A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
June 14, 2016
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Ysabel Dieguez, a 6th grade student at Berkeley Middle School and resident of the Roberts District

E. PUBLIC COMMENT - Until 7 p.m.

F. PRESENTATIONS

G. CONSENT CALENDAR

1. Minutes Adoption - May 24, 2016 Regular Meeting
2. Appointment of Zoning Administrator and Acting Zoning Administrator
3. Appointment to the Williamsburg Regional Library Board of Trustees
4. Dedication of Streets in Phase II of the Ironbound Square Subdivision - Jamestown District

H. PUBLIC HEARING(S)

1. Building Code Reference Changes
2. SUP-0004-2015, Hankins Resource Recovery Facility - Stonehouse District
3. SUP-0003-2016, Two Drummers Smokehouse SUP Amendment/SUP-0004-2016, Extra Mile Landscapes - Stonehouse District
4. SUP-0009-2015, 100 Lake Drive Rental of Rooms - Berkeley District
5. Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment - Jamestown District

I. BOARD CONSIDERATION(S)

1. Z-0005-2016, The Promenade at John Tyler Proffer Amendment - Community Character Corridor Buffer - Jamestown District

J. BOARD REQUESTS AND DIRECTIVES

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

L. PUBLIC COMMENT

M. CLOSED SESSION

N. ADJOURNMENT

1. Adjourn until 4 pm on June 28, 2016 for the Work Session

AGENDA ITEM NO. D.1.

ITEM SUMMARY

DATE:	6/14/2016
TO:	The Board of Supervisors
FROM:	Teresa J. Fellows, Administrative Coordinator
SUBJECT:	Pledge Leader - Ysabel Dieguez, a 6th grade student at Berkeley Middle School and resident of the Roberts District

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REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	6/1/2016 - 2:58 PM

AGENDA ITEM NO. G.1.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Minutes Adoption - May 24, 2016 Regular Meeting

ATTACHMENTS:

	Description	Type
🗋	052416 BOS-mins	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	6/1/2016 - 3:00 PM

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
May 24, 2016
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

John J. McGlennon, Vice Chairman, Roberts District
Ruth M. Larson, Berkeley District
Kevin D. Onizuk, Jamestown District
P. Sue Sadler, Stonehouse District
Michael J. Hipple, Chairman, Powhatan District

Bryan J. Hill, County Administrator
Adam R. Kinsman, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leaders - Savannah and Madison Porter, 2nd-grade students at Clara Byrd Baker Elementary School and residents of the Berkeley District

E. PRESENTATIONS

F. PUBLIC COMMENT - Until 7 p.m.

1. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the classrooms proposed in the new fourth middle school.

2. Ms. Barbara Henry, 141 Devon Road, addressed the Board in regard to an online checkbook register.

3. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to Common Core.

G. PRESENTATIONS

Mr. Hipple and the Board presented Mr. Oyer with an ornamental plaque honoring his many years of dedicated service to the County. The plaque is located on his preferred seat in the boardroom.

At 6:50 p.m., Mr. Hipple recessed the Board in order to conduct the James City Service Authority Board of Directors meeting.

At 6:55 p.m., Mr. Hipple reconvened the Board of Supervisors.

H. CONSENT CALENDAR

A motion to Approve was made by Ms. Sadler and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

1. Minutes Adoption - January 23, 2016, Budget Retreat, April 26, 2016, Regular Meeting and May 2, 2016, Budget Work Session

2. Memorandum of Understanding with the James City County Treasurer

3. Contract Award - Norge Elementary School Best Management Practice Modifications - $205,000 - Stonehouse District

4. Contract Award - Clara Byrd Baker Elementary School Stormwater Retrofits - $339,260 - Berkeley District

5. FY 16 Congestion Mitigation and Air Quality Improvement Program Incentive Program- $45,200

   Ms. Sadler stated that in lieu of pulling this item, staff provided significant information in response to her questions. She wanted to let the public know that this program will allow the conversion of several County vehicles to dual fuel options, gasoline and propane. Due to the significant cost savings that this will provide to the County, she will be supporting this item, this evening.

I. PUBLIC HEARING(S)

1. Resolution Authorizing a Right-of-Way and Easement Agreement with Dominion Virginia Power - 191 Clark Lane - Powhatan District

A motion to Approve was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Mr. Kinsman addressed the Board giving an overview of the memorandum included in the Agenda Packet.

As there were no questions for staff, Mr. Hipple opened the Public Hearing.

As no one was registered to speak, Mr. Hipple closed the Public Hearing.

2. Lease for Olde Towne Medical and Dental Center - Powhatan District

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Ms. Rebecca Vinroot, Director of Community Services, addressed the Board giving an overview of the memorandum included in the Agenda Packet.

As there were no questions for staff, Mr. Hipple opened the Public Hearing.

As no one was registered to speak, Mr. Hipple closed the Public Hearing.

J. BOARD CONSIDERATION(S)

K. BOARD REQUESTS AND DIRECTIVES

The Board generally discussed its activities in the community over the past two weeks.

Ms. Larson informed the Board in regard to the first School Liaison Committee meeting that was held on May 13. She stated that the next meeting would include a discussion on the School's Capital Projects process. Specific projects would not be discussed, rather the process and if there could be improvements to the process.

Mr. Onizuk stated that during the Organizational Meeting, the Board had postponed a discussion about the agenda format. Tonight's meeting is a good example of how this format is not working as well as it was hoped. He believes that the agenda could be tweaked by moving the Presentations and Public Hearings up to before the Public Comment. This would allow the public hearings to be addressed expeditiously and then any and all public comment could be heard prior to Consent Calendar items and Board Considerations. He stated that he would send his recommendations around in writing and hopefully the Board could discuss it at the next meeting.

L. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

Mr. Hill announced that government facilities will be closed on Monday, May 30 in observance of Memorial Day.

Mr. Hill also stated that James City County is pleased to announce its inaugural summer concert series. Come and enjoy live music at Jamestown Beach Event Park on the Fourth Fridays of June, July and August. Each concert will feature a different musical act. Concerts will be held on June 24, July 22 and August 26 with music from 6-7:30 p.m. The first concert on June 24 will be a double header with Rayvon Owen and Joey Cook with her band, the Partyraddlers. Both Owen and Cook were contestants in the 14th season of American Idol. Each reached the top 7 and are both natives of Virginia. Doors will open for each Fourth Friday at 5 p.m. Concerts will take place on a grassy field within Jamestown Beach Event Park. Admission to Fourth Fridays is $20 (cash or check) per car at the gate. Parking for the concert will be behind the old Jamestown Campground building at 2205 Jamestown Beach Event Park adjacent to Jamestown Settlement.

M. PUBLIC COMMENT

No registered speakers.

N. CLOSED SESSION

O. ADJOURNMENT

1. Adjourn until 6:30 p.m. on June 14, 2016, for the Regular Meeting

A motion to Adjourn was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

At 7:14 p.m., Mr. Hipple adjourned the Board.

Bryan J. Hill
County Administrator

AGENDA ITEM NO. G.2.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Appointment of Zoning Administrator and Acting Zoning Administrator

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ATTACHMENTS:

	Description	Type
🗋	memo	Cover Memo
🗋	reso1	Resolution
🗋	reso2	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	5/31/2016 - 8:30 AM
Publication Management	Boles, Amy	Approved	5/31/2016 - 8:37 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:53 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:06 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:44 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:47 AM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Planning Director
Adam R. Kinsman, County Attorney

SUBJECT: Appointment of Zoning Administrator and Acting Zoning Administrator

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Pursuant to Section 24-5 of the Code of James City County, the Board of Supervisors is responsible for the appointment of the Zoning Administrator to oversee the administration and enforcement of the County's Zoning Ordinance.

The position of Zoning Administrator has been accepted by Christy H. Parrish. Ms. Parrish began her career in James City County in 1993 and has been employed in the Department of Development Management since July, 2000. She has served in many capacities in Development Management, most recently as the Proffer Administrator, the Acting Zoning Administrator and the Deputy Zoning Administrator. Ms. Parrish graduated Magna Cum Laude from Thomas Nelson Community College, is a member of the Virginia Association of Zoning Officials, is a Certified Zoning Administrator and has demonstrated her ability to handle complex zoning matters. It is necessary that the Board of Supervisors formally appoint a Zoning Administrator to officially fulfill the duties and functions of the position.

In addition, staff recognizes the need to be prepared for occasions that may arise when the absence of Ms. Parrish necessitates an alternative arrangement. For this reason, staff is recommending that Ms. Parrish be granted the ability to appoint Mr. Paul D. Holt, III as Acting Zoning Administrator in her absence. Mr. Holt currently serves as the Planning Director and has a demonstrated ability to handle complex zoning matters.

We recommend adoption of the attached resolutions.

PDH/ARK/nb
ApptZAdm-ActingZAdm-mem

Attachments

R E S O L U T I O N

APPOINTMENT OF ZONING ADMINISTRATOR

WHEREAS, the position of Zoning Administrator of James City County was vacant; and

WHEREAS, Ms. Christy H. Parrish has served as Acting Zoning Administrator since the position became vacant; and

WHEREAS, Ms. Parrish has accepted the position of Zoning Administrator of James City County; and

WHEREAS, Ms. Parrish graduated Magna Cum Laude from Thomas Nelson Community College, is a member of the Virginia Association of Zoning Officials, is a Certified Zoning Administrator and has demonstrated her ability to handle complex zoning matters; and

WHEREAS, pursuant to Section 24-5 of the Code of James City County, the Board of Supervisors is responsible for appointing the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Ms. Christy H. Parrish as Zoning Administrator.

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

ApptZAdm-res

R E S O L U T I O N

APPOINTMENT OF ACTING ZONING ADMINISTRATOR

WHEREAS, Ms. Christy H. Parrish has been appointed as Zoning Administrator; and

WHEREAS, occasions may arise that require an Acting Zoning Administrator to perform Zoning Administrator's functions and duties in Ms. Parrish's absence; and

WHEREAS, Mr. Paul D. Holt, III serves as the Planning Director for James City County and has demonstrated his ability to capably handle complex zoning matters; and

WHEREAS, pursuant to Section 24-5 of the Code of James City County, the Board of Supervisors is responsible for appointing the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Mr. Paul D. Holt, III as Acting Zoning Administrator at such times as deemed necessary by Ms. Parrish or automatically upon such time as Ms. Parrish is no longer employed by the County.

_____
Michael J. Hipple
Chairman, Board of Supervisors

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

ApptActZAdm-res

AGENDA ITEM NO. G.3.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Appointment to the Williamsburg Regional Library Board of Trustees

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Staff recommends appointment of Jason Purse to the Williamsburg Regional Library Board of Trustees.

ATTACHMENTS:

	Description	Type
🗋	Memorandum	Cover Memo
🗋	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	5/26/2016 - 2:17 PM
Publication Management	Boles, Amy	Approved	5/26/2016 - 3:04 PM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:29 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:06 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:45 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:47 AM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Appointment to the Williamsburg Regional Library Board of Trustees

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On January 4, 2016, the Board of Supervisors temporarily appointed Ms. Tara Woodruff, Director of Budget and Accounting Division, to the Williamsburg Regional Library (WRL) Board of Trustees, effective immediately and replacing Mr. Adam R. Kinsman who could not serve as Interim County Attorney while simultaneously serving as a WRL Trustee.

Staff recommends that the Board of Supervisors appoint Mr. Jason Purse, Assistant County Administrator, to the WRL Board of Trustees, effective immediately. This appointment is necessary due to Ms. Woodruff leaving employment with James City County. Mr. Purse will continue to fill the balance of Mr. Kinsman's vacated term which expires on June 30, 2019.

ARK/ab
ApptWRLBOT-mem

Attachment

R E S O L U T I O N

STAFF APPOINTMENT TO THE

WILLIAMSBURG REGIONAL LIBRARY BOARD OF TRUSTEES

WHEREAS, on January 4, 2016, the Board temporarily appointed Ms. Tara Woodruff, Director of Budget and Accounting Division, to the Williamsburg Regional Library (WRL) Board of Trustees, replacing Mr. Adam R. Kinsman who could not serve as Interim County Attorney while simultaneously serving as a WRL Trustee; and

WHEREAS, Ms. Woodruff is leaving employment with the County and must be replaced on the WRL Board of Trustees; and

WHEREAS, Mr. Jason Purse, Assistant County Administrator, has expressed his willingness to fill the vacancy.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mr. Jason Purse to the Williamsburg Regional Library Board of Trustees to fulfill the balance of Mr. Kinsman's vacated term which expires on June 30, 2019.

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

ApptWRLBOT-res

AGENDA ITEM NO. G.4.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection

SUBJECT: Dedication of Streets in Phase II of the Ironbound Square Subdivision - Jamestown District

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Initiation of a street acceptance into the Virginia Secondary System of Highways.

ATTACHMENTS:

	Description	Type
🗋	Memorandum	Cover Memo
🗋	Resolution	Resolution
🗋	VDOT Form AM-4.3	Exhibit
🗋	Map	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Engineering & Resource Protection	Thomas, Scott	Approved	5/27/2016 - 2:53 PM
Development Management	Holt, Paul	Approved	5/27/2016 - 3:03 PM
Publication Management	Boles, Amy	Approved	5/27/2016 - 3:35 PM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:30 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:07 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:46 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:48 AM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection

SUBJECT: Dedication of Streets in Phase II of the Ironbound Square Subdivision

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Attached is a resolution requesting acceptance of the streets in Phase II of the Ironbound Square Subdivision which are proposed as public right-of-ways into the state Secondary Highway System. The streets proposed for acceptance are shown in red on the attached map. The streets have been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for secondary roadways.

VDOT's Secondary Street Acceptance Requirements (SSAR), effective March 2009 and updated December 2011, outline processes on how streets are designed, constructed and officially accepted for maintenance as part of the secondary system of state highways. Upon the satisfactory completion of construction of streets, VDOT advises and coordinates with the local governing body of the street's readiness for acceptance through the use of VDOT's Form AM-4.3. As part of the initial acceptance process, the County Board of Supervisors must request, by resolution, that VDOT accepts the street for maintenance as part of the secondary system of state highways. Administrative procedures outlined in the SSAR/24VAC30-92-70 list criteria for street acceptance and what information is required on the local resolution. Once the resolution is approved, the signed Form AM-4.3 and the resolution are then returned to VDOT. VDOT then officially notifies the locality of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the start of VDOT maintenance responsibility. As part of the process, the County will hold an appropriate amount of subdivision or public improvement surety for the roadway, as required by local ordinances, until the acceptance process is complete. Also, within 30 days of the local governing body's request (resolution), VDOT requires a maintenance surety to be posted by the developer to guarantee performance of the street for one year from the date of acceptance.

Staff recommends adoption of the attached resolution.

SJT/ab
DedStreetsPhaseII-mem

Attachments

R E S O L U T I O N

DEDICATION OF THE STREETS IN PHASE II OF THE IRONBOUND SQUARE SUBDIVISION

WHEREAS, the streets described on the attached AM-4.3, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation (VDOT) advised the Board that the street meets the requirements established by the Subdivision Street Acceptance Requirements of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to add the street described in the attached Additions Form AM-4.3 to the secondary system of state highways, pursuant to §33.2-705 of the Code of Virginia and the Department's Subdivision Street Acceptance Requirements.

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for VDOT.

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

DedStreetsPhaseII-res

In the County of James City

By resolution of the governing body adopted June 14, 2016

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee *Signed (County Official):* _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision Ironbound Square Phase II

Type Change to the Secondary System of State Highways: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

- **Vaughan Lane, State Route Number 1064**

  Old Route Number: 0

  - From: Watford Lane (Route 763)

    To: Cul-de-sac, a distance of: 0.04 miles.

    Recordation Reference: Instr. #110011130

    Right of Way width (feet) = 50

Street Name and/or Route Number

- **Rhoda Lane, State Route Number 1066**

  Old Route Number: 0

  - From: Watford Lane (Route 763)

    To: Cul-de-sac, a distance of: 0.05 miles.

    Recordation Reference: Instr. #110011130

    Right of Way width (feet) = 50

Street Name and/or Route Number

- **Robinson Lane, State Route Number 1065**

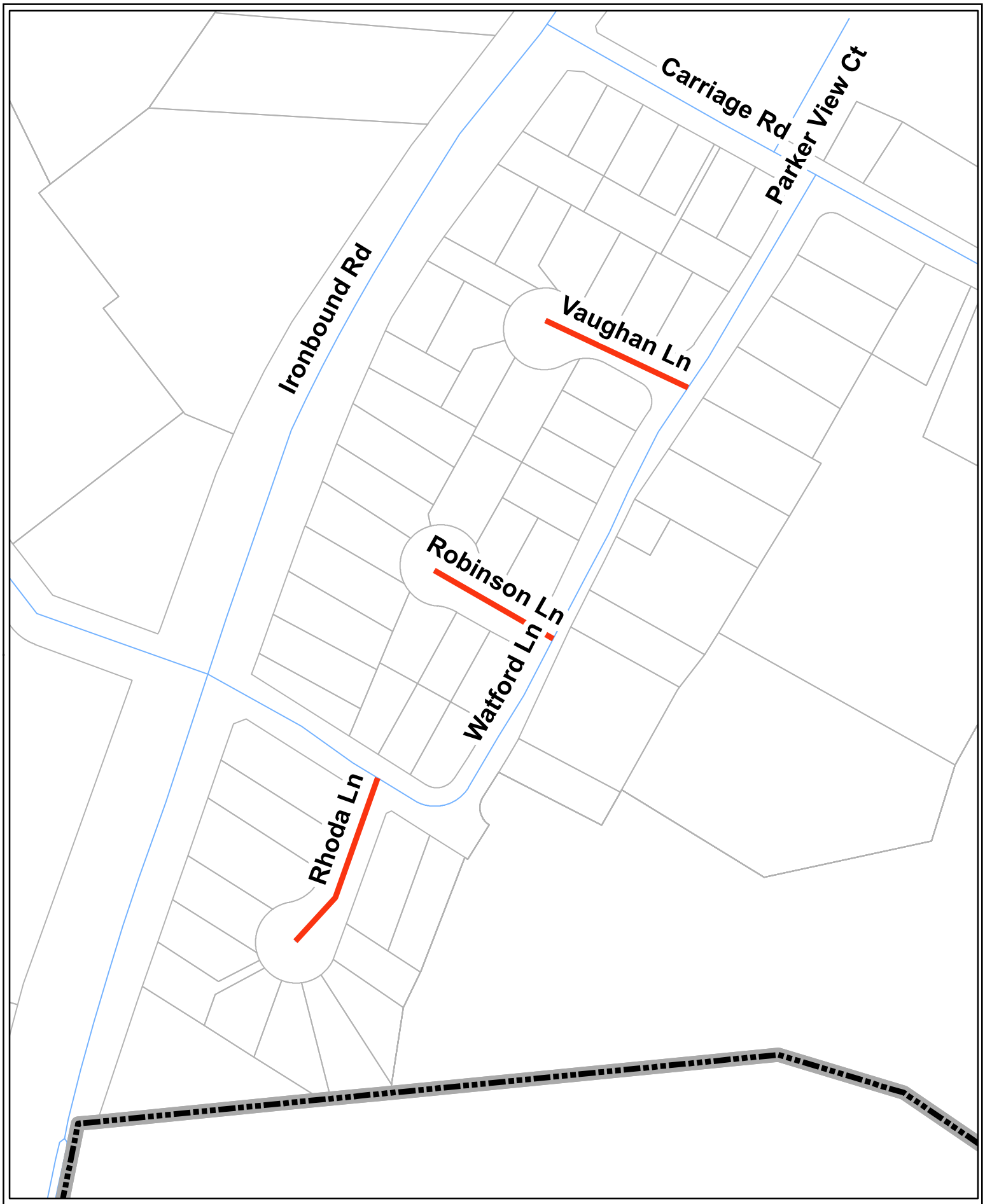
  Old Route Number: 0

  - From: Watford Lane (Route 763)

    To: Cul-de-sac, a distance of: 0.03 miles.

    Recordation Reference: Instr. #110011130

    Right of Way width (feet) = 50



Dedication of Streets in Phase II of the Ironbound Square Subdivision

1 inch = 150 feet

Legend

Streets to be Dedicated

Boundary Lines

N

AGENDA ITEM NO. H.1.

ITEM SUMMARY

DATE:	6/14/2016
TO:	The Board of Supervisors
FROM:	Ben Ader, Law Clerk
SUBJECT:	Update to reflect section number changes in the Virginia Uniform Statewide Building Code.

ATTACHMENTS:

	Description	Type
🗋	Memo	Cover Memo
🗋	Ordinance	Ordinance

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	5/26/2016 - 2:17 PM
Publication Management	Burcham, Nan	Approved	5/26/2016 - 2:20 PM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:31 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:07 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:45 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:48 AM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Ben Ader, Law Clerk, County Attorney's Office

SUBJECT: Ordinance Amendments to Chapter 4, Building Regulations, Article III, Board of Appeals, Section 4-21, Establishment and 4-22, Appointment

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Attached for your consideration is an Ordinance revising Chapter 4, Building Regulations of the County Code, to correct references to the Virginia Uniform Statewide Building Code.

The proposed changes to the County Code are as follows:

1. The establishment of a board of appeals is provided for in Section 119.0 instead of 118.0 of the Virginia Uniform Statewide Building Code.
2. The appointment and reappointment of members of the building board of appeals is provided for under Section 119.0 instead of 118.0 of the Virginia Uniform Statewide Building Code.

These changes will fix incorrect references and help avoid confusion in the County Code.

BA/ab
OrAmndCh4Art3-mem

Attachment

ORDINANCE NO._____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4 OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, BOARD OF APPEALS, SECTION 4-21, ESTABLISHMENT, AND SECTION 4-22, APPOINTMENT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, Article III, Board of Appeals, is hereby amended and reordained by amending Section 4-21, Establishment, and Section 4-22, Appointment.

Chapter 4

ARTICLE III. BOARD OF APPEALS

Sec. 4-21. Establishment.

There is hereby established a board of appeals as provided for in section ~~118.0~~ *119.0* of the Virginia Uniform Statewide Building Code adopted in Article I of this chapter.

Sec. 4-22. Appointment.

Members appointed to the building board of appeals in office prior to July I, 1987, shall remain in office with the board of appeals until their term of office shall expire. Subsequent appointments and reappointments shall be made under the provisions of section ~~118.0~~ *119.0* of the Virginia Uniform Statewide Building Code with respect to term of office and qualifications of members; provided, that no member shall be appointed for more than two consecutive five-year terms. The building official shall serve as secretary to the building board of appeals.

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

Chp14-BoardofAppeals-ord-final

AGENDA ITEM NO. H.2.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Planner

SUBJECT: SUP-0004-2015, Hankins Resource Recovery Facility - Stonehouse District

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ATTACHMENTS:

	Description	Type
🗋	Staff Report	Staff Report
🗋	Resolution	Resolution
🗋	Unapproved minutes of the May 4, 2016, Planning Commission meeting	Backup Material
🗋	Location map	Backup Material
🗋	Master Plan, prepared by VHB, dated September 15, 2015	Backup Material
🗋	Environmental Inventory Exhibit, prepared by VHB, dated April 26, 2016	Backup Material
🗋	Potential RPA Encroachment Map, prepared by VHB	Backup Material
🗋	Project narrative provided by the applicant	Backup Material
🗋	Photos of the wood and stone processing equipment	Backup Material
🗋	Photos from Kiskiak Golf Club and Croaker Road	Backup Material
🗋	Letters from adjacent property owners	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	5/27/2016 - 5:14 PM
Development Management	Holt, Paul	Approved	5/27/2016 - 5:14 PM
Publication Management	Burcham, Nan	Approved	5/31/2016 - 7:28 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:55 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:08 AM

Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:46 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:48 AM

SUMMARY FACTS

Applicant:	Vernon Geddy, III, Geddy, Harris, Franck & Hickman
Land Owners:	Howard Hankins and Hankins Land Trust
Proposal:	To permit the operation of a +/- 100 acre resource recovery facility, which includes an existing borrow pit and the operation of a wood and stone processing facility.
Locations:	8196, 8212 and 8220 Croaker Road
Tax Map/Parcel Nos.:	1430100039, 1430100040A, 1430100040
Project Acreage:	+/- 100 acres
Zoning:	M-1, Limited Business/Industrial
Comprehensive Plan:	Mixed Use
Primary Service Area:	Inside
Staff Contact:	Savannah Pietrowski, Planner I

PUBLIC HEARING DATES

Planning Commission:	May 4, 2016, 7:00 p.m.
Board of Supervisors:	June 14, 2016, 6:30 p.m.

FACTORS FAVORABLE

1. The proposal is compatible with surrounding zoning and development.

2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.

3. The proposal would bring existing operation into conformation with the Zoning Ordinance.

FACTORS UNFAVORABLE

With the attached Special Use Permit (SUP) conditions for each application, staff finds that there are no unfavorable factors.

SUMMARY STAFF RECOMMENDATION

Approval, subject to the conditions in the attached resolution.

PLANNING COMMISSION RECOMMENDATION

At its May 4, 2016 meeting, the Planning Commission recommended approval of this application by a vote of 7-0.

Proposed Changes Made Since the Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Vernon Geddy, III, has applied on behalf of Mr. Howard Hankins to permit the operation of a +/-100 acre resource recovery facility, which includes +/-50 acres to be used for wood and stone processing, and +/-50 acres to be used as a borrow pit.

