shall be submitted to the County Planning Director for review and approval with any site plan for development on the Property.

6. Building Supplies. The outdoor storage of building materials shall be limited to the area shown as “STONE STORAGE” on the Master Plan. A plan for the screening of outdoor storage areas shall be submitted to the County Planning Director for review and approval prior to final site plan approval for development on the Property.

7. Building Design. The building shall be designed and constructed generally in accordance with Elevations or such other design as may be approved by the County Planning Director. Colors and materials shall be submitted to and approved by the County Planning Director for consistency with the Comprehensive Plan and the Toano Community Character Area Design Guidelines prior to final site plan approval for development on the Property.

8. Water Conservation. Owner 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 site plan approval for development on the Property.

9. Nutrient Management Plan. Owner shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, a customized nutrient management plan ("Nutrient Management Plan") for the Property. The Nutrient Management Plan shall be submitted to the County Environmental Director for his review and approval prior to the issuance of any certificate of occupancy for any building located on the Property. Upon approval, Owner shall be responsible for ensuring that any nutrients applied to the Property be applied in accordance with the applicable Nutrient Management Plan or any updates or amendments thereto as may be approved by the County Environmental Director.

10. Signage. The color scheme, design, and building materials for all freestanding and building mounted signs located on the Property shall be submitted to the County Planning Director for review and approval for (i) consistency with the buildings to be constructed on the property, (ii) consistency with the site design, and (iii) compatibility with the historic character of the area, prior to final site plan approval for development on the Property.

11. Lighting. A lighting plan that depicts the styles, models, mounting heights, and photometric footcandle diagrams of all exterior light fixtures to be used on the Property shall be

submitted to the County Planning Director for review and approval prior to final site plan approval for development on the Property. All exterior light fixtures on the Property, including building lighting, shall be directed so as not to produce glare on adjacent residential properties or public right-of-way. All exterior lighting, except for ground-mounted pedestrian lighting, shall be mounted horizontally and shall have recessed fixtures with no lens, bulb, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in a manner that all light will be directed downward and the light source is not visible from the side. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.

12. Subdivision. Owner shall subdivide the Property from its existing parent tract. Owner shall submit the appropriate subdivision plan to the County for review and approval prior to or simultaneously with the submission of any site plan for development on the Property.

13. Sewer Contribution.

a. A one-time, sewer facilities contribution shall be made to the James City Service Authority in the amount of Two Thousand Seven Hundred Seventy-Four and 00/100 Dollars (\$2,774.00) prior to final site plan approval for development on the Property.

b. The aforementioned cash contribution amount shall be adjusted annually, until paid, beginning January 1, 2007 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall the cash contribution amount be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the MSI as of

December 1 in the preceding year. In the event a substantial change is made in the method of establishing the MSI, then the cash contribution amount shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the MSI. In the event that the MSI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the MSI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the cash contribution amount to approximate the rate of annual inflation in the County.

14. Hours of Operation and Deliveries. Owner agrees that, unless otherwise approved by the County Planning Director, the receipt of any commercial shipments of goods to the Property shall occur and the normal hours of operation of any business located on the Property shall be between the hours of 7:00 a.m. and 7:00 p.m.; provided, however, that Owner may conduct up to twelve (12) special events such as auctions or preview sales per year outside the normal hours of operation and shall keep an annual log of the same to be available for inspection by the County upon reasonable notice.

15. Successors and Assigns. 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.

16. Severability. 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, subparagraph, section or provision hereof.

17. Void if Application not Approved. In the event that the Application is not approved by the County, these Proffers shall be null and void.

18. Headings. All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.

WITNESS the following signatures:

[SIGNATURES LOCATED ON FOLLOWING PAGES]

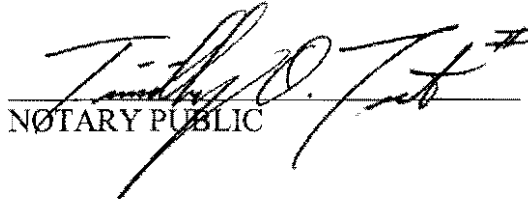
[SIGNATURE PAGE TO PROFFERS]


Charles D. Crawford

COMMONWEALTH OF VIRGINIA

~~CITY~~ COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 9th day of January 2007
by Charles D. Crawford.


NOTARY PUBLIC

My commission expires: 2/28/2009



[SIGNATURE PAGE TO PROFFERS]

Susan L Crawford
Susan L. Crawford

COMMONWEALTH OF VIRGINIA

~~CITY~~/COUNTY OF Janes City, to wit:

The foregoing instrument was acknowledged before me this 9th day of January, 2007
by Susan L. Crawford.

Timothy O. H.
NOTARY PUBLIC

My commission expires: 2/28/2009

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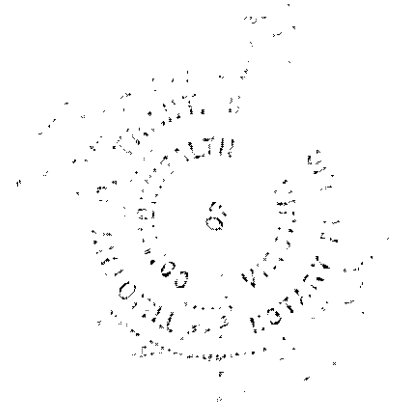


EXHIBIT A

All that certain piece, parcel, or tract of land located in the Stonehouse Magisterial District of James City County, Virginia, containing approximately 7.60 acres shown as "AREA TO BE REZONED" on that certain conceptual plan of development entitled "REZONING EXHIBIT FOR CHARLIE'S ANTIQUES 7709 RICHMOND ROAD PARCEL ID: 1330100003", dated October 19, 2006, revised November 22, 2006, prepared by LandTech Resources, Inc., a copy of which is on file with the County Planning Director in connection with Case Number Z-06-06 / MP-08-06.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 8 Feb 07
at 11:41 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \$ \$

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B Woolridge Clerk