According to *The New Illustrated Book of Development Definitions,* resource recovery is "the process of obtaining materials or energy, particularly from solid waste" (Moskowitz and Lindbloom, 1993). The wood processing operation involves grinding wood debris and products to produce and color mulch as needed. The stone processing involves crushing materials such as concrete and asphalt into stone and gravel. All of these materials will be stored on site throughout the process and will ultimately be sold to third parties. The applicant has indicated that mulch has historically/been ground an average of 45 to 60 days per year and stone has been ground an average of 10 to 15 days per year.

Mr. Hankins has an active mining permit from the Virginia Department of Mines, Minerals and Energy (DMME) for the borrow pit. All operational activities associated with the borrow pit are regulated by the DMME. The mining activity produces topsoil, dirt, sand and clay to be sold to third parties. The master plan identifies two separate areas for mining activities. Mining is currently taking place in the section closest to Croaker Road. Additional areas have been identified on the master plan in order to allow for future use. The site will not be open to the general public for the sale of materials.

There is an existing farmhouse on the property, which is currently used as a caretakers' cottage for up to three of Mr. Hankin's employees.

PLANNING AND ZONING HISTORY

- The Board of Supervisors adopted Case No. Z-0012-1990, Kiskiak – Old Dominion French Winery/Hankins on December 12, 1990. This rezoned +/-492 acres to M-1, Limited Business/Industrial (+/-255 acres), R-5, Multi-family Residential (+/-223 acres) and A-1, General Agricultural (+/-14 acres), with the intention of creating a chateau/winery complex, hotel and other commercial/light industrial uses. The area associated with this SUP application was rezoned M-1 and designated as light industrial on the master plan.

- The Board of Supervisors adopted Case No. Z-0013-1995, Kiskiak (Hankins) Clubhouse/Old Dominion Winery on January 16, 1996. This application restated and amended the adopted proffers, and rezoned +/-10 acres from R-5 to R-8, Rural Residential for the Kiskiak Golf Clubhouse. The area associated with this SUP application was not affected.

- The Board of Supervisors adopted Case No. SUP-0004-2003, Hankins Farm Water and Sewer Extension on April 8, 2003, for the extension of water and sewer service to the existing house within the area of this application; however, the connections were not made and the SUP expired.

- Activities associated with the borrow pit have occurred on the property since the early 1980's and is considered legally nonconforming. It is undetermined the exact time the wood and stone processing began occurring; however, staff began working with Mr. Hankins in 2013 to bring the activities into conformance with the Zoning Ordinance. In coordination with

County staff, it was determined that given the interconnectivity of the uses, an SUP for a resource recovery facility could address operations for both the borrow pit and wood/stone processing operations.

SURROUNDING ZONING AND DEVELOPMENT

- The properties are adjacent to the Croaker Road Interstate 64 Interchange.
- Surrounding Zoning Designations include:
  - R-5 to the north (Kiskiak Golf Club).
  - A-1 to the south, east and west (mix of single-family dwellings, forested land and commercial parcels, including York River Baptist Church, 7-Eleven, David Nice Builders and Top Notch Tree Service).

COMPREHENSIVE PLAN

- The properties are designated Mixed Use on the 2035 Comprehensive Plan Land Use Map.
- Principal suggested uses for the Southeast Quadrant of the Croaker Interchange Mixed Use designation include light manufacturing and office. Secondary uses shall only be permitted where they do not preclude development of the principal uses.
- Staff finds that this proposal is consistent with Comprehensive Plan as a secondary use. Given the proposed conditions regarding the use of inert materials for property reclamation, Resource Protection Area (RPA) restoration and material decomposition, staff finds that the future potential of the site to be developed as a primary use would not be precluded.
- Surrounding Comprehensive Plan designations include:
  - Mixed Use to the north (Kiskiak Golf Club).
  - Rural Lands to the east (forested land).
  - Rural Lands to the south (single-family dwellings, David Nice Builders and Top Notch Tree Service).
  - Neighborhood Commercial to the west (7-Eleven and York River Baptist Church).

PUBLIC IMPACTS

1. Anticipated impact on public facilities and services:
   a. *Streets*. The applicant has indicated that approximately three trucks per hour visit the site on a typical work day (estimated at approximately 140 work days out of the year). A busy day may result in approximately six trucks per hour (estimated at approximately 90 work days out of the year), and this number can increase to up to 10 trucks per hour on an extremely busy work day (estimated at approximately 20 work days out of the year). VDOT has reviewed this application and did not identify any concerns. Based on VDOT's review and the close proximity to Interstate 64, no impacts are anticipated.

b. *Schools/Fire/Utilities*. No impacts anticipated. Although located in the Primary Service Area, this site is not served by public water and sewer.

2. Environmental: There is RPA located on these properties. The limits of this SUP fall outside of the RPA. A condition is also proposed for the restoration of the portions of the RPA previously impacted by activities on this site. A condition is also proposed for spill prevention in the area of the wood and stone processing. The DMME addresses environmental concerns associated with the borrow pit through the applicant's mining permit and operational plan; however, a condition is also proposed requiring the applicant to submit yearly progress reports to the County.

3. Cultural/Historical: A Phase I Archaeological Study was conducted on this site in 1989. The recommendations of this study were incorporated into the proffers for Z-0013-1995; however, as a development plan for this proposal was never submitted, the recommendations have not fulfilled. A condition is proposed requiring further work on the sites impacted by this SUP prior to final site plan approval.

4. Nearby and Surrounding Properties:

   a. *Visual Impacts*: There is an extensive wooded buffer between the site and properties to the south, east and west. The site is partially visible from the Kiskiak Golf Club to the north.

   b. *Auditory Impacts*: Staff conducted a sound test of the tub grinder on March 7, 2016, taking decibel readings from the site entrance on Croaker Road, the nearest residence on Fenton Mill Road and locations on Riverview Road and Cloverleaf Lane (across I-64). The highest decibel readings were located on Fenton Mill Road and were associated with traffic on Interstate 64. Staff also took decibel readings for the stone crusher owned by Mr. Hankins at an off-site location. The readings were taken from distances comparable to those taken for the tub grinder. These readings were lower than those associated with the tub grinder. Based on these tests, staff anticipates minimal auditory impacts.

PROPOSED CONDITIONS

- The full text of the proposed conditions are attached.

STAFF RECOMMENDATION

Approval, subject to the conditions in the attached resolution.

SP/nb
SUP04-15HankinsResRecFac

Attachments:
1. Resolution
2. Unapproved minutes of the May 4, 2016, Planning Commission meeting
3. Location map
4. Master Plan, prepared by VHB, dated September 15, 2015
5. Environmental Inventory Exhibit, prepare by VHB, dated April 26, 2016
6. Potential RPA Encroachment Map, prepared by VHB

7. Project narrative provided by the applicant
8. Photos of the wood and stone processing equipment
9. Photos from Kiskiak Golf Club and Croaker Road
10. Letters from adjacent property owners

R E S O L U T I O N

CASE NO. SUP-0004-2015. HANKINS RESOURCE RECOVERY FACILITY

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

WHEREAS, Hankins Land Trust (the "Owner") owns three parcels of property located at 8196, 8212 and 8220 Croaker Road, further identified as James City County Real Estate Tax Map Parcel Nos. 1430100039, 1430100040A and 1430100040, respectively (together, the "Property"); and

WHEREAS, on behalf of the Owner, Mr. Vernon Geddy, III, of Geddy, Harris, Franck, & Hickman has applied for an SUP to allow the operation of a +/-100 acre resource recovery facility on the Property, as shown on the exhibit titled "Hankins Property Exhibit" prepared by VHB and dated September 15, 2015; and

WHEREAS, on December 12, 1990, the Board approved Case No. Z-0012-1990, which rezoned the property to M-1, Limited Industrial, with proffers; and

WHEREAS, on January 16, 1996, the Board approved Case No. Z-0013-1995, which rezoned the property to M-1, Limited Industrial, with amended proffers; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0004-2015; and

WHEREAS, the Planning Commission, following its public hearing on May 4, 2016, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0004-2015 as described herein with the following conditions:

1. *Master Plan and Use:* This SUP shall be valid for the operation of a +/-100 acre resource recovery facility (the "Project") on parcels located at 8196, 8212 and 8220 Croaker Road, further identified as James City County Real Estate Tax Map Nos. 1430100039, 1430100040 and 1430100040A, respectively (collectively, the "Property"), which includes an existing borrow pit and operation to process wood and stone products. The Project shall be in accordance with the "Hankins Property Exhibit" prepared by VHB, and dated September 15, 2015 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. *Annual Reporting:* For as long as the SUP is valid and the Project is operational, a report prepared by, or verified and sealed by, a licensed engineer or surveyor shall be submitted between January 1 and January 31 of each year and include the following:

A. The extent and depth of the area mined over the previous calendar year.
B. The extent and depth of the area expected to be mined over the upcoming calendar year.
C. A certification that no unauthorized encroachment has occurred into a Resource Protection Area (RPA), RPA buffer, the transitional screening buffer described in Section 5 below or any Natural Open Space easement.
D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
E. A certification as to the amount of disturbed acreage on-site.
F. A certification that all fill used after the date of issuance of this permit is "inert material," as defined in Section 13 below.
G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
H. A delineation of the extent of the areas covered by the State Mining Permit.

3. *Material and Equipment Storage:* All material and equipment storage, and stone and wood processing activities shall be limited to the area identified on the Master Plan as the "Area to be used for dirt/topsoil, concrete, asphalt, stone, mulch, equipment, vehicle maintenance and storage."

4. *Borrow Pit Stock Piles:* Stockpiles associated with the mining operation shall not exceed 16 feet in height from the existing grade on James City County Real Estate Tax Map Nos. 1430100039 and 1430100040A.

5. *Sale of Products:* No sale of wood, wood products, stone and/or stone products shall be offered for sale directly to the general public on the Property.

6. *Croaker Road Buffer:* A buffer 50 feet in width shall be provided adjacent to Croaker Road and the entrance drive as shown on the Master Plan. The existing trees in the buffer area adjacent to Croaker Road shall be retained and any open areas shall be supplemented with additional plantings. The landscaping plan shall be shown as part of the site plan and shall be reviewed and approved by the Director of Planning or his designee.

7. *Tub Grinder/Stone Crusher Location:* The tub grinder, stone crusher and all associated equipment shall be located so as to minimize the potential adverse impacts on adjacent properties. When in operation, this equipment shall be placed in the locations identified as "Approximate location concrete products recycling operation," and "Approximate location wood products recycling operation," on the "Hankins Resource Recovery Facility James City County SUP No 0004 2015 Environmental Inventory Exhibit" dated April 26, 2016. Hours of operations for the tub grinder, stone crusher and all associated equipment shall be limited to 7 a.m. to 7 p.m., Monday through Saturday.

8. *Lighting:* A lighting plan shall be reviewed and approved by the Director of Planning or his designee prior to final approval of the site plan. Any exterior site or building lighting shall be shielded and directed downward. No glare - defined as 0.1 foot-candle or higher - shall extend outside the property lines. Lights shall be operated by a motion detector or be able to be turned on as needed and shall not be routinely illuminated at

night. No lighting shall be installed on structures at a height greater than 30 feet above finished grade. This condition shall not apply to any lighting required by federal or state regulations.

9. *Construction Mitigation Plan:* A construction mitigation plan to address the impacts associated with continued operation of the Project shall be reviewed and approved by the Director of Planning or his designee prior to final site plan approval. The plan shall address:

   i. Dust mitigation, such as water trucks, mulch or similar methods.
   ii. Noise mitigation, such as the enforcement of hours of operation.
   iii. Road monitoring of Croaker Road, to include cleaning roadways of mud tracked onto Croaker Road from traffic associated with the Project.

10. *Material Decomposition*: The use of chemicals to aid in the decomposition of material shall be prohibited.

11. *Burning:* No materials shall be burned on the Property.

12. *Archaeology*: A Phase I Archeological Study of the Property, "A Phase I Archaeological Survey of the Proposed Old Dominion French Winery Complex, James City County, Virginia," dated March 1989, by the William & Mary Archaeological Project Center identified several archeological sites. Prior to preliminary site plan approval, a Phase II study shall be conducted for Sites Nos. 4, 5 and 6. The Phase II study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to further land disturbance within the study area. The Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard Guidelines for Archaeological Documentation as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

13. *Stormwater Management*: A stormwater management plan shall be submitted to the Director of Engineering and Resource Protection or his designee for review and approval prior to preliminary site plan approval. The stormwater management plan shall demonstrate that adequate measures have been taken for the post-development to achieve the same degree of pre-development water quality. The development of the site shall utilize the applicable best management practices as outlined in the Virginia Department of Environmental Quality Stormwater BMP Clearinghouse.

14. *Reclamation*: Only "inert material" shall be used as fill during the reclamation of the Property. For the purposes of the SUP "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks and broken concrete pipe." Under no condition shall fly ash, organic waste material, pressure treated wood or household waste be used as fill.

15. *Resource Protection Area*: No soil disturbance, parking and/or storage of equipment and/or vehicles associated with the Project shall occur within 15 feet of an RPA buffer. All sites identified on the Environmental Impact Assessment provided with the SUP application as "Areas of Potential Buffer Encroachment" shall be restored with vegetation as approved by the Director of Engineering and Resource Protection or his designee. A restoration plan for these sites shall be submitted to the Director of Engineering and Resource Protection or his designee for review and approval, and its implementation bonded in a form and amount satisfactory to the County Attorney prior to final site plan review.

16. *Entrances*: Access to the Project shall be limited to the existing entrance from Croaker Road.

17. *Residence:* The existing residence on the Property may be used as living quarters for up to three individuals employed on the Property.

18. *Spill Prevention*: Prior to preliminary site plan approval, an operational phase stormwater pollution prevention plan/spill prevention and control plan to address the outdoor vehicle and material storage, including but not limited to oil, diesel and gasoline, shall be submitted to the Director of Engineering and Resource Protection, or his designee, and the Fire Chief for their respective review and approval.

19. *Future Expansion:* Any future expansion of the Project outside of the areas delineated on the Master Plan shall require an amendment to this SUP.

20. *Site Plan:* A site plan shall be required for the area identified as "Area to be used for dirt/topsoil, concrete, asphalt, stone, mulch, equipment," on the Master Plan. Final site plan approval must be obtained within 24 months of issuance of this SUP or the SUP shall become void.

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

_____
Michael J. Hipple
Chairman, Board of Supervisors

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

SUP04-15HankinsResRecFac-res

Unapproved Minutes of the May 4, 2016
Planning Commission Meeting

SUP-0004-2015, Hankins Resource Recovery Facility

Ms. Savannah Pietrowski, Planner I, presented a report to the Commission on the request to permit the operation of a +/- 100 acre resource recovery facility, which includes an existing borrow pit and the operation of a wood and stone processing facility on properties located at 8196, 8212 and 8220 Croaker Road. Ms. Pietrowski noted that staff finds that the proposal is compatible with surrounding zoning and consistent with the 2035 Comprehensive Plan. Ms. Pietrowski further noted that the proposal would bring the existing operation into conformance with the Zoning Ordinance.

Mr. O'Connor opened the floor for questions by the Commission.

Mr. Danny Schmidt inquired whether the annual reporting requirement is typical of other resource recovery operations in the County.

Ms. Pietrowski stated that is a standard requirement for borrow pits.

Mr. Wright inquired how the potential encroachment into the RPA buffer would be handled.

Ms. Pietrowski stated that three is a proposed SUP condition requiring those areas to be restored.

Mr. O'Connor opened the public hearing.

Mr. Vernon Geddy, III, Geddy, Harris, Franck and Hickman, representing the applicant, provided information to the Commission on the history of the property and the existing operation. Mr. Geddy noted that the property is generally well buffered and that additional landscaping is proposed for two areas where there is a gap in the natural buffer. Mr. Geddy further noted that this is not the highest and best use of the property; however, in the interim, this operation puts the property to a productive use. Mr. Geddy further noted that this use is a form of recycling to make use of debris that might otherwise end up in a landfill.

As no one else wished to speak, Mr. O'Connor closed the public hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Rich Krapf stated that the operation is a good interim use for the property and that he could support the application.

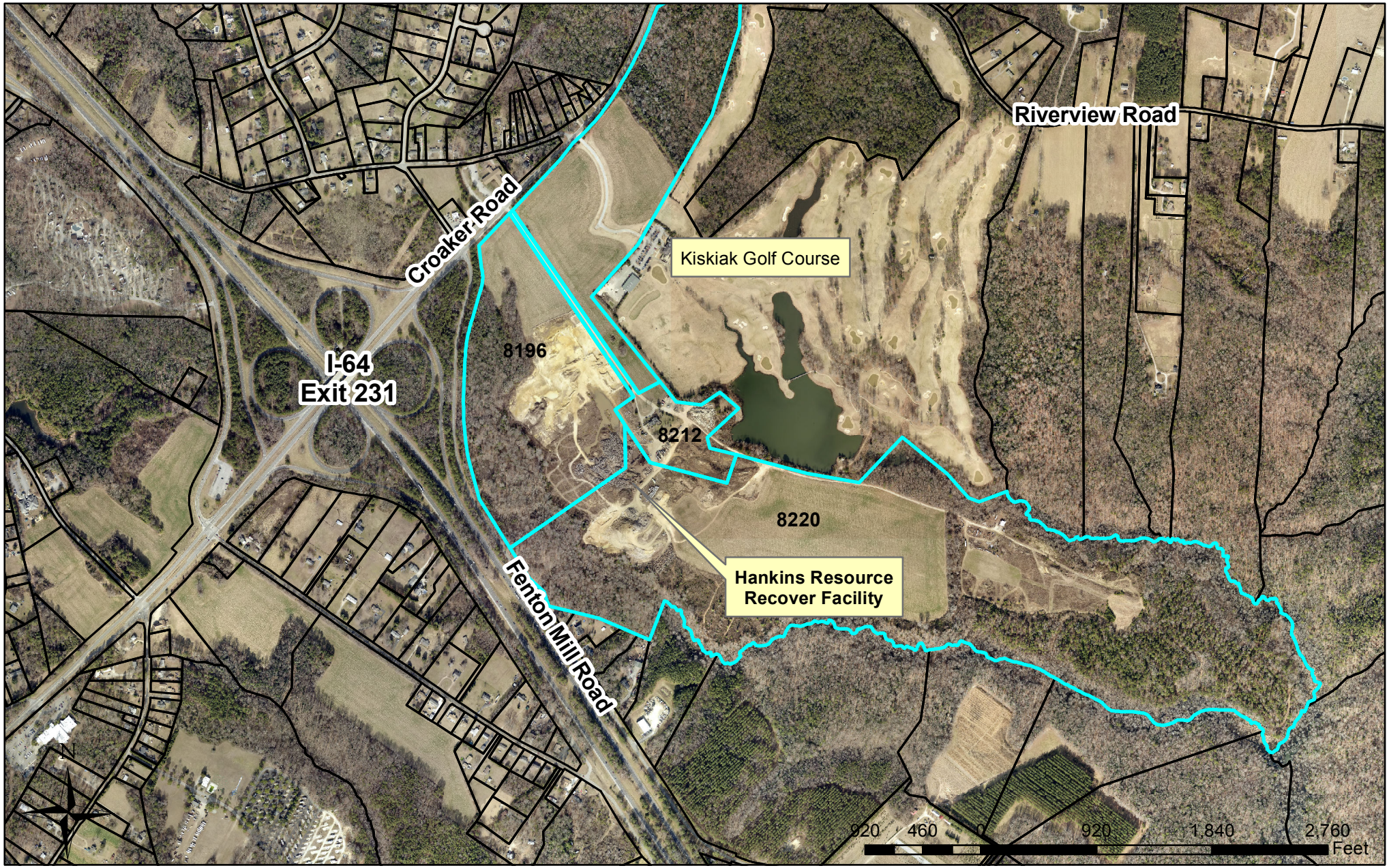
Mr. Schmidt stated that he was pleased to see that care is being taken to preserve the cultural resources on the property. Mr. Schmidt stated that he is comfortable with the application.

Mr. Richardson stated that because there is little noise impact from the operation and because of the SUP conditions to mitigate environmental impacts, he would support the application.

Mr. Wright moved to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-0004-2015, Hankins Resource Recovery Facility (7-0).

SUP-0004-2015
Hankins Resource Recovery Facility



FENTON MILL ROAD

CROAKER ROAD

N/F
HANKINS LAND TRUST 1,2,3
PATTEN & WATKINS TRUSTEES
ZONED: M1 LIMITED BUSINESS/INDUSTRIAL
MAP No. 1430100040
LRSN (PARCEL ID): 18689

50' BUFFER

CLUB DR.

N/F
CF KISKIACK ARCIS LLC C/O
FORTRESS INVESTMENT
ZONED: R5 MULTI-FAMILY RESIDENTIAL
MAP No. 1440100018
LRSN (PARCEL ID): 20757

N/F
HANKINS LAND TRUST 1,2,3
PATTEN & WATKINS TRUSTEES
ZONED: M1 LIMITED
MAP No. 1430100039
LRSN (PARCEL ID): 18688

AREA TO BE USED
FOR MINING ONLY
(20 ACRES)

100'RPA

N/F
HANKINS, HOWARD BOWEN &
GEORGE S
ZONED: M1 LIMITED
BUSINESS/INDUSTRIAL
MAP No. 1430100040A
LRSN (PARCEL ID): 3419

LAKE

N/F
BILLON-WOLFE, STEPHANIE L
TRUSTEE
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1440100009
LRSN (PARCEL ID): 18863

AREA TO BE USED FOR
DIRT/TOPSOIL, CONCRETE,
ASPHALT, STONE, MULCH,
EQUIPMENT, VEHICLE
MAINTENANCE AND STORAGE
(± 50 ACRES)

N/F
HANKINS LAND TRUST 1,2,3
PATTEN & WATKINS TRUSTEES
ZONED: M1 LIMITED BUSINESS/INDUSTRIAL
MAP No. 1430100040
LRSN (PARCEL ID): 18689

AREA TO BE USED
FOR MINING ONLY
(30 ACRES)

INTERSTATE I-64

FENTON MILL ROAD

N/F
BAILEY, MYRTLE EVA LIFE ESTATE
C/O BRADY, ROBERT A & RAYNELL T
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430300011
LRSN (PARCEL ID): 195

N/F
MALLORY, D STEVEN & SHERRI G
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430300009B
LRSN (PARCEL ID): 14222

N/F
GRIFFITH, NANCY O
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430300009C
LRSN (PARCEL ID): 23917

N/F
NAPIER, THOMAS Y & RUBY M
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430300012
LRSN (PARCEL ID): 1707

N/F
NICE, DAVID A BUILDER INC
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430100042A
LRSN (PARCEL ID): 32525

N/F
NICE, DAVID A BUILDER INC
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1430100042
LRSN (PARCEL ID): 285

N/F
APPERSON, WILLIAM L & MARY MARGARET
ZONED: A1 GENERAL AGRICULTURAL
MAP No. 1440100015
LRSN (PARCEL ID): 17939

N

200 0 200 400
SCALE IN FEET

vhb.com
vhb
351 McLaws Circle
Suite 3
Williamsburg, VA 23185
757.220.0500

Hankins Property Exhibit

Croaker Road
Williamsburg, Virginia

No.	Revision	Date	Apprvd.

Designed by | Checked by

Issued for | Date

September 15, 2015

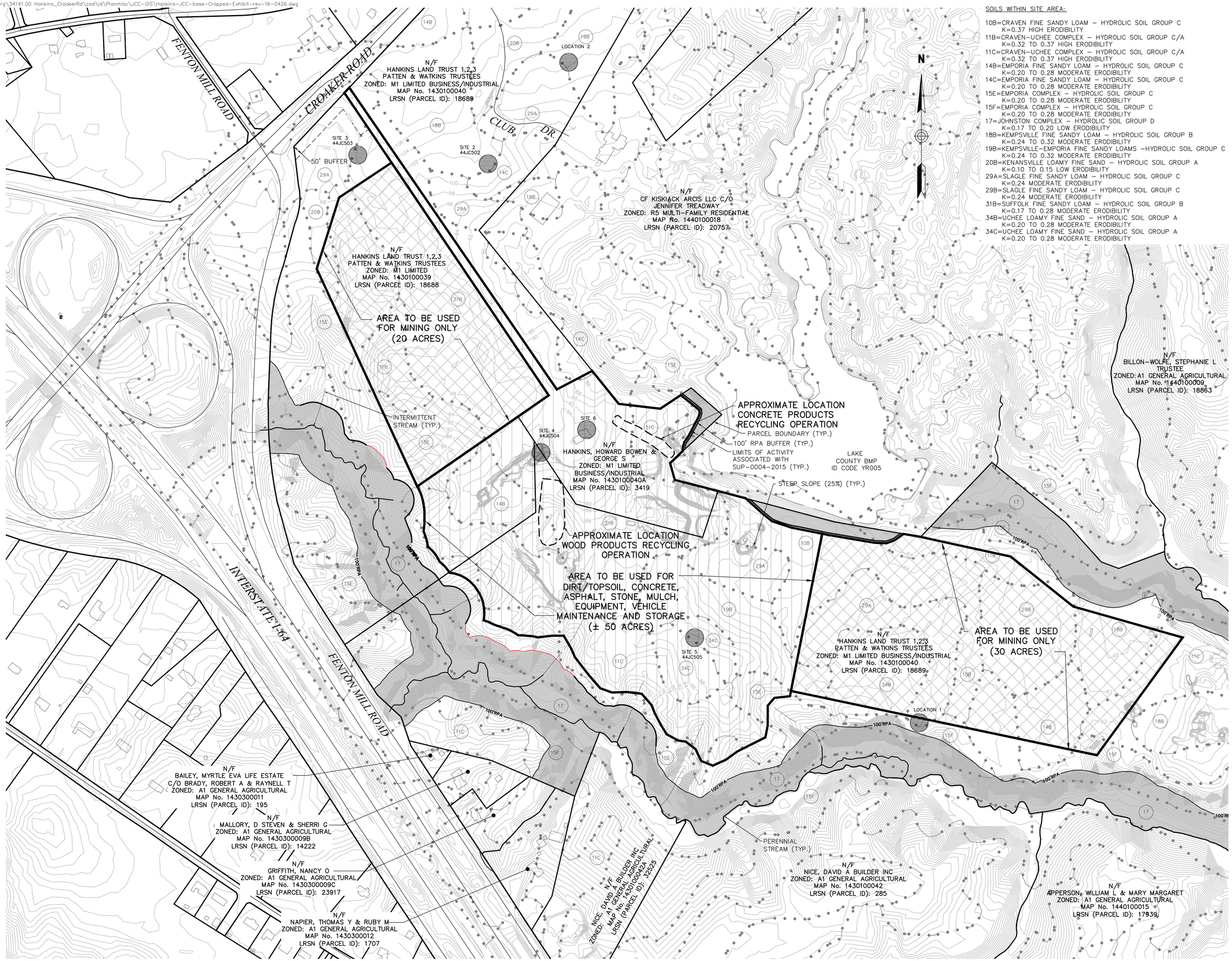
Not Approved for Construction

Drawing Title
Exhibit

Drawing Number
Exh-1

Sheet 1 of 1

Project Number
99901.00



SOILS WITHIN SITE AREA:

10B=CRAVEN FINE SANDY LOAM – HYDROLIC SOIL GROUP C
K=0.37 HIGH ERODIBILITY
11B=CRAVEN-UCHEE COMPLEX – HYDROLIC SOIL GROUP C/A
K=0.32 TO 0.37 HIGH ERODIBILITY
11C=CRAVEN-UCHEE COMPLEX – HYDROLIC SOIL GROUP C/A
K=0.32 TO 0.37 HIGH ERODIBILITY
14B=EMPORIA FINE SANDY LOAM – HYDROLIC SOIL GROUP C
K=0.20 TO 0.28 MODERATE ERODIBILITY
14C=EMPORIA FINE SANDY LOAM – HYDROLIC SOIL GROUP C
K=0.20 TO 0.28 MODERATE ERODIBILITY
15E=EMPORIA COMPLEX – HYDROLIC SOIL GROUP C
K=0.20 TO 0.28 MODERATE ERODIBILITY
15F=EMPORIA COMPLEX – HYDROLIC SOIL GROUP C
K=0.20 TO 0.28 MODERATE ERODIBILITY
17=JOHNSTON COMPLEX – HYDROLIC SOIL GROUP D
K=0.17 TO 0.20 LOW ERODIBILITY
18B=KEMPSVILLE FINE SANDY LOAM – HYDROLIC SOIL GROUP B
K=0.24 TO 0.32 MODERATE ERODIBILITY
19B=KEMPSVILLE-EMPORIA FINE SANDY LOAMS –HYDROLIC SOIL GROUP C
K=0.24 TO 0.32 MODERATE ERODIBILITY
20B=KENANSVILLE LOAMY FINE SAND – HYDROLIC SOIL GROUP A
K=0.10 TO 0.15 LOW ERODIBILITY
29A=SLAGLE FINE SANDY LOAM – HYDROLIC SOIL GROUP C
K=0.24 MODERATE ERODIBILITY
29B=SLAGLE FINE SANDY LOAM – HYDROLIC SOIL GROUP C
K=0.24 MODERATE ERODIBILITY
31B=SUFFOLK FINE SANDY LOAM – HYDROLIC SOIL GROUP B
K=0.17 TO 0.28 MODERATE ERODIBILITY
34B=UCHEE LOAMY FINE SAND – HYDROLIC SOIL GROUP A
K=0.20 TO 0.28 MODERATE ERODIBILITY
34C=UCHEE LOAMY FINE SAND – HYDROLIC SOIL GROUP A
K=0.20 TO 0.28 MODERATE ERODIBILITY

NOTES:

1. SUBJECT PROPERTY IS LOCATED IN THE YORK RIVER WATERSHED (HUC Y065) BARLOW'S MILL POND SUB WATERSHED.
2. ON SITE SOILS: 10B, 11B, 11C, 14B, 14C, 15E, 15F, 17 18B, 19B, 20B, 29A, 29B, 31B, 34, AND 34C.
3. NO TIDAL WETLANDS ON SITE
4. ALL ON SITE NON-TIDAL WETLANDS ARE LOCATED WITHIN 100' RPA BUFFER.
5. PROPERTY APPEARS TO LIE IN ZONE X, FEMA FIRMS 51095C0044D AND 51095C0063D DATED DECEMBER 16, 2015, OUTSIDE OF THE 100 AND 500 YEAR FLOOD PLAIN.
6. MAPPING SOURCE: JAMES CITY COUNTY GIS

200 0 200 400
SCALE IN FEET

vhb.com
vhb
351 McLaws Circle
Suite 3
Williamsburg, VA 23185
757.220.0500

Hankins Resource Recovery Facility
JCC SUP No 0004-2015
Environmental Inventory Exhibit

Croaker Road
Williamsburg, Virginia

No.	Revision	Date	Appvd.

Designed by | Checked by

Issued for | Date

April 26, 2016

Not Approved for Construction

Drawing Title
Exhibit

Drawing Number
Exh-1

Sheet 1 of 1

Project Number
34141.00

Note: Yellow dots represent known archaeological sites. Please see "A Phase I Archaeological Survey of the Proposed Old Dominion French Winery Complex, James City County, Virginia" dated March 1989, by William and Mary Archaeological Project Center for additional information.

Croaker Rd

Area of potential RPA buffer encroachment

Area of potential RPA buffer encroachment

Fenton Mill Rd

Cloverleaf Ln

64

602

1023 ft

1994

© 2016 Google

Google earth

Imagery Date: 4/23/2014 37°22'58.06" N 76°45'10.84" W elev 90 ft eye alt 4553 ft

Narrative description of resource recovery facility

The 100 acres subject to the Special Use Permit application (the "Property") will be used as a Resource Recovery Facility (the "Facility") to remove and recycle waste material from the waste stream as defined by Virginia law and for the extraction, storage and sale of materials.

The Property will be used to store for use or for sale in its original and/or reprocessed form the following materials:

Wood debris, including but not limited to land clearing debris

Concrete

Asphalt

Dirt and topsoil

Stone and gravel

Sand and clay

The processing of material will consist of the grinding and processing of wood debris and products to produce mulch with color added to mulch as needed to meet specific customer requirements and the crushing and grinding concrete and stone debris. Historically, the applicant has ground mulch an average of 45 to 60 days a year and has ground concrete an average of 10 to 15 days a year. No new land disturbance will be associated with this specially permitted use.

In addition, the Property will be used for the storage and maintenance of equipment and vehicles, including equipment necessary for reprocessing materials brought to the Facility. The stockpiles of material stored at the Property pending processing, sale and/or delivery to customers or use by the applicant will be maintained a height of less than 35 feet and may be maintained at or relocated to various areas within the Property as operations require. Similarly, processing of material at the subject property may occur at various locations within the Property as circumstances may require.

The subject property is currently a base for operations of H. B. Hankins, Inc. which has operated on the property since its formation in 1980 and its affiliate Hampton Roads Material.

The Property is located inside a larger parcel such that the activity is screened from adjacent landowners by trees and distance. See the attached aerial photograph of the site and photos from the Kiskiak clubhouse and from across Croaker Road from the entrance. The applicant proposes additional screening at the entrance as shown on the Master Plan.

As a part of the operation of the Facility, the applicant periodically conducts mining activities on the Property permitted by VADMME Permit/License No. 13807AA. The mining activity and its related equipment have operated at and around the subject property since the early 1980s and to the best of the applicant's knowledge no complaints have been made by adjacent landowners related to mining activity. The mining activity produces topsoil, dirt, sand and clay of various qualities which is sold to third parties. Approximately 50 acres of the Facility as designated on

the Master Plan will be used for mining activities only. Topsoil and fill material from off-site is sometimes brought onto the site for storage.

Stephen Romeo of VHB visited the subject site the morning of July 22, less than 24 hours after a significant rainfall event. JCC's SCADA system recorded 1.69" rainfall on 7/21 at their Lift Station 6-8, 122 Depot Street, the closest monitoring station to the subject site. During his site visit, he observed no standing water except for that within the runoff containment provision incorporated into the mining activities permitted by VADMME Permit/License No. 13807AA. A well vegetated constructed earthen berm appears to provide more than adequate protection for the unnamed perennial drainageway tributary to Skimino Creek situated along the south and west perimeter of the site. The containment provision, mined areas, and berm appear to provide significantly more storage volume than that required to contain rainfall runoff from at least a 100-year event. Undisturbed areas of the site are adequately vegetated to minimize runoff from rainfall events. During his site visit, he also observed discrete stock piles of tree stumps/brush, mulch, and crushed concrete, none of which significantly increase runoff from rainfall.

VDOT, FEMA and other localities have in the past, from time-to-time entered into contracts to deliver storm debris, to areas near the subject property, and it is anticipated that in the event of a natural disaster or extreme storm the subject property may be used for this purpose.

The Property will also be a location to temporarily store the busts of Presidents that were formerly displayed at the Presidents Park in York County, Virginia. The statutes may be moved in and around the Property from time-to-time and maintenance and repair work may be done on them from time-to-time. The Presidents busts will be stored at the Property pending the financing and development of a new and location to display the busts as an active tourist and history attraction in a venue and manner befitting the history they represent. The projected date for relocation to a new display venue is not yet determined.

The farmhouse on the Property provides a home for two to three employees of H. B. Hankins, Inc. who work at the Facility. Those employees monitor the loads and trucks entering and leaving the Property and provide security at the site on an as needed basis.

The anticipated truck traffic onto and from the subject property based on the applicant's historical activity at the site is set out in Exhibit A.

The applicant enjoys good relations with its neighbors and there has never been a noise or nuisance complaint made to the applicant from any adjacent property owners.

The Property is an ideal location for the uses for which this SUP is sought. Having a Resource Recovery Facility located within an area which has enough space to permit a significant buffer and is close to Interstate 64 with ingress and egress at a point off the Interstate that essentially eliminates and minimizes truck traffic impact on adjacent landowners is an extremely good, and for the moment a high use for the Property. This use of the Property also does not adversely impact the applicant's ability to develop the Property for other uses in the future.

The highest and best use of the Property under its M-1 zoning may eventually become a viable use of the Property but until that day arrives the approval of this SUP will provide an appropriate

and productive use of the Property and fill a need in the community to prevent the waste material which could be brought to the Property and put to good use from filling up the area's landfills.

Approving the SUP allows the Property to continue to be put to a productive use and helps meet the goal of diverting from the waste stream materials that can be reprocessed and/or recycled and put to new use.

Exhibit A

Work Days	Type of Day	# of Trips	10 hour day	
140	Regular Day	0 - 35	@ 3 Trucks per hour	4,900
90	Busy Day	35 - 60	@ 6 Trucks per hour	5,400
20	Extremely Busy Day	60 - 100	@ 10 Trucks per hour	2,000

This Chart is based on 250 work days in a year

12,300

	Loads In a year
Asphalt In	157
Topsoil In	200
Brush In	2,600
Dirt In	3,700
Concrete In	400
Topsoil Out	500
Mulch Out	3,000
Clay Out	200
Sand Out	1,808

12,565

Tub Grinder

Mulch Dyeing

Stone Processing

Entrance on Croaker Road

View from Kiskiak Golf Club Entrance

View from Kiskiak Golf Club Clubhouse

View from Kiskiak Golf Club Clubhouse

TO: JAMES CITY PLANNING COMMISSION

FROM: Nancy O. Griffin
4670 Fenton Mill Road
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

I am an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the approval of the application.

5-2-16
DATE

Nancy O. Griffith
Signature

TO: JAMES CITY PLANNING COMMISSION

FROM: York River Baptist Church
8201 Croaker Road
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

We are an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the approval of the application.

5/3/16
DATE

Rev. Bill Cashman
Signature

Printed Name: Bill Cashman

TO: JAMES CITY PLANNING COMMISSION

FROM: ~~CF Kiskiack Arcis, LLC~~ KISKIACK OPERATIONS LLC
~~c/o Fortress Investment~~
~~8250 Croaker Road~~ 8104 CWB DR.
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

We are an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the ~~approval~~ of the application.

5/2/2016
DATE

Signature

Printed Name: BRIAN J. TARRANT

TO: JAMES CITY PLANNING COMMISSION

FROM: David A. Nice Builder, Inc.
4690 & 4700 Fenton Mill Road
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

I am an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the approval of the application.

5/3/2016
DATE

VP of Construction
Signature

TO: JAMES CITY PLANNING COMMISSION

FROM: William L. and Mary M. Apperson
4904 & 4920 Fenton Mill Road
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

I am an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the approval of the application.

_____
DATE

_____
Signature

TO: JAMES CITY PLANNING COMMISSION

FROM: Thomas Y. and Ruby M. Napier
4680 Fenton Mill Road
Williamsburg, VA 23188

RE: SPECIAL USE PERMIT APPLICATION
Hankins Resource Recovery Facility
JCC SUP #0004-2015

We are an adjacent landowner and neighbor to the property for which the Special Use Permit is sought.

I have been shown and have reviewed the narrative with the special uses for the Hankins Resource Recovery Facility and related activities for which approval is sought.

This confirms that we as an adjacent landowner have no objection to the special uses related to the application and no objection to the approval of the application.

5-2-16
DATE

Thomas Napier
Signature

AGENDA ITEM NO. H.3.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Planner

SUBJECT: SUP-0003-2016, Two Drummers Smokehouse SUP Amendment/SUP-0004-2016, Extra Mile Landscapes - Stonehouse District

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ATTACHMENTS:

	Description	Type
🗋	staff report	Staff Report
🗋	Resolution 03-16	Resolution
🗋	Resolution 04-16	Resolution
🗋	Unapproved minutes of the May 4, 2016, Planning Commission meeting	Backup Material
🗋	Location map	Backup Material
🗋	Master Plan, prepared by LandTech Resources, dated March 18, 2016	Backup Material
🗋	Conceptual Site Drawing and Architectural Elevations, prepared by Hopke and Associates Inc, dated April 15, 2016	Backup Material
🗋	SUP-0001-1996, Pierce Brothers Tavern and Grill Resolution	Backup Material
🗋	Project narrative provided by the applicant	Backup Material
🗋	Rural Lands Development Standards Narrative provided by the applicant	Backup Material
🗋	Letters from nearby property owners	Backup Material
🗋	Pictures of the vehicles and equipment associated with the contractor's office	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	5/30/2016 - 7:54 PM
Development Management	Holt, Paul	Approved	5/30/2016 - 7:54 PM

Publication Management	Burcham, Nan	Approved	5/31/2016 - 10:45 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 11:06 AM
Board Secretary	Fellows, Teresa	Approved	6/1/2016 - 1:25 PM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:46 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:48 AM

SPECIAL USE PERMIT-0003-2016. Two Drummers Smokehouse SUP Amendment
SPECIAL USE PERMIT-0004-2016. Extra Mile Landscapes

Staff Report for the June 14, 2016, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicants:	Vernon Geddy, III, Geddy, Harris, Franck & Hickman
Land Owner:	M M & W Properties, LLC
Proposal:	To permit an expansion of the existing Two Drummers Smokehouse restaurant and permit a contractor's office, Extra Mile Landscapes. Both operations would be served by a shared access from Richmond Road and utilize shared stormwater management facilities.
Location:	8856 and 8864 Richmond Road
Tax Map/Parcel Nos.:	1110100004E and 1110100006
Project Acreage:	+/- 10.76 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Primary Service Area:	Outside
Staff Contact:	Savannah Pietrowski, Planner I

PUBLIC HEARING DATES

Planning Commission:	May 4, 2016, 7:00 p.m.
Board of Supervisors:	June 14, 2016, 6:30 p.m.

FACTORS FAVORABLE

1. The proposal is compatible with surrounding zoning and development.

2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.

3. The proposal would relocate parking that is currently occurring within the Virginia Department of Transportation's (VDOT) right-of-way on a Community Character Corridor.

4. The applicant has obtained letters of support from several nearby property owners.

FACTORS UNFAVORABLE

With the attached Special Use Permit (SUP) conditions for each application, staff finds that there are no unfavorable factors.

SUMMARY STAFF RECOMMENDATION

Approval of both applications, subject to the respective conditions in the attached resolutions.

PLANNING COMMISSION RECOMMENDATION

At its May 4, 2016 meeting, the Planning Commission recommended approval of these applications by a vote of 7-0.

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

Proposed Changes Made Since the Planning Commission Meeting

Minor revisions were made to the stormwater management facilities shown on the Master Plan in order to address comments from the Engineering and Resource Protection Division.

Condition No. 3 was revised for each application to state that all road improvements should be installed prior to issuance of the first Certificate of Occupancy. The original conditions separated the recommended improvements between the two uses; however, VDOT determined that it is more appropriate to have the improvements installed concurrently.

Condition No. 9 for Extra Mile Landscapes was also revised to clarify that the 2,500 square foot size limit for the materials stockpiles is to be applied to each pile, not all of the piles collectively.

PROJECT DESCRIPTION

Two Drummers Smokehouse has applied to amend its existing SUP in order to allow a 5,223-square-foot expansion and to relocate the existing parking to the rear of the site.

Extra Mile Landscapes has been operating a contractor's office on the property and has applied for an SUP to bring the operation into conformance with the Zoning Ordinance and allow additional site improvements. These improvements include expansion of the existing gravel laydown yard, a 2,400-square-foot office and equipment storage building and associated parking.

Vehicles and equipment associated with the contractor's office include two track loaders, one small track loader, one dump truck, several trailers and ten pickup trucks. Landscape crews report to the site in the morning before leaving for job sites. Twelve personal vehicles are typically parked on-site during the work day.

This application proposes a shared entrance for the two businesses, as well as shared stormwater management facilities. The businesses are currently located on the same parcel; however, a boundary line adjustment is also proposed in order to place each business on separate parcels.

Given the shared improvements, these individual applications are shown on a shared master plan, but are to be considered individually by the Planning Commission and Board of Supervisors.

PLANNING AND ZONING HISTORY

- The Board of Supervisors adopted Case No. SUP-0001-1996 for Pierce Brother's Tavern and Grill on July 9, 1996. This approval brought the existing restaurant into compliance with the Zoning Ordinance and allowed a small expansion to the building.

- The restaurant has continued to operate since this approval under several different names. Two Drummers Smokehouse began operating at the location in May 2013.

- The existing restaurant building is nonconforming in relation to the front setback. The proposed expansion will meet all current setback requirements.

- Extra Mile Landscapes has been operating from the site since the spring of 2005.

SURROUNDING ZONING AND DEVELOPMENT

- The properties are located on Richmond Road, west of Anderson's Corner. This portion of Richmond Road is designated as Community Character Corridor (CCC).

- All surrounding properties are zoned A-1, General Agricultural.

- Most surrounding properties contain single-family residential dwellings. The property directly to the east is undeveloped. Pineland Nursery is located directly across Richmond Road.

COMPREHENSIVE PLAN

- The properties are designated Rural Lands on the 2035 Comprehensive Plan Land Use Map, as are all of the surrounding parcels.

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

- Staff finds that these applications are compatible with the Rural Lands designation given the ability of Richmond Road to support the traffic associated with the proposals. Additionally, moving the existing restaurant parking behind the building will help enhance the rural character of the area.

- The applicant has provided a narrative identifying how the Rural Lands Developments Standards are addressed by their proposal.

- The properties are located on the Richmond Road CCC and subject to the Wooded CCC Buffer Treatment Guideliens, adopted by the Board of Supervisors November 22, 2011. According to this policy: *"A wooded CCC is characterized as having natural wooded areas along the road with light to moderate traffic, and minimal existing or planned commercial development. The objective of the buffer is to visually screen the development from the road. Ideally, the existing vegetation should be preserved or supplemented to create a wooded buffer that preserves open space and wildlife habitat to maintan the natural character of the County…"*

- Staff finds that the proposed landscaping ehancements within the CCC buffer would result in the site being more consistent with these guidelines.

PUBLIC IMPACTS

1. Anticipated Impact on Public Facilities and Services:

   a. *Streets*. A traffic study was completed for this proposal, which recommends the installation of a 200 foot westbound turn taper on Richmond Road and improvements to the

existing median gap adjacent to the property. Conditions are proposed for the completion of these improvements. Additionally, parking for Two Drummers Smokehouse currently occurs in a gravel parking area within the right-of-way. This proposal would relocate the parking outside of the right-of-way.

b. *Schools/Fire/Utilities*. No impacts anticipated. This site is not served by public water and sewer. The applicant must obtain approval from the Virginia Department of Health for the well and drainfields location prior to the issuance of preliminary site plan approval.

2. Environmental/Cultural/Historical: No impacts anticipated. A combination of bio-retention ponds, a water quantity dry pond and dry swales will be used to address stormwater management for the entire site. There is Resource Protection Area located at the rear of 8856 Richmond Road; no development is proposed within this area.

3. Nearby and Surrounding Properties: No impacts anticipated. Conditions are proposed to mitigate visual impacts to surrounding properties and the Richmond Road CCC. An existing tree buffer will be retained between the proposals and adjacent property owners, with the exception of proposed clearing for the proposed drainfields adjacent to the restaurant parking lot. In regards to the contractor's office, a condition is proposed to limit the height of material stockpiles, and all equipment storage shall be located towards the rear of the site.

PROPOSED CONDITIONS

- The full text of the proposed conditions for each SUP is provided in the attached resolutions.

STAFF RECOMMENDATION

Approval of both applications, subject to the respective conditions in the attached resolutions.

SP/nb
SUP03-16TwoDrumAmnd

Attachments:
1. Resolution, SUP-0003-2016, Two Drummers Smokehouse SUP Amend.
2. Resolution, SUP-0004-2016, Extra Mile Landscapes
3. Unapproved minutes of the May 4, 2016, Planning Commission meeting
4. Location Map
5. Master Plan, prepared by LandTech Resources, dated March 18, 2016
6. Conceptual Site Drawing and Architectural Elevations, prepared by Hopke and Associates, Inc., dated April 15, 2016
7. SUP-0001-1996, Pierce Brother Tavern and Grill Resolution
8. Project narrative provided by the applicant
9. Rural Lands Development Standards narrative provided by the applicant
10. Letters from nearby property owners
11. Pictures of the vehicles and equipment associated with the contractor's office

R E S O L U T I O N

CASE NO. SUP-0003-2016, TWO DRUMMERS SMOKEHOUSE SUP AMENDMENT

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

WHEREAS, M M & W Properties, LLC (the "Owner") owns two parcels of property located at 8856 and 8864 Richmond Road, further identified as James City County Real Estate Tax Map Parcel Nos. 1110100004E and 1110100006, respectively; and

WHEREAS, on July 9, 1996, the Board approved Case No. SUP-0001-1996 for the operation of a restaurant on the parcel located at 8864 Richmond Road, further identified as James City County Real Estate Tax Map Parcel No. 1110100006 (the "Property"); and

WHEREAS, on behalf of the Owner, Mr. Vernon Geddy III of Geddy Harris Franck & Hickman has applied for a SUP to allow an expansion of the restaurant on the Property; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0003-2016; and

WHEREAS, the Planning Commission, following its public hearing on May 4, 2016, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0003-2016 as described herein with the following conditions:

1. *Master Plan:* This Special Use Permit (the "SUP") shall be valid for the expansion of an existing restaurant or tavern (the "Project") on property located at 8864 Richmond Road, further identified as JCC Real Estate Tax Map No. 1110100006 (the "Property"). The Project shall be in accordance with the "Conceptual Master Plan of Extra Mile Landscapes and Two Drummers Smokehouse Parking Improvements," dated March 18, 2016 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. *Shared Entrance:* Access to the Property shall be limited to the shared access depicted on the Master Plan. Prior to final subdivision approval shared care and maintenance covenants shall be prepared in a form approved by the County Attorney and recorded in the land records of the Williamsburg-James City County Circuit Court. Such covenants shall set forth the following: 1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement; and 2) The method of assessing each individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

3. *Road Improvements:* As recommended by the traffic study "8864-8856 Richmond Road Traffic Access Review" prepared by Intermodal Engineering, P.C., dated December 2015, the following improvements shall be completed prior to the issuance of the Certificate of Occupancy for the Project, unless the Director of Planning approves an alternative timeline in writing:

A. Widen existing median gap adjacent to the entrance on Richmond Road to a width of thirty (30) feet, check assess truck turning templates, and construct proper median nose cones; and

B. Construct a westbound turn taper two-hundred (200) feet in length at the entrance on Richmond Road.

These improvements shall be constructed in accordance with the Virginia Department of Transportation standards.

4. *Community Character Corridor:* The Community Character Corridor (CCC) Buffer along Richmond Road shall be an average of fifty (50) feet in width. All existing gravel located within the CCC Buffer on the Property shall be removed, replaced with managed turf, and supplemented with landscaping prior to issuance of the Certificate of Occupancy for the Project, unless the Director of Planning approves an alternative timeline in writing. The landscaping plan shall be shown as part of the site plan and shall be reviewed and approved by the Director of Planning or his designee.

5. *Well and Septic:* An Authorized Onsite Soil Evaluator's Report shall be submitted to the Virginia Department of Health for review and approval of the proposed well and drainfields. Evidence of Virginia Department of Health approval shall be submitted to the Director of Planning prior to preliminary site plan approval.

6. *Stormwater Management:* Prior to final approval of the initial site plan, unless the Director of Planning approves an alternative timeline in writing, documentation shall be submitted demonstrating that all shared stormwater improvements serving the Property are subject to appropriate shared maintenance agreements ensuring that the improvements will be maintained continuously. Such documents shall be subject to review and approval of the County Attorney or his designee.

7. *Lighting:* All new exterior light fixtures, including building-mounted lighting, shall have recessed fixtures with no lens, bulb or globe extending below the casing. In addition, a lighting plan that indicates no glare outside the boundaries of the Property shall be shown as part of the initial site plan and shall be reviewed and approved by the Director of Planning or his designee. All light poles shall not exceed sixteen (16) feet in height above the finished grade unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

8. *Noise:* No outside speakers, beyond two wall-mounted speakers, shall be installed for the purpose of playing live or recorded music.

9. *Sign Relocation:* The existing sign shall be relocated outside of the Virginia Department of Transportation right-of-way. The new location shall be shown on the site plan.

10. *Site Plan and Subdivision:* A site plan shall be required for the Project. Final site plan approval must be obtained within thirty-six (36) months of issuance of this SUP, or the SUP shall become void. Prior to final site plan approval, a subdivision plat shall be approved and recorded to adjust the boundary lines of the Property to locate the entirety of the existing operation and the Project on its own parcel.

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

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

R E S O L U T I O N

CASE NO. SUP-0004-2016, EXTRA MILE LANDSCAPES

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

WHEREAS, M M & W Properties, LLC (the "Owner") owns two parcels of property located at 8856 and 8864 Richmond Road, further identified as James City County Real Estate Tax Map Parcel Nos. 1110100004E and 1110100006, respectively; and

WHEREAS, on behalf of the Owner, Mr. Vernon Geddy III of Geddy Harris Franck & Hickman has applied for a SUP to allow the operation of a contractor's office and related storage on the Property; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0004-2016; and

WHEREAS, the Planning Commission, following its public hearing on May 4, 2016, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0004-2016 as described herein with the following conditions:

1. *Master Plan:* This Special Use Permit (the "SUP") shall be valid for the operation of a contractors' office and warehouse (the "Project") on property located at 8856 Richmond Road, further identified as JCC Real Estate Tax Map No. 1110100004E (the "Property"). The Project shall be in accordance with the "Conceptual Master Plan of Extra Mile Landscapes and Two Drummers Smokehouse Parking Improvements", dated March 18, 2016 (the "Master Plan") , with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. *Shared Entrance:* Access to the Property shall be limited to the shared access depicted on the Master Plan. Prior to final subdivision approval shared care and maintenance covenants shall be prepared in a form approved by the County Attorney and recorded in the land records of the Williamsburg-James City County Circuit Court. Such covenants shall set forth the following: 1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement; and 2) The method of assessing each individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

3. *Road Improvements:* As recommended by the traffic study "8864-8856 Richmond Road Traffic Access Review" prepared by Intermodal Engineering, P.C., dated December 2015, the following improvements shall be completed prior to the issuance of the Certificate of Occupancy for the Project, unless the Director of Planning approves an alternative timeline in writing:

    A. Widen existing median gap adjacent to the entrance on Richmond Road to a width of thirty (30) feet, check assess truck turning templates, and construct proper median nose cones; and

B. Construct a westbound turn taper two-hundred (200) feet in length at the entrance on Richmond Road.

These improvements shall be constructed in accordance with the Virginia Department of Transportation standards.

4. *Community Character Corridor:* The Community Character Corridor (CCC) Buffer along Richmond Road shall be an average of fifty (50) feet in width. All existing gravel located within the CCC Buffer on the Property shall be removed, replaced with managed turf, and supplemented with landscaping prior to issuance of the Certificate of Occupancy for the Project, unless the Director of Planning approves an alternative timeline in writing. The landscaping plan shall be shown as part of the site plan and shall be reviewed and approved by the Director of Planning or his designee.

5. *Well and Septic:* An Authorized Onsite Soil Evaluator's Report shall be submitted to the Virginia Department of Health for review and approval of the proposed well and drainfields. Evidence of Virginia Department of Health approval shall be submitted to the Director of Planning prior to preliminary site plan approval.

6. *Stormwater Management:* Prior to final approval of the initial site plan, unless the Director of Planning approves an alternative timeline in writing, documentation shall be submitted demonstrating that all shared stormwater improvements serving the Property are subject to appropriate shared maintenance agreements ensuring that the improvements will be maintained continuously. Such documents shall be subject to review and approval of the County Attorney or his designee.

7. *Lighting:* All new exterior light fixtures, including building-mounted lighting, shall have recessed fixtures with no lens, bulb or globe extending below the casing. In addition, a lighting plan that indicates no glare outside the boundaries of the Property shall be shown as part of the initial site plan and shall be reviewed and approved by the Director of Planning or his designee. All light poles shall not exceed sixteen (16) feet in height above the finished grade unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

8. *Material and Equipment Storage:* All material and equipment storage shall be limited to the areas designated as such on the Master Plan. Material stockpiles shall not exceed than eight (8) feet in height and shall not exceed two thousand five hundred (2,500) square feet each in land area. A screening plan shall be shown on the site plan, to be reviewed and approved by the Director of Planning or his designee to ensure that no material storage or equipment shall be visible from the Richmond Road CCC.

9. *Resource Protection Area (RPA):* No soil disturbance, parking and/or storage of equipment and/or vehicles associated with the Project shall occur within fifteen (15) feet of a RPA buffer.

10. *VPDES Industrial and Spill Prevention:* Prior to issuance of preliminary site plan approval, the Owner must determine if a general Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater Associated with Industrial Activity will be required from the Virginia Department of Environmental Quality. If a VPDES permit is required, the owner must provide evidence of having obtained the permit prior to issuance of final site plan approval. If a VPDES permit is not required, an operational phase stormwater pollution prevention plan/spill prevention and control plan to address the outdoor vehicle and material storage, including but not

limited to oil, diesel and gasoline, shall be submitted to the Director of Engineering and Resource Protection and the Fire Chief for their respective review and approval.

11. *Limitations:* No direct retail sales of products related to the contractors' office, including the sales of wood or wood-related products, shall occur at the Property. No mulching or stump grinding shall occur at the Property.

12. *Site Plan and Subdivision:* A site plan shall be required for the Project. Final site plan approval must be obtained within thirty-six (36) months of issuance of this SUP, or the SUP shall become void. Prior to final site plan approval, a subdivision plat shall be approved and recorded to adjust the boundary lines of the Property to locate the entirety of the existing operation and the Project on its own parcel.

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

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

Unapproved Minutes of the May 4, 2016
Planning Commission Meeting

SUP-0003-2016, Two Drummers Smokehouse SUP Amendment / SUP-0004-2016, Extra Mile Landscapes

Mr. O'Connor called for disclosures from the Commission.

Mr. Basic stated that he would recuse himself from considering this matter because he has submitted a proposal for design services to the land owner.

Ms. Savannah Pietrowski, Planner I, presented a report to the Commission on the request to permit an expansion of the existing Two Drummers Smokehouse restaurant and permit a contractor's office, Extra Mile Landscapes on properties located at 8856 and 8864 Richmond Road. Ms. Pietrowski noted that the properties are shown on a joint Master Plan and because of the shared improvements they are being presented together but are to be considered individually by the Commission. Ms. Pietrowski noted that staff finds that the proposal is compatible with surrounding zoning and consistent with the 2035 Comprehensive Plan. Ms. Pietrowski noted that the landscaping enhancements and relocation of the parking area would improve consistency with the Richmond Road Community Character Corridor guidelines.

Mr. O'Connor opened the public hearing for both cases.

Mr. Vernon Geddy, III, Geddy, Harris, Franck and Hickman, representing the applicant, provided an overview to the Commission regarding the proposed improvements. Mr. Geddy noted that the owner of both properties is also the owner of Extra Mile Landscapes. Mr. Geddy clarified that the SUP conditions limit the three materials stockpiles to 2,500 square feet each Mr. Geddy further noted that the landscaping and proposed restaurant expansion would effectively screen the parking in its new location and that the current parking area would be landscaped to provide a buffer. Mr. Geddy stated that the applications represent local small business success stories and that approval of the applications would allow the expansion of two thriving local businesses.

Mr. Wright inquired if there would be a berm between the stockpiles and the BMP to prevent materials from flowing into the BMP.

Mr. Geddy responded that the plan had not yet reached that level of design.

Ms. Pietrowski stated that a dry swale is shown on the Master Plan to accept the drainage for stormwater management. Ms. Pietrowski stated that stormwater management would be addressed by the Engineering & Resource Protection Division at the site plan stage.

Mr. O'Connor inquired whether this would qualify under stockpile regulations and require a silt fence.

Ms. Pietrowski stated that they would not because they will be under the size threshold in the Zoning Ordinance.

Mr. Jonathan Schy, 8874 Richmond Road, addressed the Commission with concerns about the potential effect of the development on the RPA and a stream on his property.

Mr. Wright noted that the effect on the RPA was his main concern as well.

As no one else wished to speak, Mr. O'Connor closed the public hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. O'Connor inquired what the limitations were on the location, number and size of the materials stockpiles.

Mr. Holt stated that the SUP condition states that material and equipment storage shall be limited to the areas designated as such on the Master Plan and material stockpiles shall not exceed than eight feet in height and shall not exceed 2,500 square feet in land area. Mr. Holt further stated that if the applicant determines that they need to have several different types of mulch or stone, then it can be reflected on the site plan and a determination can be made for Master Plan consistency.

Mr. O'Connor noted that he wanted to ensure that the applicant had some flexibility.

Mr. Krapf stated that he commends the applicant for the number of improvements being made along the Community Character Corridor. Mr. Krapf further stated that he appreciates that these are thriving local businesses and that the proposal will be a benefit to the community. Mr. Krapf stated that he would support the application.

Ms. Bledsoe stated that she believes the proposal will be a benefit to the County and that the businesses are investing in the community. Ms. Bledsoe stated that she would support the application.

Mr. Schmidt stated that he approves of the proposed improvements. Mr. Schmidt would support the application.

Mr. Richardson stated the improvements are a significant benefit to the County and he is pleased to see this type of enterprise in the upper end of the County. Mr. Richardson stated that he would support the application.

Mr. O'Connor stated that he believe this is the type of enterprise that is needed in the upper end of the County. Mr. O'Connor stated that there are a number of constraints on the property and that the applicant has provided a good design that fits with the Community Character Corridor.

Mr. Wright moved to recommend approval of SUP-0003-2016, Two Drummers Smokehouse SUP Amendment.

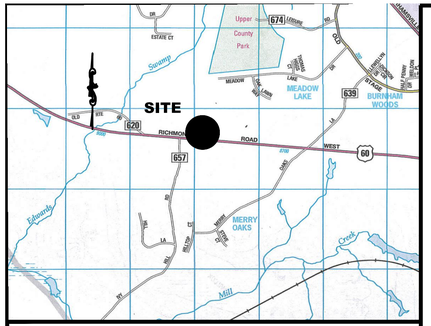
On a roll call vote, the Commission voted to recommend approval of SUP-0003-2016, Two Drummers Smokehouse SUP Amendment (6-0-1).

Ms. Bledsoe moved to recommend approval of SUP-0004-2016, Extra Mile Landscapes.

Mr. Holt clarified that the SUP condition for materials stockpiles limited the stockpiles to 2,500 square feet each.

On a roll call vote, the Commission voted to recommend approval of SUP-0004-2016, Extra Mile Landscapes (6-0-1).

SUP-0003-2016, Two Drummers Smokehouse
SUP-0004-2016, Extra Mile Landscapes



VICINITY MAP SCALE: 1"=2000'

CONCEPTUAL MASTER PLAN OF

EXTRA MILE LANDSCAPES & TWO DRUMMERS SMOKEHOUSE

PARKING IMPROVEMENTS

JAMES CITY COUNTY STONEHOUSE DISTRICT VIRGINIA

STATISTICAL INFORMATION

PROPERTY ADDRESS	8856 RICHMOND ROAD 8864 RICHMOND ROAD
TAX MAP No.	1110100004E 1110100006
ZONING	A-1 (GENERAL AGRICULTURE)
TOTAL SITE AREA	468,649 S.F. / 10.76 AC.
8856	402,120 S.F. / 9.23 AC.
8864	66,529 S.F. / 1.53 AC.
PROPOSED USE	RESTAURANT / CONTRACTOR YARD
WATER	PRIVATE
SEWER	PRIVATE
EX. BUILDING TYPE	
RESTAURANT	1 STORY FRAME BUILDING
CONTRACTOR	1-STORY ALUMINUM BUILDING
EX. BUILDING AREA	
RESTAURANT	2,922 S.F.
CONTRACTOR	1,405 S.F.
PROPOSED BUILDING AREA	
RESTAURANT	+5,233 S.F. (8,155 S.F. TOTAL)
CONTRACTOR	+2,400 S.F. (3,805 S.F. TOTAL)
HYDROLOGIC UNITS	
SUBWATERSHED	DIASCUND CREEK-MILL CREEK (JL27)
WATERSHED	LOWER CHICKAHOMINY RIVER (JL-F)
SUBBASIN	LOWER JAMES
EX. SITE COVER	
IMPERVIOUS SURFACES	53,719 S.F. / 1.23 AC. (11%)
MANAGED TURF	31,598 S.F. / 0.73 AC. (6%)
FOREST	383,333 S.F / 8.80 AC. (83%)
PROP. SITE COVER	
IMPERVIOUS SURFACES	98,002 S.F. / 2.26 AC. (21%)
MANAGED TURF	67,238 S.F. / 1.54 AC. (14%)
FOREST	303,409 S.F. / 6.96 AC. (65%)
PARKING SPACES	
(ALL EXISTING SPACES TO BE REMOVED)	
TWO DRUMMERS SMOKEHOUSE REQUIREMENTS PER SEC. 24-59(b)(16):	
1 SPACE FOR EVERY 4 SEATS BASED ON MAX CAPACITY	
PROPOSED 250 SEATS	
REQUIRED PARKING	63
PROPOSED PARKING	110 IF VARIANCE IS APPROVED
EXTRA MILE LANDSCAPES REQUIREMENTS PER SEC. 24-59(b) CATEGORY B:	
1 SPACE FOR EVERY 250 S.F. OF BUILDING AREA	
3,805 S.F. TOTAL	
REQUIRED PARKING	16
PROPOSED PARKING	16

OWNER

MM&W PROPERTIES, LLC
CONTACT: JESSE McHOSE (PRESIDENT)
CONTACT BOB WILTSHIRE (MANAGER)
8864 RICHMOND ROAD, SUITE 102
TOANO, VA 23168
(757) 741-2015

TABLE OF CONTENTS

SHEET NO.	SHEET TITLE
C001	COVER
C100	CONCEPTUAL PLAN

NOTES

1) THIS SITE PLAN WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT
2) THIS FIRM MADE NO ATTEMPT TO LOCATE UNDERGROUND UTILITIES EXCEPT THOSE SHOWN. THE EXISTENCE AND LOCATION (HORIZONTAL AND VERTICAL) OF EXISTING UTILITIES ARE NOT GUARANTEED AND SHALL BE FIELD VERIFIED BY THE CONTRACTOR.
3) ELEVATIONS AS SHOWN HEREON ARE IN FEET AND ARE RELATED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
4) WETLANDS WERE LOCATED BY ROTH ENVIRONMENTAL.
5) THIS FIRM IS NOT RESPONSIBLE FOR THE LOCATION OF ANY STRUCTURE, MANHOLE, VALVE, ETC., HIDDEN OR OBSTRUCTED AT THE TIME THE FIELD SURVEY WAS PERFORMED.
6) THIS LOT LIES IN F.I.R.M. ZONE "X" ACCORDING TO FLOOD INSURANCE RATE MAP #51095C0039D, DATED DECEMBER 16, 2015.
7) THE TOPOGRAPHIC AND PHYSICAL FEATURES SHOWN HEREIN ARE BASED ON A CURRENT FIELD SURVEY COMPLETED BY THIS FIRM IN JANUARY 2016.
8) ALL OBJECTIONABLE AND DELETERIOUS MATERIAL IS TO BE REMOVED FROM THE SITE AND DISPOSED OF IN A STATE APPROVED FACILITY MEETING THE REQUIREMENTS OF ALL APPLICABLE LOCAL, STATE, AND FEDERAL REGULATIONS.
9) THE OWNER WILL BE REQUIRED TO OBTAIN A VSMP PERMIT FROM THE LOCAL VSMP AUTHORITY (JAMES CITY COUNTY).
10) A LAND DISTURBING PERMIT AND SILTATION AGREEMENT, WITH SURETY ARE REQUIRED FOR THIS PROJECT.
11) A STANDARD INSPECTION/MAINTENANCE AGREEMENT IS REQUIRED TO BE EXECUTED WITH THE COUNTY DUE TO THE PROPOSED STORMWATER CONVEYANCE SYSTEM.
12) A VDOT LAND USE PERMIT IS REQUIRED FOR ANY WORK IN THE VDOT RIGHT OF WAY.
13) THE STORMWATER CONVEYANCE SYSTEMS AS PROPOSED FOR THIS PROJECT WILL REQUIRE SUBMISSION, REVIEW, AND APPROVAL OF A RECORD DRAWING (AS-BUILT) AND CONSTRUCTION CERTIFICATION PRIOR TO RELEASE OF THE POSTED BOND/SURETY. CONTRACTOR SHALL ENSURE THIS ACTIVITY IS ADEQUATELY COORDINATED AND PERFORMED BEFORE, DURING AND FOLLOWING CONSTRUCTION IN ACCORDANCE WITH CURRENT COUNTY GUIDELINES.
14) A LANDSCAPE PLAN WILL BE REQUIRED FOR THIS PROJECT AT THE SITE PLAN STAGE.
15) ANY EXISTING UNUSED WELLS SHALL BE ABANDONED IN ACCORDANCE WITH STATE PRIVATE WELL REGULATIONS AND JAMES CITY COUNTY CODE.
16) THE VIRGINIA HEALTH DEPARTMENT MUST REVIEW DURING THE SITE PLAN STAGE TO ENSURE THE DRAINFIELDS ARE ADEQUATE FOR THE BUSINESSES.
17) THE PROPOSED BOUNDARY LINE ADJUSTMENT MUST BE SUBMITTED AND APPROVED BY A SEPARATE DOCUMENT PRIOR TO ANY SITE PLAN APPROVAL.
18) A SHARED DRIVEWAY AGREEMENT WILL BE REQUIRED.
19) THESE PROPERTIES ARE DESIGNATED AS RURAL LANDS ON THE 2035 COMPREHENSIVE PLAN LAND USE MAP.
20) THE SPECIAL USE CONDITIONS DRAFTED AS A RESULT OF THIS PERMIT MUST BE MET BY THE SITE PLAN.
21) STOCKPILING ON THE PROPERTY MUST BE EITHER LESS THEN 8 FEET FROM THE NATURAL GRADE TO ITS MAXIMUM HEIGHT OR LESS THAN 2,500 S.F. IN LAND AREA. IF STOCKPILING EXCEEDS EITHER OF THESE THEN THE GUIDELINES LAID OUT IN SECTION 24-26 OF THE ZONING ORDINANCE MUST BE IMPLEMENTED.
22) THE PARKING FOR EXTRA MILE LANDSCAPES IS INTENDED FOR EMPLOYEES OF THE COMPANY. RETAIL CUSTOMERS ARE NOT EXPECTED TO VISIT THE SITE.
23) THE PROPOSED SHOP IS TO BE USED FOR EQUIPMENT STORAGE AND MAINTENANCE.
24) THE DRAINFIELD THAT IS TO BE RELOCATED IS NOT TO BE IN THE 50' LANDSCAPE BUFFER ALONG ROUTE 60.
25) IF EXTRA MILE LANDSCAPES IS REQUIRED TO OBTAIN A VPDES PERMIT FOR THE DISCHARGE OF STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES IT IS THE OWNERS RESPONSIBILITY TO REGISTER AND COMPLY WITH THE PROVISIONS.
26) THE EXISTING IMPACTS (CONSTRUCTION AND WOODDY DEBRIS) TO THE RESOURCE PROTECTION AREA (RPA) MUST BE RESOLVED BEFORE A CERTIFICATE OF OCCUPANCY WILL BE ISSUED FOR EITHER PROPERTY.
27) THE MINIMUM REQUIRED DISTANCE TO ADJACENT ENTRANCES SHALL BE 495' PER ACCESS MANAGEMENT DESIGN STANDARDS FOR ENTRANCES AND INTERSECTIONS TABLE 2-2.

SUP-0003-2016 / SUP-0004-2016

CONCEPTUAL MASTER PLAN OF
EXTRA MILE LANDSCAPES & TWO DRUMMERS SMOKEHOUSE
PARKING IMPROVEMENTS
JAMES CITY COUNTY STONEHOUSE DISTRICT VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE
1	04-14-2016	REVIDED PER COMMENTS DATED FEB.-MAR. 2016

LRJ LANDTECH RESOURCES, INC.
ENGINEERING · SURVEYING · GPS
3925 Midlands Road, Williamsburg, VA 23188
Ph: (757) 565-0101 Fax: (757) 565-0782
Web: landtechresources.com

SCALE: N/A
DATE: 03-18-2016
JOB: 15-332
DRAWN BY: CMH

C001
COVER SHEET

GENERAL NOTES:

1. THE PROPOSED DRY SWALE FILTERS AND BIO-RETENTION FILTER WILL REQUIRE THESE SITE AREAS TO BE GRADED SO AS TO PROVIDED THE REQUIRED SLOPES BASED ON DEQ SPECIFICATIONS. AS THESE AREAS WILL ALSO BE LOCATED ON FILL THEY WILL BE REQUIRED TO HAVE UNDERDRAINS.

2. IF IT IS DETERMINED THAT THE LAND USE ASSOCIATED WITH THE GRAVEL STORAGE YARD IS CLASSIFIED AS A 'HOT SPOT' FOR STORMWATER THE DRY SWALE FILTER AND BIO-RETENTION FILTER WILL BE REQUIRED TO BE INSTALLED WITH AN IMPERMEABLE LINER.

3. IT MAY BECOME NECESSARY TO INSTALL AN OIL & GREASE SEPARATING DEVICE IN THE LOCATION OF THE EQUIPMENT STORAGE AREA TO TREAT WASH WATER AS WELL AS ANY FLOOR DRAIN SYSTEM INSTALLED WITHIN THE PROPOSED MAINTENANCE BUILDING.

30 0 30 60 90
Scale: 1" = 30'

LINE	BEARING	DISTANCE
L1	N 79°26'13" W	50.36'
L2	N 83°59'21" W	14.07'

CONCEPTUAL MASTER PLAN OF

EXTRA MILE LANDSCAPES & TWO DRUMMERS SMOKEHOUSE

PARKING IMPROVEMENTS

JAMES CITY COUNTY STONEHOUSE DISTRICT VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE
1	04-14-2016	REVIDED PER COMMENTS DATED FEB.-MAR. 2016

LRI LANDTECH RESOURCES, INC.
ENGINEERING • SURVEYING • GPS
3925 Midlands Road Williamsburg, VA 23188
Ph: (757) 565-0100 Fax: (757) 565-0762
Web: landtechresources.com

SCALE: 1" = 30'

DATE: 03-18-2016

JOB: 15-332

DRAWN BY: CMH

C100

CONCEPTUAL PLAN

02 OF 02

STREETSCAPE STUDY for

EXTRA MILE LANDSCAPES & TWO DRUMMERS SMOKEHOUSE

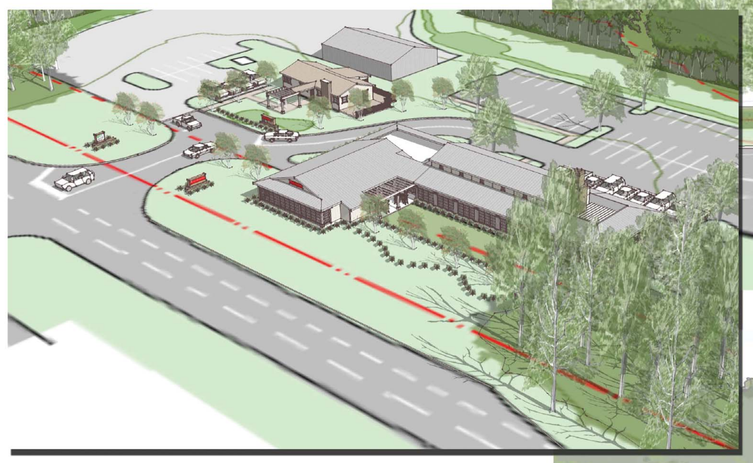
JAMES CITY COUNTY, VIRGINIA

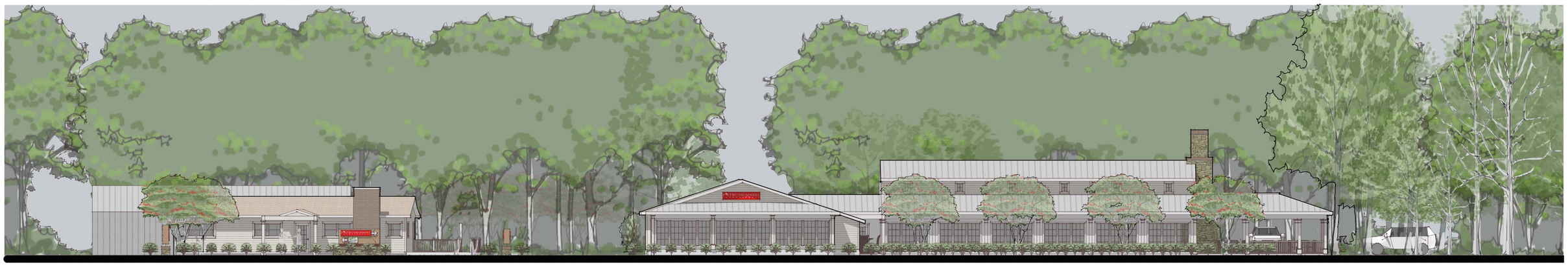
H & A 3 6 0 1 7

0 30 60 120

15 APR 2016

HOPKE & ASSOCIATES, INC.
Architecture • Planning • Interiors





STREETSCAPE STUDY for

EXTRA MILE LANDSCAPES & TWO DRUMMERS SMOKEHOUSE

H & A 3 6 0 1 7

JAMES CITY COUNTY, VIRGINIA

15 APR 2016

0 11 22 45

HOPKE & ASSOCIATES, INC.
Architecture • Planning • Interiors

RESOLUTION

CASE NO SUP-1-96. PIERCE BROTHERS' TAVERN AND GRILL

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 process; and

WHEREAS, the applicant has requested a special use permit to bring both the existing restaurant/tavern and its recently constructed 17' x 30' addition into compliance with the Zoning Ordinance. The special use permit would also allow for the future construction of a 16' by 44' covered deck, horseshoe pits and picnic tables. The property is located at 8864 Richmond Road and is further identified as Parcel No. (1-6) on James City County Tax Map No. (11-1); and

WHEREAS, the Planning Commission, following its public hearing on June 3, 1996, unanimously recommended approval of this application.

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. SUP-1-96 as described herein with the following conditions:

1. If a building permit application for the 17' x 30' addition is not submitted to the County within 60 days from the date of issuance of this special use permit, it shall become void.

2. If site plan approval, building permit approval, and a certificate of occupancy have not been obtained for the 17' x 30' addition within six months from the date of issuance of this special use permit, this special use permit shall become void.

3. This special use permit shall only apply to the existing building, new 17' x 30' addition, proposed 16' x 44' outside deck, outside dining and recreational facilities, and the parcel as illustrated in the conceptual plan submitted as part of this application Any expansions to the building beyond those outlined in this application or any new structures constructed on the site shall not be considered part of this application and shall be required to meet all applicable zoning and building codes.

4. Any additional outdoor lighting beyond the two existing floodlights shall be approved by the Planning Director prior to installation.

5. No additional outside speakers, beyond the two wall mounted speakers which currently exist on the east side of the building, shall be installed for the purpose of playing live or recorded music.

6. The outside deck shall all be located a minimum of 50 feet from the front yard property line (Route 60) and 15 feet from the side yard property line.

David L. Sisk
Chairman, Board of Supervisors

SUPERVISOR	VOTE
TAYLOR	AYE
MAGOON	AYE
DEPUE	NAY
EDWARDS	AYE
SISK	AYE

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of July, 1996.

sup196re.res

SUP-0003-2016/SUP-0004-2016

The applicant, MM&W Properties, LLC, is the owner of the subject site. The principals of MM&W Properties are also the owners of Extra Mile Landscapes.

Extra Mile Landscapes has been operating from this site since the spring of 2005. The applicant is seeking a special use permit for a contractor's warehouse, shed and office for the expansion of its landscape business on the site. Business growth has been steady and now generates the need for this expansion. The expansion would consist of a 16 space gravel parking area adjacent to the existing office, a gravel laydown yard and a new 2,400 square foot shop/office building and an improved, shared entrance with Two Drummers Smokehouse onto Route 60 as shown on the plan submitted herewith.

The shop building will be used for additional office space and small equipment repair and storage. Mulch, topsoil, pavers, plants, wall block and field stone will be stored on the proposed laydown yard. The equipment and vehicles stored on site when not at job sites consists of two track loaders, one small track loader, one dump truck, several trailers and ten pickup trucks. Pictures of the equipment and vehicles are attached. Typically, there are three company employees on-site during work hours. Landscape crews report to the site in the morning and then disburse to job sites. There are typically twelve personal vehicles parked on-site during the work day. Of the ten pickup trucks owned by the company, three are typically driven home at night and seven remain on-site. Small equipment such as lawn mowers and hand held equipment are stored in locked trailers.

Two Drummers Smokehouse has been operating a barbeque restaurant at this location since May of 2013. This use is permitted under SUP-0001-1996. Two Drummers has been very successful and the applicant is seeking this amendment to SUP-0001-1996 to permit an expansion of the existing restaurant building and the installation of a paved 60 space parking lot together with an improved, shared entrance with Extra Mile Landscape, all as shown on the plan submitted herewith. The existing restaurant currently has 90 seats in the building and seasonal patio seating for 40. The building expansion would add 50 additional indoor seats.

A Traffic Access Review by Intermodal Engineering, PC is submitted herewith. The Review concludes that a westbound 200 foot right turn taper on Richmond Road at the entrance is required and the median gap on Richmond Road at the entrance should be widened to 30 feet and proper median nose cones installed.

LandTech Resources, Inc., who prepared the plan submitted herewith advises that stormwater on site will be treated in accordance with current State of Virginia and James City County rules and regulations pertaining to treatment for stormwater quantity and quality as well as other applicable erosion and sediment control regulations. Design will follow all current regulations pertaining to BMP design based on the Virginia BMP Clearinghouse website and the Virginia Runoff Reduction Method spreadsheets.

The site is served by well and septic so the expansion will have no impact on County water and sewer. As an expansion of existing commercial uses there will be no impact on schools, fire stations or libraries.

This site is located on a four lane divided highway at an existing median crossover and is well buffered from adjacent properties. The expansion of these successful small businesses will have no adverse impacts and will benefit the County and its tax base.

Use and Character Compatibility

a) Use in rural Lands should reflect and enhance the rural character of the County. Particular attention should be given to the following:
   i) **Locating structures and uses outside of sensitive areas.** The existing structures will be staying where they are. All proposed structures are to be located in already developed areas to be redeveloped. We will not be constructing in the RPA in the rear of the property.
   ii) **Maintaining existing topography, vegetation, trees and tree lines to the maximum extent possible, especially along roads and between uses.** Some regrading will have to be done to ensure proper drainage of the proposed entrances and parking lots. Most of this will be done in the rear of the property where visibility from the road will be minimal. The sprawling gravel in the front of the property will be converted to managed turf and supplemented with required landscape plantings in the 50' landscape buffer. Some clearing will need to take place but this will also mostly be done in the rear of the property.
   iii) **Discouraging development on farmland, open fields and scenic roadside vistas.** The existing property is not farmland or open fields. It is already developed and we will be expanding it. The addition of the landscaped buffer in the front instead of the existing gravel will help with the properties roadside appeal.
   iv) **Encouraging enhanced landscaping to screen developments located in open fields using a natural appearance or one that resembles traditional hedgerows and wind breaks.** The development is not in an open field. The existing site is rather wooded. Additional plantings will be placed in the 50' landscape buffer in the front of the property to help screen the development.
   v) **Locating new service or neighborhood access roads so that they follow existing contours and old roadway corridors whenever feasible.** The sprawling gravel yard currently being used as the entrance/parking area on the property will be removed and the new entrance will roughly follow the already established roads on the property and line up with the median break on route 60.
   vi) **Generally limiting the height of structures to an elevation below the height of surrounding mature trees and scaling buildings to compliment the character of the existing community.** The proposed building/addition will only be a one story and shorter than the surrounding mature trees.
   vii) **Minimize the number of street and driveway intersections along the main road by providing common driveways and interconnection of development.** The lot will be serviced by a single shared entrance for the two businesses.
   viii) **Utilizing lighting only where necessary and in a manner that eliminates glare and brightness.** Lighting at night will seldom be used by Extra Mile Landscapes. Mostly reserved to short winter days when the workday begins as the sun it coming up and ends as it is going down. Two Drummers Smokehouse will have a need to be lit at night since it is open past dark. Lighting will be kept to a minimal to lessen the impact of light pollution.

b) **Site non-agricultural/non forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/forestal uses, open fields, and important agricultural/forestall soils and resources.** The site is already being used as a contractor yard/restaurant and will not further impact important agricultural/forestal soils and resources.

c) **Encourage the preservation and reuse of existing agricultural structures such as barns, silos and houses.** The existing building on the site are to remain. There are no barn or silos to utilize.

d) **Site more intensive uses in areas where the existing road network can accommodate the additional vehicle trips without the need for significant upgrades or modifications that would impact the character of the rural road network.** The site is along Route 60, an already established and heavily traveled four lane divided highway. The only modifications will be the addition of a tapered turn land that will be located where there is already a gravel parking lot and a slight widening of the median break to accommodate larger vehicles that may need to access the site.

April 11, 2016

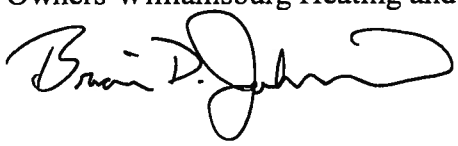
James City County Board of Supervisors
C/o Mr. Paul Holt
Manager of Development Management
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Extra Mile Landscaping and Two Drummers Smokehouse
SUP-2004-2016 and SUP-2003-2016

Ladies and Gentlemen:

We are neighbors and patrons of Two Drummers Smokehouse. We live at 8896 Richmond Rd. West and practice business nearby. Extra Mile Landscaping and Two Drummers Smokehouse are located a couple doors down the street from us and have been good neighbors. They have shared their expansion plans with us and we support them. We urge you to approve the two special use permits.

Sincerely,
Brian and Shanna Johnson
Owners Williamsburg Heating and Air



April 11, 2016

James City County Board of Supervisors
C/o Mr. Paul Holt
Manager of Development Management
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Extra Mile Landscaping and Two Drummers Smokehouse
SUP-2004-2016 and SUP-2003-2016

Ladies and Gentlemen:

I am a business owner operating Virginia Lawn and Landscaping at 8877 Richmond Rd. James City County. Extra Mile Landscaping and Two Drummers Smokehouse are located directly across the street from us and have been good neighbors. They have shared their expansion plans with us and we support them. We urge you to approve the two special use permits.

Sincerely,
Michael Roberts

April 11, 2016

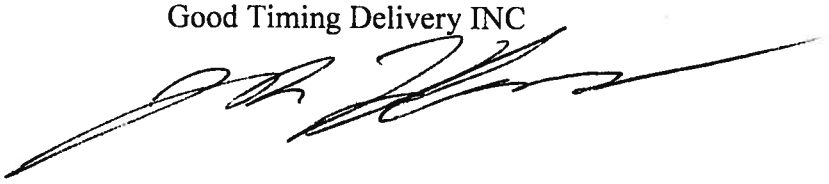
James City County Board of Supervisors
C/o Mr. Paul Holt
Manager of Development Management
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Extra Mile Landscaping and Two Drummers Smokehouse
SUP-2004-2016 and SUP-2003-2016

Ladies and Gentlemen:

I live and have a business at 15105 Pocahontas Trail, James City County. Extra Mile Landscaping and Two Drummers Smokehouse have been good neighbors. They have shared their expansion plans with us and we support them. We urge you to approve the two special use permits.

Sincerely,
Josh Hazelwood
Good Timing Delivery INC



April 11, 2016

James City County Board of Supervisors
C/o Mr. Paul Holt
Manager of Development Management
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: Extra Mile Landscaping and Two Drummers Smokehouse
SUP-2004-2016 and SUP-2003-2016

Ladies and Gentlemen:

I am a patron of and live near Two Drummers Smokehouse at 8629 Diascund Road, James City County. Extra Mile Landscaping and Two Drummers Smokehouse have been good neighbors. They have shared their expansion plans with us and I support them. I urge you to approve the two special use permits.

Sincerely,
Butch Tomes
James Bruton Fire Fighter


ISUZU


Extra Mile
Landscapes
SCOUT
by CAM
7 16


DEERE

AGENDA ITEM NO. H.4.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Roberta Sulouff, Planner

SUBJECT: SUP-0009-2015, 100 Lake Drive Rental of Rooms - Berkeley District

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ATTACHMENTS:

	Description	Type
	Staff Report	Staff Report
	Resolution	Resolution
	Unapproved Minutes of the May 4, 2016 Planning Commission Meeting	Backup Material
	Location Map	Backup Material
	Site Photographs	Backup Material
	Citizen Correspondance	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	5/27/2016 - 5:09 PM
Development Management	Holt, Paul	Approved	5/27/2016 - 5:09 PM
Publication Management	Burcham, Nan	Approved	5/31/2016 - 7:26 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:55 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:08 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:46 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:48 AM

SPECIAL USE PERMIT-0009-2015. 100 Lake Drive Rental of Rooms

Staff Report for the June 14, 2016, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicants:	Mr. and Mrs. Bruce and Katherine Williamson
Land Owners:	Mr. and Mrs. Bruce and Katherine Williamson
Proposal:	To allow for the rental of up to three rooms in an owner-occupied, four bedroom home.
Location:	100 Lake Drive
Project Acreage:	±1.5 acres
Zoning:	R-1, Limited Residential
Comprehensive Plan:	Low Density Residential
Primary Service Area:	Inside

PUBLIC HEARING DATES

Planning Commission:	May 4, 2016, 7:00 p.m.
Board of Supervisors:	June 14, 2016, 6:30 p.m.
Staff Contact:	Roberta Sulouff, Planner I

FACTORS FAVORABLE

1. With the proposed conditions, the proposal is compatible with surrounding development and the recommendations of the 2035 Comprehensive Plan.

2. Staff has received communication from neighbors in support of this proposal.

3. The subject property shares only one boundary line with another residence and that shared frontage is well buffered via vegetation on both pieces of property.

4. The existing driveway is the only driveway taking access from Ware Road. The driveway is of significant length, is screened from the road via vegetation and provides several parking pull-off areas which staff finds would suit the proposed rental capacity.

FACTORS UNFAVORABLE

1. Staff has been made aware of the existence of a restrictive covenant that applies to the subject property and which may affect the rental of rooms on this property. The County Attorney has advised that because the County is not a party to this restrictive covenant, staff lacks the legal authority to interpret whether or not the covenant prohibits the proposed use. The applicant has affirmed that it does not. Any disagreement about this affirmation and/or the covenant is a private matter outside of the County's purview.

2. Staff has received correspondence from neighbors in opposition to this proposal.

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

SUMMARY STAFF RECOMMENDATION

Approval, subject to the proposed conditions.

PLANNING COMMISSION RECOMMENDATION

At its May 4, 2016 meeting, the Planning Commission recommended denial of this application by a vote a 4-3.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

A condition has been added stipulating that the applicant must obtain a business license within one year of approval of this application.

PROJECT DESCRIPTION

- Proposal to rent up to three rooms in a private, owner-occupied, four bedroom home. Unlike the "Tourist Home" use, the "Rental of Rooms" limits rentals to a maximum of three bedrooms and requires the homeowners to continue residing at the property during the time of rentals. This use prohibits the rental of the house as a whole.

- No changes in the size of the house or other buildings.

- The property has an existing driveway and an existing parking area sufficient to accommodate guests.

- The applicant does not intend to serve any meals to guests, therefore this is not considered a traditional Bed and Breakfast, but rather falls into an emerging category of rentals known as "Home-Sharing" or "Short-term Vacation Rentals."

PLANNING AND ZONING HISTORY

Through an anonymous complaint to the County's Zoning Division, the house was found to be listed illegally on the popular home-sharing site "Air BnB." The applicant subsequently submitted a conceptual plan, and later this Special Use Permit (SUP) application.

SURROUNDING ZONING AND DEVELOPMENT

- The zoning of all surrounding properties is R-1, Limited Residential.

- The property is a part of the subdivision originally known as Marl Hills, which was created in 1957. More recently, it has also been known as the Lakewood subdivision. Neither entity has an active Homeowners Association.

- Bounded by Jamestown Road to the east, Lake Powell Road to the north and Ware Road to the south.

COMPREHENSIVE PLAN

The property is designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map, as are all of the surrounding parcels. Appropriate primary uses recommended by the Comprehensive Plan include single-family homes, duplexes and cluster housing. Limited commercial uses may also be considered appropriate, should the proposal meet the following standards:

- Complements the residential character of the area. Staff finds that this use complements the residential character of the area, as this use does not propose any exterior changes, and as the current owners would continue to use the home as their primary

residence.

- Have traffic, noise, lighting and other impacts similar to surrounding residential uses. Given the length of the existing driveway, the size of the lots in this subdivision, and in conjunction with the attached conditions, staff finds the proposal meets this criterion.

- Generally be located on collector or arterial roads at intersections. This property is located at the corner of Jamestown Road and Ware Road, and is the only driveway taking access off Ware Road.

- Provide adequate screening and buffering to protect the character of nearby residential areas. Staff finds that existing vegetation provides adequate screening from the road and adjacent properties. Additionally, staff notes that this use inherently retains the same visual character as nearby residences.

PUBLIC IMPACTS

Anticipated impact on public facilities and services: None.

Nearby and surrounding properties: No impacts anticipated.

PROPOSED SUP CONDITIONS

The full text of the conditions is provided in Attachment No. 1.

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application, subject to the attached conditions.

RS/ab
SUP09-15LakeDrRental

Attachments:
1. Resolution
2. Unapproved Minutes of the May 4, 2016 Planning Commission Meeting
3. Location Map
4. Site Photographs
5. Citizen Correspondence

R E S O L U T I O N

CASE NO. SUP-0009-2015. 100 LAKE DRIVE RENTAL OF ROOMS

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

WHEREAS, Mr. and Mrs. Bruce and Katherine Williamson (together, the "Owner") have applied for an SUP to allow for the rental of up to three bedrooms in their home located on property consisting of approximately 1.5 acres zoned R-1, Limited Residential, located at 100 Lake Drive and further identified as James City County Real Estate Tax Map Parcel No. 4740200011 (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on May 4, 2016, voted 4-3 to recommend denial of this application; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0009-2015; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2035 Comprehensive Plan Land Use Map designation for the Property and the considerations of Section 24-9 of the County Code.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0009-2015 as described herein with the following conditions:

1. Commencement: If the owner has not obtained a business license and provided evidence of that license to the Planning Director within 12 months from the issuance of the SUP it shall become void.

2. Number of Rental Rooms Occupants: There shall be no more than three bedrooms available for rent to visitors and no more than six rental occupants total at any one time.

3. Lighting: No additional exterior lighting shall be permitted on the Property, other than lighting typically used at a single-family residence.

4. Parking: No more than four vehicles belonging to rental occupants shall be allowed on the Property at one time. No on-street parking shall be allowed for this use. No onsite parking shall be permitted within 100 feet of the driveway entrance. No oversized commercial vehicles, such as but not limited to buses, commercial trucks and trailers shall be allowed to park onsite.

5. Access: No access, including curb-cuts or driveways, shall be granted from the Property to Jamestown Road.

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

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

SUP09-15-LakeDrRental-res

Unapproved Minutes of the May 4, 2016
Planning Commission Meeting

SUP-0009-2015, 100 Lake Drive Rental of Rooms

Ms. Roberta Sulouff, Planner I, presented a report to the Commission on the request to allow for the rental of up to three rooms in an owner-occupied, four bedroom home. Ms. Sulouff noted that the difference between a request to allow rental of rooms and a request to allow operation of a tourist home is that there is a requirement under rental of rooms that the property be owner occupied. Ms. Sulouff noted the existence of a restrictive covenant which may affect the rental of rooms on this property; however, is a private matter outside of the County's purview. Ms. Sulouff noted that with the proposed conditions, the proposal is compatible with surrounding development and the recommendations of the 2035 Comprehensive Plan.

Mr. O'Connor opened the floor for questions from the Commission.

Ms. Bledsoe inquired about the length of time the rooms would be rented.

Ms. Sulouff stated that there is not a restriction on the length of rental. Ms. Sulouff further stated that the applicant has affirmed that it would be short term and that rental of rooms as a use is typically interpreted as short term.

Ms. Bledsoe inquired if the rental of rooms would require payment of the same taxes that are required from hotels and bed and breakfasts.

Ms. Sulouff stated that the applicant would need to register as a licensed business and that that when taxes were discussed, it was the understanding that they would pay the same taxes required from other short term rental establishments.

Ms. Sulouff further stated that to clarify the response to the previous question, the homeowner could rent out the entire house.

Ms. Bledsoe stated renting out to one family long term is that she is concerned about the potential for the rooms to be rented indefinitely which would create a situation with four different families are residing in the same dwelling. Ms. Bledsoe further stated that she believes it is important to set time limits. Ms. Bledsoe further requested confirmation that the business would pay the two dollar per night occupancy tax.

Ms. Sulouff stated that the occupancy was discussed more generally and she would need to get clarification.

Ms. Bledsoe stated that it would be helpful to have the information prior to voting on the application. Ms. Bledsoe further stated that she understands that hotels and bed and breakfasts pay the occupancy tax where Airbnb establishments currently do not. Ms. Bledsoe inquired about the square footage of the house.

Ms. Sulouff stated that she did not have that figure.

Mr. O'Connor requested that Mr. Max Hlavin, Assistant County Attorney, clarify if there was a limit on the number of people who could reside in a single family dwelling.

Ms. Bledsoe stated that if the rental of rooms is allowed without limiting the length of the rental, in theory, there could be four different families using the property as a residence indefinitely which is a different type of rental. Ms. Bledsoe further stated that she wants to clarify if that is the type of rental intended or if it is to qualify to participate with Airbnb. Ms. Bledsoe stated that if the purpose is to qualify for Airbnb, then it is necessary to clarify whether the occupancy tax will be paid.

Mr. Hlavin stated that the SUP conditions place limits on the number of rental occupants.

Ms. Sulouff noted that the County has a current standard on the number of unrelated individuals that may occupy a dwelling. Ms. Sulouff stated that she believes that number is four.

Ms. Bledsoe inquired if that limit was for rental.

Ms. Sulouff stated that it was for long term occupancy of a single family dwelling.

Mr. Wright inquired about the legal requirements for filing HOA covenants and restrictions.
Mr. Hlavin stated that these documents generally come forward when a home is purchased so that the prospective owner is aware of any covenants or restrictions that affect the use of the property.

Mr. Wright inquired about the origin of the covenants and restrictions.

Mr. Hlavin stated that covenants and restrictions are usually part of the initial subdivision process and run with the land in perpetuity.

Mr. Wright inquire if the County is obligated to recognize those agreements.

Mr. Hlavin stated that covenants and restrictions are not subject to approval by the Board of Supervisors and are a private matter. Mr. Hlavin noted that disputes over covenants and restrictions would be enforced through the court system.

Ms. Bledsoe requested that Mr. Hlavin clarify the County's scope and role when HOA covenants and restrictions affect a property that is part of a legislative application.

Mr. Hlavin stated that covenants and restrictions are a private agreement between property owners and the County has no authority to enforce them. Mr. Hlavin stated that the Commission and the Board of Supervisors may take the existence of covenants and restrictions into consideration as a formal expression of neighborhood expectations but cannot enforce them. Mr. Hlavin further clarified that some restrictions are explicit and other such as no commercial use are open to interpretation as to what constitutes a commercial use, particularly in the case of rental of rooms. Mr. Hlavin stated that the interpretation is really a matter for the courts to decide.

Mr. Schmidt inquired what type of system would be used to screen or verify identity of rental occupants.

Ms. Sulouff stated that the question would be best answered by the applicant. Ms. Sulouff further stated that Airbnb has a stringent screening process and the applicant has stated the intention to rent rooms through Airbnb; however, the use is not limited to Airbnb.

Mr. Basic noted that it has been established that there is no limit on how long a rental occupant may stay and that the number of unrelated persons allowed for permanent occupancy had been determined. Mr. Basic inquired about the definition of "permanent".

Mr. Hlavin stated that the SUP approval would provide a use on the property in addition to the single family residential use which would have different parameters.

Mr. Basic inquired how the SUP conditions would be enforced.

Ms. Sulouff stated that the conditions are enforced on a complaint driven basis. Ms. Sulouff further stated that if there is a violation of the SUP conditions, then the SUP would become void.

Mr. Wright requested an update on the status of the Airbnb legislation.

Mr. Hlavin stated that the matter has been referred to committee for research during the break between sessions, so there has been no legislation enacted that would currently preempt local regulation.

Mr. O'Connor opened the public hearing.

Ms. Kathryn Williamson and Mr. Bruce Williamson, applicants, addressed the Commission to provide information on their plan for rental of rooms and the Airbnb model. Ms. Williamson stated that they do not intend to rent all three rooms at the same time. Ms. Williamson stated that the average stay is one to three nights. Ms. Williamson noted that they are covered with $100,000 insurance policy through Airbnb for damage to the property and surrounding properties. Ms. Williamson noted that they have a business license and do pay a tax for each room that is rented. Ms. Williamson further noted that Airbnb provides guests an affordable lodging option which allows them more discretionary income to spend during their stay.

Mr. Williamson noted that several Supreme Court cases in Virginia have resulted in rulings that short term rental of a home does not violate restrictive covenants. Mr. further stated that the Court found that language in restrictive covenants is ambiguous but found that the sort term rental is not in conflict with the restriction for the property to be used for residential purposes only.

Ms. Bledsoe noted that the Airbnb screening process is very stringent; however, others are not. Ms. Bledsoe inquired whether the applicant intended to remain with Airbnb exclusively or potentially use other agencies.

Ms. Williamson stated that they intend to remain with Airbnb.

Ms. Bledsoe stated that her main concern is that the area hotels are not reaching capacity and she wants to ensure that the applicant is licensed and is paying the same tax as the hotels as a matter of fairness. Ms. Bledsoe inquired about the procedure for the applicant to pay the required taxes.

Ms. Williamson stated that she maintains a ledger for the rooms rented and calculates the number of room nights for the occupancy tax. Ms. Williamson stated that she is responsible for ensuring that the tax is paid for each room rented.

Mr. Basic inquired about how long the business had been operating.

Ms. Williamson stated that they were in operation in July 2015 and were not aware that they operation violated the Zoning Ordinance. Ms. Williamson they ceased operating when they received the notice of violation.

Mr. Basic inquired if the intent was to rent rooms for only a few nights at a time.

Ms. Williamson confirmed.

Mr. Basic inquired if there had been any incidents between guests and the neighbors.

Ms. Williamson stated that there had not been any incidents and that the guests were generally quiet.

Mr. Basic inquired about the frequency of rentals.

Ms. Williamson stated that it was generally weekend guests but that they did not rent out rooms every weekend.

Mr. Vincent Sutlive, 122 Ware Road, addressed the Commission in opposition to the application. Mr. Sutlive noted that he believes the proposed use is in opposition with the covenants and restrictions filed when the subdivision was first developed. Mr. Sutlive stated that the covenants have been reviewed by an attorney who has opined that the covenants are valid. Mr. Sutlive further stated that he believes the proposed use is a commercial use.
Mr. Roger Smith, 102 Lake Drive, addressed the Commission in opposition to the application. Mr. Smit stated that he also believes that the proposed use is a commercial use and is in opposition to the recorded covenants. Mr. Smith noted that if the application is approved, it may open the way for other such operations in the neighborhood and that it could change the character of the neighborhood.

Mr. James Bradley, 104 Malvern Circle, addressed the Commission in opposition to the application. Mr. Bradley noted that he believes the application is in opposition to the purpose of zoning regulations that promote predictability in the community. Mr. Bradly noted that he is concerned about the additional traffic that would be generated by the proposed use.

Ms. Beth Hull, 116 Lake Drive, addressed the Commission in opposition to the application. Ms. Hull stated that she is concerned that the proposed use would change the fabric of the community.

Ms. Kathleen Exton, 111 Ware Road, addressed the Commission in opposition to the application. Ms. Exton noted concerns that the proposed use would change the character of the neighborhood.

Ms. Lyra Hale, 4608 Massena Drive, addressed the Commission in support of the application and the Airbnb model. Ms. Hale noted that Airbnb guests are often those who would not visit the area otherwise. Ms. Hale also noted that those guests will spend up to twice the amount in the community as other guests, bringing additional revenue. Ms. Hale noted that if the County wants to remain a competitive tourist destination, it must be open to the new shared economy.

Mr. Robert Campbell, 101 Lake Drive, addressed the Commission in support of the application. Mr. Campbell noted that the covenants appear to leave some leeway for the potential to rent out property in the subdivision. Mr. Campbell further stated that he appreciates that the applicant is making an effort to comply with the Zoning Ordinance.

Ms. Doris Pierce addressed the Commission in support of the application.

Ms. Kathleen Exton requested an additional opportunity to speak.

The Commission determined that making an exception to the established public hearing limits would set a precedent for other cases.

Mr. Dorsey Smith, Lake Drive, addressed the Commission in opposition to the application. Mr. Smith expressed concerns that the proposed use would change the nature of the residential neighborhood.

As no one else wished to speak, Mr. O'Connor closed the public hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Danny Schmidt stated that he believes citizens value and want predictability in their neighborhood. Mr. Schmidt stated that he cannot support the application at this time. Mr. Schmidt further stated that ultimately such matters may be determined by the outcome of the pending state legislation.

Mr. Basic inquired if there was any data on home based temporary lodging in the county.

Ms. Sulouff stated that she did not have that data at hand but would research the information.

Ms. Bledsoe inquired how the use was defined in County Code.
Ms. Sulouff stated that it is defined as the rental of rooms with a maximum of three rooms and is a specially permitted use in the R-1 zoning district whereas a tourist home is not permitted at all. Ms. Sulouff noted that unless there were a condition attached to the SUP, there was no limit on the length of time the rooms could be rented.

Mr. Holt further clarified that there is no prohibition on a property owner renting out or subleasing a home.

Mr. Krapf stated that he is considering the application from the standpoint of a land use application. Mr. Krapf noted that the proposed sue is a specially permitted use in the R-1 zoning district. Mr. Krapf further stated that the configuration of the parcel is conducive to allowing the use without a negative impact. Mr. Krapf stated that the proposed conditions limiting the number of rooms to be rented, the maximum number of guests and the number of vehicles would mitigate impacts. Mr. Krapf further stated that many of the speakers indicated that they had been unaware of the use of the property which indicates that it is a fairly unobtrusive use. Mr. Krapf stated that he would support the application.

Mr. Basic inquired if a sunset clause was considered for the SUP to allow reevaluation.

Ms. Sulouff stated that a sunset clause was not considered as it is not something that is encouraged on a regular basis.

Ms. Bledsoe inquired why the licensing and tax requirements were not included in the proposed conditions.

Ms. Sulouff responded that they were not typical conditions for other SUP cases. Ms. Sulouff stated that there is an overarching assumption that if a business owner is applying for an SUP, they will also comply with licensing and tax regulations.

Ms. Bledsoe inquired if staff has actually seen the business license.

Ms. Sulouff stated that she has been coordinating on this matter with the Commissioner of Revenue's Office and believes she has actually seen the license.

Mr. Wright stated that he believes the County should respect HOA covenants and not make decisions that are in conflict. Mr. Wright noted that he believes the County should wait for a decision on the pending state legislation and incorporate those policies in County policies. Mr. Wright stated that he would not support the application.

Mr. Richardson stated that he believes the HOA covenants are not a matter for consideration by the Commission. Mr. Richardson further stated that he believes that the area would eventually benefit from the new shared economy; however, the matter has not yet been decided by the state. Mr. Richardson stated that he shares the concerns about the effect of short term rental of rooms on the local hotel occupancy. Mr. Richardson stated that because the use is not prohibited and because the occupancy tax requirements are being met, he would support the application.

Mr. Wright stated that he is concerned that if this SUP application is approved, it will open the way for other applications which are in conflict with HOA covenants and restrictions.

Mr. Schmidt stated that he believe the Commission must consider the citizen input in making a recommendation on an application.

Mr. Richardson stated that if an HOA were in existence, the HOA Board would be the property body to consider whether a use is in violation of the covenants.

Mr. Basic stated that he concurs with Mr. Krapf's assessment of the application and noted that the one point that stands out is that many of the neighbors were unaware of the operation. Mr. Basic further stated while there was debate allowing a business in a residential neighborhood, the County Code and the Comprehensive Plan language indicate that home based businesses and some limited commercial activities may be permitted. Mr. Basic stated that he could support the application as it stands but would also support a sunset clause.

M. O'Connor stated that he considers the rental of rooms to be a residential use. Mr. O'Connor further stated that while the current discussion focuses on the Airbnb model, the SUP will run with the land which would open the possibility that future property owners might use other avenues to rent rooms where guests are not as carefully screened. Mr. O'Connor further stated that because the Commission should foster a sense of community, it should not make decisions that set property owners at odds. Mr. O'Connor stated that he would not support the application at this time.

Ms. Bledsoe stated that she believes that the neighbors could feel comfortable with the Airbnb screening process. Ms. Bledsoe stated that she does not believe that running a home based business is necessarily disruptive to a neighborhood; however, this business is somewhat different. Ms. Bledsoe further stated that she does not believe it tis the County's role to be involved in HOA covenant issues. Ms. Bledsoe stated that resident do have the right to expect predictability in their neighborhood and some neighborhoods lend themselves to that expectation more than others. Ms. Bledsoe stated that the shared economy is taking off in many areas and that she believes it is not yet well enough understood and that measures are not in place to control impacts on the community. Ms. Bledsoe stated that because it is not yet well enough understood and because the neighborhood sentiment runs against the proposed use, she would not support the application.

Mr. Bledsoe moved to recommend denial of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-0009-2015, 100 Lake Drive Rental of Rooms (4-3).

SUP-0009-2015
100 Lake Drive Rental of Rooms

From: Tracy Luck [mailto:tmluck@msn.com]
Sent: Monday, January 11, 2016 10:45 AM
To: Kathryn Williamson <kathrynswilliamson@msn.com>; Roberta Sulouff <Roberta.Sulouff@jamescitycountyva.gov>
Subject: RE: Williamson Airbnb

Good Morning

My family lives at 126 Ware Road, Lakewood subdivision. We've been there approximately 11 years. We have no objection to Kathryn and Bruce Williamson participating in airbnb.

Thank you,

Tracy Luck

You have asked whether the restrictive covenants that you provided to us prohibit the use of your residence or a portion of it for short-term rental, such as through AirBnB. Covenant 1 states "That the property shall be used for residential purposes only."

Attached is a copy of *Scott v. Walker*, 274 Va. 209, 645 S.E.2d 278 (2007), a Virginia Supreme Court case that held that the short-term rental of a home did not violate restrictive covenants that provided, in rewlevant part, that "No lot shall be used except for residential purposes." The Virginia Supreme Cort found the language of the restrictive covenant to be ambiguous, and resolved the ambiguity against the restrictive use of the land. Under this case, the rental of an entire home on a short-term basis did not violate the "no lot shall be used excepr for residential purposes" language of the applicable covenant.

In its analysis, the Court explored several cases, including *Deitrick v. Leadbetter*, 175 Va. 170, 8 S.E.2d 276 (1940), where an owner admitted that her intention when she bought it to use her home as a "tourist home," although she and her family resided there. The Court stated that "the critical factor in Deitrick was the owner's use of her home as a business, not in the length of her boarders' stays." Court stated "if it is a business, it is not being used for 'residential purposes'" and that "boarding houses are not private residences, and, on principle, it makes no difference if the boarder stays one day or two." A home with an occasional AirBnB guest could be distinguished from a boarding house, in that the principal purpose of a boarding house is to generate revenue by renting rooms where your house is principally your house, and the occasional AirBnB rental does not change the primary use of the house as your residence. The greater the intensity of the AirBnB rentals, the greater the likelihood that a court evaluating a challenge by a Lakewood neighbor would lean toward the boarding house analogy.

An interesting quirk of the restrictive covenants you provided is found in Covenant 8. It prohibits "tourist signs, signs advertising rooms, board, lodging, or other signs of similar or commercial nature shall be permitted on any of the property except that [the grantors] reserve the right to place a sign on both sides of the 50 [remainder of sentence not copied]. This provision could have prohibited the use of the property for room, board, lodging, etc. but does not. Instead, it prohibits signs advertizing those uses. This suggests that the unadvertised use of the property "for rooms, board, lodging" may be permitted. It is probably at least ambiguous, and the ambiguity would likely be resolved to permit the use, under the rationale of Scott v. Walker.

Please note also that there is a bill in the General Assembly that addresses and permits short-term rentals, but requires registration for taxation purposes.

Ty + Lamy

2016 SESSION

SB 751 Limited Residential Lodging and Short-term Rental Lodging Act; penalty.

Introduced by: Bill R. DeSteph, Jr. | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Limited Residential Lodging and Short-term Rental Lodging Act; penalty. Establishes the Limited Residential Lodging and Short-term Rental Lodging Act (the Act), which allows (i) property owners to rent out their homes or portions thereof for a charge for periods of less than 30 consecutive days or (ii) short-term rentals of residential or commercial units; both of which may be transacted through a hosting platform, under certain circumstances. The bill requires an operator of either limited residential lodging or short-term rental lodging to register with the Department of Taxation. The hosting platform may register with the Department of Taxation, in which case the hosting platform is responsible for the collection and remittance of all applicable taxes on behalf of the property owner. The bill provides for the amount of license tax on such operators. The bill provides that any local ordinance requiring the use of the special exception, special use, or conditional use permit for short-term rental lodging contain specific provisions relating to noise, trash or recycling collection, and the posting of emergency information. The bill defines "limited residential lodging," "booking transaction," "hosting platform," "short-term lodger," short-term lodging operator," and "short-term rental lodging," and provides for penalties for violations of the Act.

FULL TEXT

01/22/16 Senate: Presented and ordered printed 16104260D pdf | impact statement

02/16/16 Senate: Committee substitute printed 16105584D-S1 pdf

AMENDMENTS

Senate amendments

HISTORY

01/22/16 Senate: Presented and ordered printed 16104260D

01/22/16 Senate: Referred to Committee on Local Government

02/02/16 Senate: Rereferred from Local Government (11-Y 0-N)

02/02/16 Senate: Rereferred to Finance

02/16/16 Senate: Reported from Finance with substitute (7-Y 6-N 1-A)

02/16/16 Senate: Committee substitute printed 16105584D-S1

02/16/16 Senate: Read first time

02/16/16 Senate: Constitutional reading dispensed (39-Y 0-N)

02/16/16 Senate: Reading of substitute waived

02/16/16 Senate: Committee substitute rejected 16105584D-S1

02/16/16 Senate: Reading of amendment waived

02/16/16 Senate: Passed by temporarily

02/16/16 Senate: Amendment by Senator DeSteph agreed to

02/16/16 Senate: Motion to recommit to committee agreed to

02/16/16 Senate: Recommitted to Finance

02/17/16 Senate: Left in Finance

THIS DEED, made this 1st day of November, 1957 between R. T. ARMISTEAD and SARAH ARMISTEAD, his wife, LETITIA HANSON and ELISHA HANSON, her husband, parties of the first part and THOMAS D. SAVAGE, party of the second part.

WITNESS: That for and in consideration of the sum of Ten ($10.00) Dollars, cash in hand paid, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said parties of the first part do hereby grant, bargain, sell and convey with General Warranty to the said party of the second part, all of the following described property:

> That certain piece or parcel of land situate in Jamestown Magisterial District, James City County, Virginia containing eleven (11) acres, more or less, but being sold in gross and not by the acre, which said parcel of land is bounded on the South by State Highway No. 31, on the North and West by the remaining property of the Grantors and on the East by Powells Lake and being shown on a plat entitled "Plat Showing a Parcel of Land Standing in the Name of R. T. Armistead and Letitia Hanson to be Conveyed to Thomas D. Savage" made November 7, 1957 by Bernard V. Mrock, Certified Land Surveyor, a copy of which plat is hereto attached and made a part hereof and another copy to be recorded contemporaneously herewith.
>
> Said property being known as "Neck-O-Land" and being part of the same property conveyed to Frank Armistead and Rosa L. Armistead by deed of record in James City Deed Book 19, page 238, the interest of Frank Armistead having been devised to Rosa L. Armistead and Rosa L. Armistead having devised same to the Grantors herein.

TO HAVE AND TO HOLD same unto the said Thomas D. Savage, his heirs andassigns forever, subject to the following restrictions, conditions and covenants, running with the land and binding thereon:

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TO HAVE AND TO HOLD same unto the said Thomas D. Savage, his heirs andassigns forever, subject to the following restrictions, conditions and covenants, running with the land and binding thereon:

1. That the property shall be used for residential purposes only.

2. No structure shall be erected, placed or permitted to remain on any of the property other than detached single family or two-family dwellings; private garages for not more than three automobiles and quarters to be used exclusively by servants; and no more than one dwelling, garage and servant quarters shall be erected on any one lot.

3. If a two-family dwelling or a duplex house is erected on any of the property, it shall be so constructed as to appear as a single family dwelling.

4. No temporary building, partly constructed building, garage, tent, trailer or similar structure shall be used as a residence either temporarily or permanently.

5. That no outdoor privy shall be constructed, used or maintained on any of the property except during construction of dwelling house, a privy may be used by workmen for a period not exceeding eight (8) months. That each dwelling erected thereon shall have an adequate septic tank complying with all state laws, local ordinances and regulations of health authorities.

6. No rough board or barb wire fences shall be permitted and no fences or walls of any type more than four (4) feet in height, shall be erected, maintained or permitted.

7. No offensive activities shall be carried on on any of the property nor shall anything be done which is an annoyance or nuisance to the neighborhood and that no animals shall be kept on the property except household pets.

8. No tourist signs, signs advertising rooms, board, lodging, or other signs of similar or commercial nature shall be maintained or permitted on any of the property except that the said R. T. Armistead and Letitia Hanson and their successors in title reserve the right to place a sign on both sides of the 50 foot right of way at the entrance

the sale of remaining property owned by them or their successors in title, North of Route 31. The said H. T. Armistead and Letitia Hanson and their successors in title, further reserve the right to erect appropriate masonry entrance pillars at said location.

This provision shall not prohibit placing the usual realtor signs on any property advertising same for sale.

9. The roofing of all buildings shall be slate or asbestos shingles or other type of shingles similar in appearance and at least equal in quality and fire resistent properties; asphalt or composition roofing shall not be permitted.

10. The exterior walls of all buildings constructed on the property shall be either face, old or painted brick ~~or~~, if of wood, shall be beveled siding, weather boarding or vertical batterns. Shingles, composition siding, solite block, cinder block or stucco is not permitted.

11. No homes shall be erected which shall have less than fourteen hundred (1400) square feet of floor space finished as provided in Paragraph 17, excluding porches, breezeways, garages, basements, attics and utility rooms, provided that lots that do not have frontage on Powells Lake may have a minimum of twelve hundred (1200) square feet of finished floor space.

12. Each home shall have at least two (2) complete baths and shall be equiped with a central heating system, provided that lots not having a frontage on said lake may have one complete bath and one lavatory.

13. Flat roof house shall not be permitted and each roof shall have an apex at least five (5) feet above the finished ceiling.

14. All the chimneys and foundations above the ground shall be of brick or stone exterior.

15. No building including steps and porches shall be constructed on any lot within thirty-five (35) feet of the road or within twelve (12) feet of any lot line except than on lots with frontage on two or more roads, buildings may be erected within

thirty (30) feet from the road.

16. No building shall be more than two (2) stories in height exclusive of basement and attic.

17. Interior walls of all rooms used as living quarters shall be finished with plaster, paneling, gypsum plasterboard, brick or material of similar quality.

18. All buildings shall be substantially completed within twenty (20) months after construction is commenced and if not substantially completed wit in that time, shall be demolished and the site restored to its former level.

19. An easement ten (10) feet in width is reserved along both sides of all roads for the purpose of locating water lines, electric lines, telephone lines and other utilities and also to widen said road should that become necessary. This easement shall be perpetual and the said L. F. Armistead, Letitia Hanson and their successors in title, the utility companies and their agents shall have the right to enter on said easement for the purpose of erecting and repairing said utilities or widening said road.

20. The purpose of these restrictions is to insure a uniform development of a high-class residence area on the property hereby conveyed and on the remaining property of L. F. Armistead and Letitia Hanson in the event that same should be subsequently subdivided. If any questions should arise as to the interpretation of these restrictions, it is the intention of the parties that they be so interpretated as to carry out the general intentions of the parties hereby expressed. If any one of these restrictions should be declared invalid, it shall in no way affect the validity of the remaining restrictions.

21. These covenants, restrictions and conditions are to run with the land and be binding on all parties until December 31, 1999 at which time the said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years unless by a vote of the majority of the then owners of lots

owned by R. T. Armistead and Letitia Hanson, it is agreed to change said covenants, conditions and restrictions in whole or in part. It is further provided that restrictions set forth in Paragraph 8 through 18, both inclusive, may be changed after December 31, 1967, by vote of three-fourths (3/4) of the owners of lots on the property hereby conveyed to Savage and lots on the remaining property owned by R. T. Armistead and Letitia Hanson, if same has been subdivided. Each lot shall be entitled to one vote but in the event that more than one lot is owned by the same person or persons, said person or persons shall only be entitled to vote only one lot.

22. Remaining property as used in Paragraph 20 and 21 shall embrace the property owned by R. T. Armistead and Letitia Hanson North of Route 31 and within 1,000 feet of Powells Lake and also any other property North of Route 31 and adjacent to the property hereby conveyed to Savage which is subdivided and on which similar restrictions are imposed.

23. Water for domestic purposes shall be purchased only from Mitchell Water Supply, Inc., so long as said corporation or its successors continues to supply water as provided in a contract dated Novmeber 1, 1957 to be executed contemporaneously herewith. The owner of each lot agrees that he will promptly pay all charges for water as set forth in said agreement.

The above restrictions shall apply to all of the remaining property of the Grantors situate North of Route 31 and within 1,000 feet of Powells Lake but the said restrictions shallnot be construed so as to prohibit the removal of timber, sand, gravel, minerals and other products of the soil and it is expressly understood that said restrictions shall not apply to any other ajoining property owned by the Grantors except said property situate North or Route 31 and within 1,000 feet from said lake. The Grantors reserve the right to impose additional restrictions on said property.

The Grantors agree that they will not subdivide or sell any lots from the remaining property owned by them North of Route

31 and within 1,000 feet of Powells Lake until June 1, 1959 or until the party of the second part or his successors have sold eight (8) lots out of the parcel hereby conveyed, which ever shall first occur.

The Grantors reserve unto themselves and their successors in title, a right of way 50 feet in width at the entrance to State Highway 31 and thereafter 40 feet in width, said right of way is to be approximately as shown on the plat referred to above, which right of way shall be used in common with other owners of the property hereby conveyed.

The party of the second part agrees that he will construct a hard surface road along said right of ways which will meet all of the requirements of the State Highway Department and the Federal Housing Administration, which said road will be dedicated to the State upon completion. The fill over the pipe near the entrance to State Highway 31 shall be at least 30 feet wide at road level and the paved portion of the 50 foot right of way will be at least 22 feet wide and at least 20 feet wide over the 40 foot right of ways. The said parties of the second part further agrees to install a water supply system sufficient to supply approximately 35 homes, said water supply to meet all F. H. A. and State requirements, it being understood that if Mitchell Water Supply, Inc., digs the well, installs the water main and storage tank as provided in said contract dated November 1, 1957, that the party of the second part shall not be responsible for the operation of said water system after same has been tested and approved as provided in the contract. The construction of said road and installation of said water system on the property hereby conveyed shall be fully completed by May 1, 1958.

It is further understood and agreed between the parties that the property hereby conveyed shall not be subdivided into more than four (4) lots fronting on the lake and not more than seven (7) interior lots.

they have the right to convey the said property to the Grantee; that they have done no act to encumber the said property; that the Grantee shall have quiet possession of said property, free from all encumbrances; and that the said parties of the first part will execute such further assurances of title as may be requisite.

WITNESS the following signatures and seals:

H. T. Armistead (SEAL)

Sarah Armistead (SEAL)

Letitia Hanson (SEAL)

Elisha Hanson by J. B. Cowles, Jr. his attorney in fact (SEAL)

Thomas S. Tracy (SEAL)

STATE OF VIRGINIA

County OF James City, to-wit:

I, Barbara Gordon Barnett, A Notary Public in and for the County and State aforesaid do certify that H. T. Armistead and Sarah Armistead, his wife, Letitia Hanson and J. B. Cowles, Jr., Attorney in fact for Elisha Hanson, husband of Letitia Hanson, whose names are signed to the foregoing writing bearing date of November 1, 1957, have this day personally acknowledged the same before me in my County and State aforesaid.

Given under my hand this 8rd day of ~~November~~ February, ~~1957~~ 1958.

Barbara Gordon Barnett
Notary Public

My commission expires:

January 14, 1961

STATE OF VIRGINIA

County OF James City, to-wit:

I, [illegible], a Notary Public in and for the County and State aforesaid do certify that Thomas D. Savage, whose name is signed to the foregoing writing bearing date of Novemeber 1, 1957, has this day personally acknowledged the same before me in my County and State aforesaid.

Given under my hand this 27th day of ~~November~~ February, ~~1957~~ 1958.

[illegible signature]
Notary Public

My commission expires:

[illegible]

PLAT RECORDED IN
P.B. NO. 9 PAGE 37-38

State of Virginia,
City of Williamsburg and County of James City, to-wit
In the office of the Clerk of the Court for the City and County aforesaid, on the 1st day of March 1958, this deed was presented and with the certificate annexed, admitted to record at 9 A. M.

Teste: Virginia Blanchard
Clerk

May 1, 2016

To Whom It May Concern:

I have owned and lived at 118 Ware Road in the Lakewood subdivision for 30 years. I am writing this letter to express my concern over the possibility of an Air Bed and Breakfast in my neighborhood. Lakewood is a small, quiet, friendly, and peaceful treasure in Williamsburg where neighbors keep each other informed. No one was aware and no one agreed to the plan for an Air Bed and Breakfast. This issue has been an extremely stressful and seemingly deceitful action by new residents to which I am 100% opposed.

Thank you for your attention and consideration in this matter.

Patricia Kline

Patricia Kline

118 Ware Road

Williamsburg, Va. 23185

757-229-4661

122 Ware Road

Williamsburg, VA 23185-3144

May 3, 2016

Mr. Paul D. Holt, III

Director of Planning

James City County

101-A Mounts Bay Road

Williamsburg, VA 23187-8784

Dear Mr. Holt:

Accompanying please find petitions opposing the approval of the Special Use Permit for 100 Lake Drive Rental of Rooms. We count 39 residences and three undeveloped lots, with 43 persons, or 64% of residents, who have signed the petition.

These represent the response to information we received over the past 10 days about the SUP application, and the opposition of a majority of Lakewood residents. Although the application process apparently has been in process for some time, since July 2015, no one other than the applicants and a small group of their supporters knew about it.

A brief chronology may be helpful.

On April 23, several of our neighbors saw the announcement of the Public Hearing on May 4th in the *Virginia Gazette*.

On April 25, one of our neighbors received your letter of April 19.

On April 27, after receiving a copy of the Staff Report, I called Roberta Sulouff, and talked with her about the "Factors Favorable," noting that I disagreed with most of the points:

1. Lakewood is designated in the 2035 Comprehensive Plan as Low Density Residential. A business operating in one of the houses is not "residential".
2. "Staff has received communication from neighbors in support of the proposal," but a very few, handpicked neighbors. No one else, including the only next-door neighbor, was aware of the business that the applicants had been running for some months. I told Ms. Sulouff that Professor Smith and his wife were unaware of the application. (Lakewood has had a coordinated communication system, for sharing important information, using e-mail, land line, and telephone, for more than five years.) Within the hour, Mrs. Williamson called upon the Smiths. During that 45-minute

conversation, Professor Smith (1) told Mrs. Williamson that he opposed the application and (2) counseled her to withdraw the application.

3. The property shares a boundary line with the Smiths – who became aware of the business only on that day.
4. Parking *has been* an issue, and months ago, Mrs. Williamson said that she hoped her children's parking on the road would not be a concern to neighbors. Further, the driveway is quite steep and represents a potential hazard to renters unacquainted with access to Jamestown Road, and the peril of the two blind curves on Jamestown Road.

Concerning Factors Unfavorable: the Lakewood Covenants were filed in a Deed of April 25, 1963, between the late Judge Robert T. Armistead, *et al.*, and Joseph S. Terrell, *et al*, in the James City Court House in Deed Book 90, pages 513-520. The Covenants predate the first homeowners' association, and continue in effect independent of the association being active or dormant. These Covenants were updated in 1999, and the applicants had the earliest version.

The first clause of the Covenants, which has not changed, is specific: it reads: "1) *That the property shall be used for **residential** purposes only*." The applicants seek to continue a business in their home which is a contravention of the Covenants. Although they have objected that, because they are not putting up signage, thus, in their minds they are not running a business, they have a business license and, presumably, file tax reports on their business.

The Williamsons are in possession of the Covenants, as Mr. Williamson indicated in an informational meeting they hosted on April 30.

April 30, Mr. and Mrs. Williamson hosted a meeting to which all neighbors were invited. Eight attended, and Mrs. Williamson began with a statement that they believed they had been divinely led to the property and to begin an Airbnb as a form of ministry. They were unaware, she said, of any opposition from neighbors. At this point, I reminded her of Professor Smith's statements to her on April 27th, both of which she denied – but which I subsequently reconfirmed with Professor Smith. Later, when challenged about the commandment to "love thy neighbor," Mr. Williamson replied, "If Mr. Smith opposed our application, I would have it withdrawn." This, of course, has not happened.

Which leads me to the most telling point in this matter: Veracity has been in short supply. Representations have been made, but not the whole truth, but half-truths.

A great concern we have, and one that should be considered carefully by Development Management, is the checkered history of Airbnb. From the reading of several of us, this is a business that is, in the words of one reviewer, "litigation waiting to happen." Responses from 520 renters yield a 14% satisfaction rate.

With appreciation to you and your staff, and the valuable services you perform, I am,

Sincerely yours,

Vinson Sutlive

122 Ware Road

cc: Roberta Sulouff

RE: Case No. SUP-0009-2015, 100 Lake Drive Rental of Rooms

This petition relates to the request of homeowners to rent up to three rooms in a private dwelling located at 100 Lake Drive, further identified as JCC Real Estate Tax Map No. 4740200011, that is designated as Low Density Residential on the 2035 Comprehensive Plan Land Use Map.

Residents of Lakewood respectfully ask The Planning Commission to deny the request for the following reasons:

1. The request is not compatible with the 2035 Comprehensive Plan Land Use Map, which designates Lakewood as Low Density Residential.
2. Lakewood was from its earliest planning intended to be a community of single-family houses.
3. The Covenants provided to each homeowner clearly stipulates that houses are to be occupied by owners and not rented. Although "the County is not a party to this restrictive covenant," the applicant's statement that the covenant (which is as much a good-faith as well as a legal document) does not prohibit the proposed use is untrue.
4. The statement of the staff report that "Staff has received communications from neighbors in support of this proposal" is surprising, as the next-door-neighbor (who would be most impacted by the proposal) was unaware of the proposal until he read about it in the *Gazette* earlier this week. In fact, most residents of Lakewood were not aware of the proposal or this meeting prior to receiving public notice.
5. The executed residential sales contracts and mortgages of all Lakewood properties were contracted for single-family residences, not rental properties.
6. By the admission of Mrs. Williamson, when all family members are at home they need to park their children's cars on the hill that affords entrance to the community. The cars of renters would add more vehicles and present a safety hazard.
7. It is our opinion that giving formal approval for the rental of rooms in any residence in Lakewood would bring irreversible changes to the community.

Homeowner (print)	Signature	Address
Dorsey Smith		105 Lake Drive
Kathy Smith		"
Wesley Mitchem		105 Lake Drive
Beth Mitchem		113 Ware Rd
Barbara Stanley	Barbara Stanley	113 Ware Rd.
		103 Melvern Cir.

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Homeowner (print)	Signature	Address
REGINALD EXTON	Reginald Exton	111 WARE ROAD
Kathleen Exton	Kathleen Exton	111 Ware Road
Nathaniel Elliott		120 Ware Rd.
Amy M. Elliott	Amy M Elliott	120 Ware Rd.

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Homeowner (print)	Signature	Address
Jeannine Suttle	Jeannine Suttle	122 WARE RD
Vinson Suttle IV	Vinson H. Suttle	122 WARE RD
Janice Gavilan	Janice C. Gavilan	115 Ware Rd
ROY GAVILAN	Roy Gavilan	115 WARE RD

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Homeowner (print)	Signature	Address
JEANNE E SINGLEY HULL	Jeanne E. Singley Hull	116 Lake Drive
Brian Hull		116 Lake Dr
JERALD R ABRAHAM	Jerald R. Abraham	103 LAKE DR
LINDA ABRAHAM	Linda Abraham	103 LAKE DR
James Oliver		104 Lake Dr.
Eugene Simpson	Eugene E Simpson	107 Lake Dr

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Homeowner (print)	Signature	Address
Ruth L. Simpson	Ruth L. Simpson	109 Lake Dr.
Charles A. Lord	Charles A. Lord	3 Brandon Circle
Jane Lord	Jane E. Lord	" "
RICHARD LANDON	Richard Landon	109 LAKE DRIVE
JOAN C. WHITLA	Joan C. Whitla	113 LAKE DR.
JOHN B. WHITLA		113 LAKE DR.

RE: Case No. SUP-0009-2015, 100 Lake Drive Rental of Rooms

This petition relates to the request of homeowners to rent up to three rooms in a private dwelling located at 100 Lake Drive, further identified as JCC Real Estate Tax Map No. 4740200011, that is designated as Low Density Residential on the 2035 Comprehensive Plan Land Use Map.

Residents of Lakewood respectfully ask The Planning Commission to deny the request for the following reasons:

1. The request is not compatible with the 2035 Comprehensive Plan Land Use Map, which designates Lakewood as Low Density Residential.
2. Lakewood was from its earliest planning intended to be a community of single-family houses.
3. The Covenants provided to each homeowner clearly stipulates that houses are to be occupied by owners and not rented. Although "the County is not a party to this restrictive covenant," the applicant's statement that the covenant (which is as much a good-faith as well as a legal document) does not prohibit the proposed use is untrue.
4. The statement of the staff report that "Staff has received communications from neighbors in support of this proposal" is surprising, as the next-door-neighbor (who would be most impacted by the proposal) was unaware of the proposal until he read about it in the *Gazette* earlier this week. In fact, most residents of Lakewood were not aware of the proposal or this meeting prior to receiving public notice.
5. The executed residential sales contracts and mortgages of all Lakewood properties were contracted for single-family residences, not rental properties.
6. By the admission of Mrs. Williamson, when all family members are at home they need to park their children's cars on the hill that affords entrance to the community. The cars of renters would add more vehicles and present a safety hazard.
7. It is our opinion that giving formal approval for the rental of rooms in any residence in Lakewood would bring irreversible changes to the community.

Homeowner (print)	Signature	Address
ELIZABETH MORIE	Elizabeth D. Morie	115 Lake Drive
JENNIFER BRADLEY	J. Bradley	104 Malvern Circle
JAMES BRADLEY		104 MALVERN CIRCLE
Mary Karol		124 Lake Drive
James F Karol		124 Lake Drive
A Lovelace	A Lovelace	117 Wake Rd
Melanie Lovelace	Melanie Lovelace	117 Wake Road

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Homeowner (print)	Signature	Address
GAYLE ALLEE	Gayle Allee	105 WALLE ROAD
ROGER SMITH	Roger Smith	102 LAKE DR.
Rose D. Bousquet	ROSE D. BOUSQUET	102 MALVERN CIR.
Ken Bousquet	KEN BOUSQUET	102 MALVERN CIR

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Homeowner (print)	Signature	Address
Patricia Kline	Patricia Kline	118 Ware Road
Robert Holland	Robert Holland	108 WARE RD.
Terry R. Holland	Terry R. Holland	108 Ware Rd
Eugenia Chapman		106 Ware Rd.
		106 WARE Rd.
Barbara A. Rossinoli	Barbara A Rossinoli	109 Ware Rd

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Homeowner (print)	Signature	Address
Barbara Singley Haak	Barbara Singley Haak	4 Brandon Circle
Jeanne E. Singley Hull	Jeanne E Singley Hull	4 Brandon Circle
Brian Hull		114 Lake Drive
Jeanne E. Singley Hull	Jeanne E Singley Hull	114 Lake Drive

From: Steve Dreybus [mailto:steved@fordscolony.com]
Sent: Tuesday, May 03, 2016 2:47 PM
To: Planning <planning@jamescitycountyva.gov>
Subject: 100 Lake Drive - Special Use Permit (Please Reject This Request)

Dear Planning Commission Members,

Unfortunately I will not be able to attend the meeting Wednesday evening addressing the right for the owners at 100 Lake Dive to rent three additional rooms in their home. I can tell you that as a resident of this neighborhood (and in speaking with many other neighbors that live here), I am asking that **you to deny this request!!!** By allowing transient people to legally stay here on a weekly basis, you will effectively begin the process of destroying the neighborhood. As I understand it, there are no restrictions on the number of people in each room meaning that our schools and property values certainly will be negatively impacted as well.

Over the last few years, there has been abundance of rental properties in James City County that have been constructed. The last thing we need to do is allow our existing neighborhoods to become multi family / transient dwellings as well. If you approve this, where does it end? For example, when our son graduates in two years from high school can we then do the same thing? If so, why would you allow yourselves to be put in a position of picking who can and cannot turn their property into multi family units? Approving this would clearly be a bad decision, contrary to the greater interests of residents within this neighborhood, and lead to the eventual property value decline and resident unrest. This would be in direct contrast with the reasons why many of us bought our home in this neighborhood.

I would also hope that you all can understand and appreciate the existing dangers in pulling out onto Jamestown Road from Lake drive. Why would you exacerbate the inherent traffic dangers by allowing even more cars to enter and exit at this already dangerous intersection? Finally, assume that you lived in the house next door. Assume that you have children and now have to contend with transient people moving in and out (of a single family home in an established neighborhood) on a regular basis. What good could come from this? Please note that it is quite disturbing that County staff has recommended approval of this! Where does our interest as taxpayers and good neighbors weigh in? I would simply ask you to consider all of this should you decide to approve this request. How would you feel about now having transients constantly moving in and out of your neighbor's house and why would anyone approve this?

When you were elected, we citizens put our faith in you that you would make decisions that look out for the greater good of our community. I simply can not understand how anyone would benefit from this aside from the property owners and the rental profit they stand to make. Well that is simply not a good enough reason to approve this request!

On behalf of many of my fellow neighbors, thank you for considering our interests and helping to keep our neighborhoods safe and family friendly.

Steve Dreybus
126 Lake Drive
Williamsburg, Va 23185

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Steve Dreybus
Ford's Colony Realty, LLC
One Ford's Colony Drive
Williamsburg, VA 23188
(757) 870-9779 (mobile)
Steved@fordscolony.com

From: Charles Lord [mailto:ca.lord@verizon.net]
Sent: Monday, May 02, 2016 11:39 AM
To: Development Management <Development.Management@jamescitycountyva.gov>
Subject: Case No. SUP-0009-2015, 100 Lake Drive Rental of Rooms

Case No. SUP-0009-2015, 100 Lake Drive - Request by Williamson family to rent up to three rooms

Arguments against approval of the SUP by Charles A. and Jane E. Lord

As owners of the home at 3 Brandon Circle in the Lakewood Development we strongly oppose this Special Use Permit and feel the County should deny this and any similar requests from R-1 Residential applicants. Our reasoning is as follows.

Airbnb is a business. Subscribers are independent contractors. Subscribers advertise (list) their homes on Airbnb's website to obtain renters. The Williamson's are joining a business plan/scheme to earn extra income. They will be operating a business in a R-1 residential zone. This should not be permitted.

Airbnb claims that subscribers can select (therefore discriminate) amongst potential renters. Political correctness challenges will certainly invalidate this right. When this happens area homeowners will have to accept the presence of unknown persons wandering about their neighborhood.

The Zoning Board should disallow this SUP and all future SUP of this nature in the County for the following reasons:

1. Airbnb subscribers will be competing with and taking business from established B&B's, Hotels, Motels, and Timeshares. If the County permits Airbnb to flourish this will result in loss of revenue for these businesses, loss of jobs for laid off employees and failed businesses, a blight of underutilized facilities and decrease in tax revenues. This will mirror the growth of the Uber business which is having a devastating impact on the taxi business worldwide.
2. Granting this SUP will make it almost impossible to deny similar or identical SUP's elsewhere in the County. Everyone with an unused bedroom will be a potential Airbnb subscriber. The consensus will be if your neighbor is getting income for renting a bedroom why shouldn't I?
3. Airbnb subscribers can offer food to their renters. Is the County now going to have to police the food handling facilities of Airbnb subscribers? What are the implications of this on the County in terms of costs and liability for not doing so?
4. Is the County going to require Airbnb subscribers to get business licenses/permits? If not, why not, the competing businesses must get them?
5. Is the County going to collect sales/room &food service taxes from Airbnb subscribers? If not, why not, the competing businesses must pay them? Won't the cost of monitoring and collecting taxes from a diverse group of Airbnb subscribers be excessive?
6. Is the County going to require Airbnb subscribers to have accounting books so that State and Federal income taxes can be audited and collected from the Airbnb subscribers? If not, why not, the competing businesses must keep them?
7. Is the County going to require Airbnb subscribers to comply with fire and safety regulations and inspections? If not, why not, the competing businesses must comply with them? Will the County have enough personnel to do the inspections and follow-ups?
8. Is the County going to require Airbnb subscribers to comply with all codes applicable to other businesses which rent rooms? If not, why not, the competing businesses must comply with them?

Charles & Jane Lord

Vinson Sutlive

Case No. SUP-0009-2015, 100 Lake Drive Rental of Rooms

My name is Vinson Sutlive. My wife and I have lived at 122 Ware Road since 1981. I am the past President of the currently dormant Lakewood Homeowners Association, and Professor Emeritus of Anthropology at The College of William and Mary. I share these bits of information only to let you know where I am coming from.
Let me be clear that my opposition has nothing to do with the applicants. We met at a community gathering 10 months or ago, and have spoken in passing in the neighborhood. The Williamsons seem congenial neighbors, as confirmed by their next-door neighbors. I indicated my opposition to the application in the Williamsons' home in an open informational meeting this past Saturday morning, so this is not a surprise to them.

"Lakewood is the best-kept secret in Williamsburg," a very special place, in the words of the late John Zimmerman, President of United Virginia Bank. When planned by the developer, it was laid out on a kilometric ellipse – precisely .62 miles around – with 40 houses, and one lot that remains undeveloped. Lakewood has for decades been a warm and welcoming community, with neighbors who respect and care for one another. It is against this historical background that I state my opposition to the application for a Special Use Permit to permit the rental of rooms at 100 Lake Drive.
To ensure the quality of life and mutual responsibility of neighbor to neighbor within the community, the Lakewood Covenants were filed in a Deed of April 25, 1963, between the late Judge Robert T. Armistead, *et al*., and Joseph S. Terrell, *et al*, in the James City Court House in Deed Book 90, pages 513-520. The Covenants predate the first homeowners' association, and continue in effect independent of the association being active or dormant. These Covenants were updated in 1999, and the applicants had the earliest version.
The first clause of the Covenants, which has not changed, is specific: it reads: "1) That the property shall be used for *residential* purposes only." The applicants seek to continue a business in their home which is a contravention of the Covenants. Although they have objected that, because they are not putting up signage, thus, in their minds they are not running a business, they have a business license and, presumably, file tax reports on their business. The applicants' business involves the paying and receiving of fees, and other business arrangements. Subscribers are independent contractors. Subscribers advertise, or list, their homes on Airbnb's web site.

Information is available about Airbnb on the internet, and reveals a mixed history of problems and successes, satisfaction and dissatisfaction among renters. From a summary of 520 reviews by customers, 14% give a positive evaluation.
Contrary to claims of careful vetting, there is no way that information collected is of any verification or security value. Homeowners simply do not know the basic facts about renters.
Airbnb subscribers compete with and take business from established B&Bs, Hotels, Motels, and Timeshares. If the County permits Airbnb to flourish, it will result in loss of revenue for these businesses, loss of jobs to laid-off employees, and failed businesses, a blight on underutilized facilities and decrease in tax revenues. This will mirror the growth of the Uber business which is having a devastating impact on the taxi business worldwide.
Airbnb subscribers can offer food to their renters. Is the County going to have to police the food-handling facilities of Airbnb subscribers? Other implications of the activities of Airbnb subscribers involving accounting, taxes, safety regulations, inspections, etc., are numerous. Will the County require Airbnb subscribers to comply with all codes applicable to other businesses that rent rooms?

The impact of Airbnb on communities in which its subscribers do business has been mixed. In some, the impact has been minimal. In others, it has had a negative impact on property values for whatever reason. Loss of property values is a concern for residents with which Commission members can empathize.
(2) The application is not compatible with the 2035 Comprehensive Plan Land Use Map, which designates Lakewood as Low Density *Residential.* The application clearly is a *commercialization* of property within the community. Granting this SUP will make it almost impossible to deny similar or identical SUPs elsewhere in the county.
(3) If approved, the application would set in motion irreversible changes in the nature of our community. It will have a transformative effect, authorizing the operation of a business within a residential community, giving the imprimatur of government—a "goodhousekeeping seal"--and setting a precedent for similar business arrangements for other members of the community.

From: Roger Smith [mailto:theseus51@msn.com]
Sent: Thursday, April 28, 2016 4:38 PM
To: Development Management <Development.Management@jamescitycountyva.gov>
Subject: Comments on Case No. SUP-0009-2015, 100 Lake Drive Rental of Rooms

Dear Paul D. Holt, III
Director of Planning
James City County, Virginia

Dear Mr. Holt:

Thank you for your letter of April 19, 2016, addressed to us as "Adjacent Property Owner" alerting us to the request of our next door neighbor to rent out up to three rooms in their private residence. We have lived at 102 Lake Drive, adjacent to the house at 100 Lake Drive, now occupied by the Williamsons, since December 1979. Although we (Martha and Roger Smith) object to their request, let us make it clear that there is nothing personal about this: we are friends, they are good neighbors, and each family has been of assistance at various times to the other.

Our objection to their request is two-fold;

First, it is in violation of the LAKEWOOD COVENANTS, which were filed in a DEED of April 25, 1963, between R. T. Armistead, et al.,and Joseph S. Terrell, et al. The DEED is filed in the James City County Court House in DEED BOOK 90 Pages 513-220.

The first clause of the Covenants is specific: it reads: " 1) That the property shall be used for residential purposes only."

The second objection is that to grant the request made by the owners of 100 Lake Drive would set a precedent that would open the door to other members of the Lakewood community to also rent out rooms, which if even a few did, would change the nature and quality of life in Lakewood. Property values could also be affected for the neighborhood as a whole and not only for residences next to those renting rooms by the day or longer.

Others may have additional arguments against the proposal and some may have arguments in favor of renting out rooms in the neighborhood. These can all be aired at the hearing on May 4.

But our position, for the reasons given, is that the request by our neighbors at 100 Lake Drive, should be declined.

Sincerely yours,

Roger and Martha Smith
102 Lake Drive

AGENDA ITEM NO. H.5.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Roberta Sulouff, Planner

SUBJECT: Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment - Jamestown District

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ATTACHMENTS:

	Description	Type
🗋	Staff Report	Staff Report
🗋	Rezoning and Master Plan Resolution	Resolution
🗋	Approved Minutes from April 2016 PC Meeting	Minutes
🗋	Location Map	Backup Material
🗋	Proposed Master Plan	Backup Material
🗋	Adopted Proffers (Sections 2&4)	Backup Material
🗋	Adopted Proffers (Sections 3&6)	Backup Material
🗋	Signed Proposed Proffers (Sections 2&4)	Backup Material
🗋	Signed Proposed Proffers (Sections 3&6)	Backup Material
🗋	Citizen Correspondence	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	5/27/2016 - 5:06 PM
Development Management	Holt, Paul	Approved	5/27/2016 - 5:06 PM
Publication Management	Burcham, Nan	Approved	5/31/2016 - 7:25 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:54 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:08 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:47 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:54 AM

SUMMARY FACTS

Applicant: Mr. Gregory Davis, Kaufman & Canoles

Land Owner: New Town Associates, LLC

Proposal: To amend proffers for Sections 2&4 and 3&6 to provide cash-in-lieu amounts for previously proffered transit infrastructure. The proposal would also amend the current proffer language to reflect proffers satisfied by earlier rezonings and site plans, and finalize the timing for the installation of a previously proffered traffic signal. The proposal also includes changes to the Master Plan to reflect changes to trail amenities in Sections 3&6 and 7&8, and to show existing playgrounds and bus pull-offs. The intent of the proposal is to simplify any remaining obligations, as these sections are approaching full build-out.

Location: Sections 2&4, 3&6 and 7&8 of New Town, generally bounded by Ironbound Road to the east, Monticello Avenue to the south, Eastern State Hospital property to the north and Route 199 to the west. This application does not include the area known as Settler's Market, nor any property located on Tewning Road.

Project Acreage: ±266.3 acres

Zoning: MU, Mixed Use, with proffers

Proposed Zoning: MU, Mixed Use, with amended proffers

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

PUBLIC HEARING DATES

Planning Commission: April 6, 2016, 7:00 p.m.

Board of Supervisors: May 10, 2016, 6:30 p.m. (Applicant requested deferral)
June 14, 2016, 6:30 p.m.

Staff Contact: Roberta Sulouff, Planner I

FACTORS FAVORABLE

1. With the proposed amended proffers, the proposal is not expected to impact surrounding development.

2. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.

3. Does not propose any change in commercial or residential density.

4. Simplifies proffer tracking and clarifies current proffer statuses.

5. Provides a clear timeline for the installation of outstanding proffered bus pull-offs and a traffic signal. Provides the alternative of current cash-in-lieu amounts for items, such as bus shelters, which may otherwise take some time to fulfill, due to circumstances outside of the applicant's control (such as changing bus routes).

6. Leaves flexibility for the development of the three remaining, undeveloped parcels in Sections 2&4 and 3&6.
7. Provides a more substantial and accessible trail connection between Sections 7&8 which complements the walkable development environment, considering the existing network of trails and sidewalks of New Town as a whole.

FACTORS UNFAVORABLE

1. These proffers were originally approved and accepted by the Board of Supervisors in 2004, and they were drafted to meet the proffer guidelines in place at that time. The Parks and Recreation proffer policy was subsequently amended to require fewer linear feet of walking trails per dwelling unit. While this plan does propose a reduction in the total number of linear feet of trails provided, it is consistent with the current Parks & Recreation proffer policy. In fact, the linear footage of existing trails exceeds specified trail lengths under current Parks and Recreation Proffer Guidelines.

2. Staff has received correspondence from residents of New Town who have objections to this proposal.

SUMMARY STAFF RECOMMENDATION

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

PLANNING COMMISSION RECOMMENDATION

At its April 12, 2016 meeting, the Planning Commission recommended approval of this master plan and proffer amendment application and acceptance of the voluntary proffers by a vote of 2-1-2 (Commissioners Bledsoe and Wright abstaining, Commissioners Schmidt and Basic absent).

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

In response to concerns expressed by residents prior to and at the April 6, 2016, Planning Commission meeting, the applicant has revised the proffers and master plan to re-include a trail connection between Sections 6 & 7. The subject trail connects Discovery Park Boulevard with an existing trail which runs behind homes on the east side of Rollison Drive.

PLANNING AND ZONING HISTORY

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

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

- Provisions for three bus pull-off areas and three bus stop shelters. *Currently, one pull-off area is complete with no shelters built to date.*

- Requires two playgrounds per Parks & Recreation Proffer Guidelines in effect at that time. *One playground has been built.*

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

- Provisions for two bus pull-off areas and two bus shelters. *One bus* shelter *and pull-off currently built.*

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

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

- Master Plan shows two pedestrian crossings/nature trails between Sections 7&8.

- Proffers require one pool, one playground and archaeological interpretive park and two urban parks. *All but one urban park has been installed. The outstanding park is planned for Section 8, which has not fully developed. The playground adjacent to the pool was built "oversized" according to guidance from Parks & Recreation staff.*

PROJECT DESCRIPTION

- Re-states and amends proffers applicable to Sections 2&4 and 3&6.

- Proposed Changes to Section 2&4 Proffers:

  - Adds language to satisfy the original requirement of two playgrounds, on the basis that one is already built and that the applicant intentionally "overbuilt" the playground adjacent to the Section 7 pool. Also adds language to satisfy previously proffered trail provisions.

  - Provides locations for the two outstanding bus pull-offs, as well as cash-in-lieu amounts for the pull-offs should Williamsburg Area Transportation Authority (WATA), VDOT and Planning not approve facilities at the proposed locations within six months of the submittal of a conceptual plan.

  - Provides a cash-in-lieu amount for the three outstanding bus shelters, to be paid in escrow within 90 days of Board approval of the proposed proffer amendment. These funds are to be used for transit related improvements within the New Town development.

- Proposed Changes to Section 3&6 Proffers:

  - Provides a cash-in-lieu amount for the outstanding bus pull-off and shelter, should WATA, VDOT and Planning not approve facilities at the proposed location within six months of the submittal of a conceptual plan.

  - Provides a clear timeline for the installation of the outstanding traffic signal at Watford Lane.

  - Clarifies the status of affordable housing units in 3&6. All housing in Sections 3&6 are rental and as no homes were sold the affordable housing proffer does not apply to these units. The affordable sale units have been transferred, per an earlier

agreement, to Sections 7&8.

- Adds language to satisfy original walking trail requirements.

- Proposed Changes to the Master Plan:

  - Removes one of two smaller pedestrian connections between Sections 7&8. This removal was proposed in an earlier conceptual plan/master plan consistency review (C-46-14). At that time, it was proposed that the smaller path would be removed from the plan should the applicant agree to widen and pave the other path shown on the Master Plan. The conceptual plan proposal was deemed consistent with the Master Plan as provided for in Sec. 24-23(a)(2) of the Zoning Ordinance. This will result in an 8-foot-wide hard surface path, rather than a smaller soft surface trail.

  - While this application does not propose a change in density or in the sliding scales used for Sections 2&4 and 3&6, staff notes that some cosmetic changes have been made to the layout of density tables shown on Sheet No. 1. Again, these changes are cosmetic in nature and only intended to simplify the reading experience. No changes have been made to density caps in any section of New Town.

SURROUNDING ZONING AND DEVELOPMENT

- Surrounding Zoning Designations Include:

  - MU, Mixed Use to the east, west and south (Settler's Market, New Town West, Courthouse, Ironbound Square subdivision).

  - M-1, Limited Business/Industrial to the south (Courthouse Commons).

  - PL, Public Land to the north (Eastern State Hospital).

  - The City of Williamsburg to the south and east.

COMPREHENSIVE PLAN

- Surrounding Comprehensive Plan Designations Include:

  - Mixed Use (New Town), Low Density Residential (Ironbound Square) and federal/state/County land (Eastern State).

- Designated Mixed Use on the 2035 Comprehensive Plan.

- The 2035 Comprehensive Plan Includes Specific Development Standards For New Town Areas Designated Mixed Use:

  - New development or redevelopment in this area should follow the appropriate, governing master plan and design guidelines and strive to integrate uses as appropriate.

  - Principal suggested uses include a mixture of commercial, office and limited industrial with some residential as a secondary use.

PUBLIC IMPACTS

1. Anticipated Impact on Public Facilities and Services:

   a. Transportation: The applicant submitted a signal warrant analysis with this application. This analysis indicated that the signal is in fact warranted now. VDOT has reviewed the study and concurs with its findings. The applicant has agreed to install the signal, following the applicable VDOT processes.

b. Schools: This application does not propose any additional residential dwelling units, therefore staff finds that it does not create any additional impacts in this area.

c. Utilities: The James City Service Authority has reviewed the Master Plan and proffers, and concurs with the proposal.

d. Parks & Recreation:

- Parks & Recreation staff have reviewed the proposed changes and generally support the changes to playground proffers in Section 2&4.

- This rezoning and its proffers was originally approved in 2004. Proffers were drafted to meet Parks & Recreation guidelines in place at that time. The Parks & Recreation Proffer Guidelines have subsequently been revised to require fewer linear feet of trails per residential unit. The applicant is proposing a revision to the proffers to cap the linear feet of trail to what is already built or bonded at this time, with the addition of one trail connection between Sections 6&7. Staff notes that the linear footage of existing trails exceeds the specification of current Parks & Recreation Proffer Guidelines.

2. Anticipated Impact on Environmental, Cultural and Historic Resources:

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

3. Anticipated impact on nearby and surrounding properties:

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

PROPOSED PROFFERS

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

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and the Zoning Ordinance. Staff recommends that the Board of Supervisors approve these applications and accept the amended voluntary proffers.

RS/ab
RZ04-16MP01-16NTownProf

Attachments:
1. Rezoning and Master Plan Resolution
2. Approved Minutes of the April 6, 2016, Planning Commission Meeting
3. Location Map
4. Proposed Master Plan
5. Adopted Proffers (Sections 2&4)
6. Adopted Proffers (Sections 3&6)

7. Draft Proffers (Sections 2&4)
8. Draft Proffers (Sections 3&6)
9. Citizen Correspondence

R E S O L U T I O N

CASE NOS. Z-0004-2016/MP-0001-2016. NEW TOWN PROFFER AND

MASTER PLAN AMENDMENT

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case No. Z-0004-2016/MP-0001-2016 for rezoning approximately 266.3 acres from MU, Mixed Use with proffers to MU, Mixed Use with amended proffers and amending the existing master plans for New Town Sections 2&4, Sections 3&6, and Section 7&8; and

WHEREAS, the property is generally bounded by Ironbound Road to the east, Monticello Avenue to the south, Eastern State Hospital property to the north and Route 199 to the west, excluding the area known as Settler's Market as well as any property located on Tewning Road; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 6, 2016, recommended approval of the rezoning and master plan amendment, by a vote of 2 to 1; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case Nos. Z-0004-2016/MP-0001-2016 to be required by public necessity, convenience, general welfare and good zoning practice.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-0004-2016/MP-0001-2016 as described herein and accepts the voluntary proffers.

_____
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

RZ0-16MP01-16NTownProf-res

M I N U T E S
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
April 6, 2016
7:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 7:00 p.m.

B. ROLL CALL

Planning Commissioners

Present:
Tim O'Connor
Rich Krapf
Robin Bledsoe
John Wright
Heath Richardson

Absent:
Chris Basic
Danny Schmidt

Staff Present:
Paul Holt, Planning Director
José Ribeiro, Senior Planner II
Savannah Pietrowski, Planner
Roberta Sulouff, Planner
Maxwell Hlavin, Assistant County Attorney

C. PUBLIC COMMENT

Mr. O'Connor opened the public comment.

As no one wished to speak, Mr. O'Connor closed the public comment.

D. CONSENT AGENDA

1. Minutes Adoption - March 2, 2016 Regular Meeting

A motion to Approve was made by Rich Krapf, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2
Ayes: Bledsoe, Krapf, O'Connor, Richardson, Wright III

Absent: Basic, Schmidt

Mr. Rich Krapf move to approve moved to approve the Consent Agenda.

The Consent Agenda was approved by voice vote (5-0).

E. REPORTS OF THE COMMISSION

Mr. O'Connor noted that the Development Review Committee did not meet in March; however, there were two Policy Committee meetings.

Mr. John Wright stated that the Policy Committee met on March 3 and March 10.

Mr. Wright stated that at the March 3 meeting the Committee discussed the FY2017-2021 CIP applications to prioritize the projects according to set criteria.

Mr. Wright stated that the Committee voted 4-0 to forward the prioritized list of project to the Planning Commission Mr. Wright further stated that at the March 10 meeting, the Committee reviewed proposed amendments to the Zoning Ordinance to allow event facilities in Rural Lands. Mr. Wright stated that the Committee discussed various options and referred the matter to staff to develop a proposal for event that would be allowed by right and those that would require a Special Use Permit.

F. PUBLIC HEARINGS

1. SUP-0005-2016. Tiki Tree Service Contractor's Office and Storage

A motion to Approve w/ Conditions was made by Rich Krapf, the motion result was Passed.
AYES: 3 NAYS: 2 ABSTAIN: 0 ABSENT: 2
Ayes: Krapf, O'Connor, Richardson
Nays: Bledsoe, Wright III
Absent: Basic, Schmidt

Mr. José Ribeiro, Senior Planner II, stated that Mr. Timothy Soderholm of Tiki Tree Service has applied for a Special Use Permit to allow for the operation of a tree service and landscaping contractor's warehouse on a 4.5 acre parcel zoned A-1 General Agricultural, located at 4182 Mt. Laurel Road. Mr. Ribeiro noted that the applicant currently operates a non-conforming contractor's office and storage use from his residence on Centerville Road. Mr. Ribeiro noted that development would occur primarily at the front and middle of the parcel. Mr. Ribeiro noted that adjacent properties to the north and south are also zoned A-1 with single family dwellings. Mr. Ribeiro stated that the property is designated rural lands on the Comprehensive Plan Land Use Map. Mr. Ribeiro further stated that appropriate primary uses include traditional agricultural and forestal activities; however, appropriately-scaled agricultural or forestal-support uses, home-based occupations or certain uses which required very low intensity settings may be considered, provided such uses are compatible with the natural and rural character of the area. Mr. Ribeiro further stated that the SUP conditions were designed to address and enhance compatibility with the natural and rural character of the area and to minimize the impact on adjacent properties by limiting hours of operation and the type of work which can occur on the property; limiting storage of equipment and parking of employee vehicles; and requiring screening and landscaping. Mr. Ribeiro further stated that there would be three full-time employees, in addition to

the owner, and several part-time employees. Mr. Ribeiro noted that the expected traffic generation would have minimal impact on the road. Mr. Ribeiro stated that with the proposed conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. O'Connor opened the floor for questions from the Commission.

Mr. O'Connor inquired about the history of the use in its current location.

Mr. Ribeiro stated that the current operation is located on a 0.9 acre parcel on Centerville Road. Mr. Ribeiro stated that Mr. Soderholm applied for a SUP for that location in 2007; which was denied by the Board of Supervisors; however, Mr. Soderholm has been operating the business from that site.

Ms. Robin Bledsoe inquired if the objective was to bring the use on Centerville Road into conformance by moving the equipment to Mt. Laurel Road.

Mr. Ribeiro stated that part of the objective is to be in conformance with the Zoning Ordinance and the Comprehensive Plan.

Ms. Bledsoe noted that she wanted to ensure that this was not creating two bad situations instead of just one.Mr. Wright inquired if Mt. Laurel is a one lane road.

Mr. Ribeiro responded that it is a narrow road and is not striped.

Mr. Wright inquired if there was any data available on traffic volume and speed for the road. Mr. Wright noted that he was interested in the potential for accidents.

Mr. Ribeiro stated that VDOT has reviewed the application, including data on the types of vehicles or equipment and has no objection to the application.

Ms. Bledsoe inquired if there were any similar businesses in the area or whether the area is primarily residential.

Mr. Ribeiro stated that the area is primarily residential.

Mr. Wright requested clarification on any screening requirements.Mr. Ribeiro stated that the employee vehicles will be limited to one specific area and that the area will be fenced.

Mr. Ribeiro noted that the fence is intended to mitigate the visual impacts of the parking lot on adjacent property owners.

Mr. Krapf inquired if any of the SUP conditions were created to address impacts, particularly noise impacts, on adjacent property owners because of the narrowness of the lot.

Mr. Ribeiro stated that most of the conditions are typical for the type of use; however, because the lot is narrow, staff did give consideration to how both visual and noise impacts on adjacent property owners could be mitigated.

Mr. Krapf inquired if this was essentially a staging area for the business to operate from rather than there being any active work done on the property.

Mr. Ribeiro confirmed.

Mr. Richardson inquired if it was anticipated that the most noise generation would be in the morning.

Mr. Ribeiro confirmed.

Mr. Wright inquired whether staff followed up to ensure that the SUP conditions were being followed.

Mr. Ribeiro stated that most enforcement issues are complaint driven. Mr. Ribeiro further stated that if a neighbor submitted a complaint, staff would investigate and enforce compliance with the SUP conditions.

Mr. O'Connor opened the public hearing.

Mr. Bob Sulouff, 4188 Mt. Laurel Road, addressed the Commission on concerns about the impacts of the proposed business. Mr. Sulouff noted that Mt. Laurel Road is narrow and has numerous blind spots where one cannot see oncoming vehicles. Mr. Sulouff noted that traffic on the road has increased due to residents of Stonehouse using it as a shortcut. Mr. Sulouff further noted that the road is also heavily used by bicyclists. Mr. Sulouff stated that most of the lots are narrow and that fencing and screening will not sufficiently mitigate noise impacts at the start of the work day. Mr. Sulouff requested that the Commission deny the application.

Mr. Ron St. Onge, 4166 Mt. Laurel Road, addressed the Commission on concerns related to the sequence of construction for the residence and the warehouse. Mr. St. Onge noted that he would like to see conditions in place that would require the residence to be built before the warehouse.

Ms. Susan St. Onge, 4166 Mt. Laurel Road, addressed the Commission on concerns about the impact of the business on the safety of Mt. Laurel Road. Ms. St. Onge noted that the proposed egress for the business was located at the narrowest portion of the roadway and at a point with poor site distance. Ms. St. Onge further expressed concerns that the applicant would adhere to the conditions outlined in the SUP. Ms. St. Onge requested that the Commission deny the application.

Mr. T.J. Soderholm, addressed the Commission to clarify plans for the property. Mr. Soderholm stated that he intends to construct the residence at the same time the detached garage is constructed for storing equipment. Mr. Soderholm noted that the plans for developing the property included a reduction of the berm at the entrance to the property which would improve site distance. Mr. Soderholm further noted that Mt. Laurel Road had previously supported a landscaping contractor business with similar impacts on the road. Mr. Soderholm stated that his goal is to establish a family business in a location that complies with County regulations.

Mr. Krapf inquired about the chronology of where the business has been located.

Mr. Soderholm stated that while running the business from the Centerville Road address he had hoped to purchase a property on Mt. Laurel Road which he was leasing; however it was purchased by someone else. Mr. Soderholm noted that when the leased location was no longer available, he rented storage locations for his equipment until he could purchase the property at 4182 Mt. Laurel Road.

Ms. Bledsoe inquired if the business would still exist at the Centerville Road location.

Mr. Soderholm responded that the plan is to sell that house once the residence is constructed on Mt. Laurel Road. Mr. Soderholm further noted that the goal was to have a location where a garage could be constructed so that any equipment could be stored indoors.

Ms. Bledsoe inquired what the timeframe was for actually residing on the property.

Mr. Soderholm stated that as soon as the SUP is approved he will begin construction.

Ms. Bledsoe inquired when the equipment would be moved to the property.

Mr. Soderholm stated that the equipment would be on site for when development of the property begins.

Ms. Bledsoe inquired if the equipment would be moved while the owner is still living at the Centerville Road location.

Mr. Soderholm stated that the goal is to begin moving equipment to Mt. Laurel Road so that the property at Centerville Road can be made more marketable.

Ms. Bledsoe inquired if the Centerville Road house is currently on the market.

Mr. Soderholm stated that it was not.

Ms. Bledsoe noted that she wanted to ensure that this was not an expansion of the business.

Mr. Richardson inquired if there might be a time when the business would require additional equipment that would be stored on the property.

Mr. Soderholm stated that the proposed garage and pole barn would be adequate to handle one or two additional pieces of equipment. Mr. Soderholm noted that the only piece of new equipment might be a small excavator.

Ms. Bledsoe inquired about the storage of the trucks and trailers.

Mr. Soderholm stated that the trucks and trailers would be stored in the parking lot but the other pieces of equipment would be stored in the garage.

Ms. Bledsoe inquired if the equipment stored in the parking lot would be visible.

Mr. Soderholm confirmed and stated that the trucks and trailers would be behind a screened fence.

As no one else wished to speak Mr. O'Connor closed the public hearing.

Mr. O'Connor opened the floor to discussion by the Commission.

Mr. Krapf inquired whether any complaints about noise and traffic at the Centerville Road location have been filed with the County.

Mr. Ribeiro stated that he was not aware of any citizen complaints. Mr. Ribeiro further stated that notices of violation have been issued by the Zoning Enforcement Division because of the nonconforming business since the request for an SUP for that location was denied.

Ms. Bledsoe inquired about the number of violation letters and the period of time over which they were sent.

Mr. Ribeiro stated that he did not have the exact information but there was at least one letter sent.

Mr. Wright inquired about the nonconforming status of the parcel.

Mr. Ribeiro stated that the ordinance requires that the setback be placed where the width of the lot is 200 feet or more; however, this lot is only approximately 185 feet wide. Mr. Ribeiro noted that this is an existing parcel and is not being subdivided so the nonconforming status would not affect the SUP.

Mr. Richardson inquired about what was expected of applicants seeking a commercial SUP in the A-1 district.

Mr. Ribeiro stated that in the A-1 district, there are very few by-right commercial uses. The by-right uses are usually related to forestal and agricultural activity. Mr. Ribeiro noted that most other commercial activity requires an SUP. Mr. Ribeiro stated that for a contractor's office, staff looks at the impact on the road, the environment, adjacent property owners. Mr. Ribeiro further noted that staff particularly looks at buffers that would mitigate noise generation and provide visual screening for adjacent property owners. Mr. Ribeiro noted that staff also take into account the compatibility of the proposed use with the surrounding area.

Mr. O'Connor inquired if Mt. Laurel Road was slated for future improvements.

Mr. Holt stated that this portion of Mt. Laurel Road was not scheduled for improvements.

Mr. Richardson stated that there are traffic considerations and other concerns. Mr. Richardson stated that it appears there are conditions in place to mitigate impacts.

Ms. Bledsoe stated that she supports local business; however, wants to ensure that it is the right fit and the right place. Ms. Bledsoe stated that she concurs with the concerns about the larger equipment using Mt. Laurel Road. Ms. Bledsoe further stated that her main concern is the size of the lot and that even with the SUP conditions, the business would have a quality of life impact on the adjacent properties. Ms. Bledsoe stated that she does not believe the activity is not compatible with the area and that she cannot support the application.

Mr. Wright stated that he wants to encourage business development; however he concurs with the concerns about the business being compatible with the surrounding properties. Mr. Wright further noted that he has concerns about the impacts on the safety of Mt. Laurel Road. Mr. Wright stated that he is not in favor of the application.

Mr. Krapf stated that he approaches the application with a different perspective. Mr. Krapf stated that the property is zoned for agriculture and that if the property were a working farm, there could be several times more the amount of equipment and several times the noise generation. Mr. Krapf noted that a comparably sized business previously operated along the same road for a number of years. Mr. Krapf stated that he believes staff has developed SUP conditions to satisfactorily mitigate the impacts on the adjacent parcels with triggers to ensure that future changes to the scope of the business will be monitored. Mr. Krapf stated that he supports the application.

Mr. Richardson stated that he believes the application is very thorough and that the conditions associated with the SUP will be sufficient to mitigate any impacts.

Mr. O'Connor stated that he has looked at Mr. Soderholm's current location as well as the proposed location. Mr. O'Connor noted that with screening, the visual impact is mitigated. Mr. O'Connor further stated that he believes the proposed use is compatible with the zoning designation. Mr. O'Connor stated that the SUP conditions limit the scope of the operations to mitigate the impact on adjacent properties. Mr. O'Connor stated that this is an opportunity to take a nonconforming use and make it a conforming use. Mr. O'Connor stated that he could support the application.

Mr. Krapf moved to recommend approval of the application subject to the attached conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-0005-2016. Tiki Tree Service Contractor's Office and Storage subject to the recommended conditions (3-2, Mr. Basic and Mr. Schmidt being absent).

2. Z-0003-2016. Tewning Road Proffer Amendment

A motion to Approve was made by John Wright III, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2
Ayes: Bledsoe, Krapf, O'Connor, Richardson, Wright III

Absent: Basic, Schmidt
Ms. Savannah Pietrowski, Planner, stated that Pete and Cindy Walker of Williamsburg Gymnastics have submitted a request to amend the existing proffers for 144 Tewning Road to remove the indoor sports facilities and health and exercise clubs from the list of prohibited uses in order to allow a gymnastics facility. Ms. Pietrowski stated that the property is zoned M-1, Limited Business/Industrial, with Proffers and designated Limited Industry on the Comprehensive Plan Land Use Map. Ms. Pietrowski noted that indoor sports facilities are permitted uses in the M-1 Zoning District. Ms. Pietrowski stated that the proffers were adopted with the rezoning for Casey Industrial Park in 1986 which rezoned approximately 13.6 acres of land at the end of Tewning Road to M-1. Ms. Pietrowski further stated that several different retail uses were prohibited at that time with the intent of creating a Light Industrial Park. Ms. Pietrowski stated that the proffer

amendment would apply only to the subject property and would not change restrictions on the remaining parcels. Ms. Pietrowski noted that the amended proffers also made the language consistent with current Zoning terminology. Ms. Pietrowski stated that staff finds the proposal consistent with the 2035 Comprehensive Plan. Ms. Pietrowski further stated that staff recommends that the Planning Commission recommend approval to the Board of Supervisors.

Mr. O'Connor opened the public hearing.

Mr. Pete Walker, applicant, addressed the Commission on the history of his involvement with competitive gymnastics and the development of his business. Mr. Walker noted that with the popularity of the programs offered, the business has outgrown its space and is seeking an opportunity to establish a facility that will allow the business to grow and to provide an environment for quality gymnastics instruction.

Mr. Kevin Conner, 111 Douglas Lane, addressed the Commission in support of the application. Mr. Conner stated that he is impressed with the quality of the programs offered. Mr. Conner noted that the W-JCC Schools do not offer Gymnastics at the High School level and that Williamsburg Gymnastics fill a need in the community.

Ms. Lori Kaisand, 128 North Turnberry, addressed the Commission in support of the application. Ms. Kaisand stated that Williamsburg Gymnastics provides a needed service to the community.

As no one else wished to speak, Mr. O'Connor closed the public hearing.

Mr. Richardson stated that the request is compatible with the surrounding zoning and the Comprehensive Plan. Mr. Richardson stated that he would be inclined to support the application.

Ms. Bledsoe stated that she believes the business would be an enhancement to the area and that she would support the application.

Mr. Krapf stated that he would support the application. Mr. Krapf stated that when the property was rezoned, the intent was to develop a Light Industrial Park; however, that has not materialized. Mr. Krapf further stated that an indoor gymnastics facility would be a benefit to the community.

Mr. O'Connor stated that the size and scope of the proposed building is in keeping with facilities that would be found the M-1 Zoning District and that if the business ever relocated, that building could be retrofitted to other uses.

Mr. Wright moved to recommend approval of the amended proffers.

On a roll call vote, the Commission voted to recommend approval of Case No. Z-0003-2016. Tewning Road Proffer Amendment. (5-0, Mr. Basic and Mr. Schmidt being absent).

3. Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 2 NAYS: 1 ABSTAIN: 2 ABSENT: 2
Ayes: Krapf, O'Connor
Nays: Richardson
Abstain: Bledsoe, Wright III
Absent: Basic, Schmidt

Ms. Roberta Sulouff, Planner, stated that Mr. Gregory Davis has submitted a request on behalf of New Town Associates, LLC, to amend proffers for Sections 2&4, 3&6 and 7 & 8. Ms. Sulouff stated that these sections are zoned MU, Mixed Use, with proffers and are designated Mixed Use on the 2035 Comprehensive Plan Land Use Map. Ms. Sulouff noted that the intent of the proposal is to simplify any remaining developer obligations, as the development is approaching full build-out. Ms. Sulouff further stated that the applicant proposes providing cash-in-lieu amounts for previously proffered transit infrastructure. Ms. Sulouff stated that the proposal would also amend the current proffer language to reflect proffers satisfied by earlier rezonings and site plans and finalize the timing for the installation of a previously proffered traffic signal. Ms. Sulouff stated that the proposal also includes changes to the Master Plan to reflect changes to trail amenities in Sections 3&6 and 7&8, and to show existing playgrounds and bus pull-offs. Ms. Sulouff further stated that the applicant is also proposing changes to the proffer language for Sections 2& 4 and 3 & 6 to cap the length of the proffered walking trails to that which has already been built. Ms. Sulouff noted that the existing trails exceed what is required for trail provisions in new developments which is based on current Parks & Recreation proffer guidelines. Ms. Sulouff stated that staff finds the proposed amendments to be consistent with the 2035 Comprehensive Plan, the Zoning Ordinance and surrounding development. Ms. Sulouff stated that staff recommends that the Planning Commission recommend approval of the amendments to the Board of Supervisors.

Mr. O'Connor called for disclosures from the Commission.

Mr. Wright stated that he is a homeowner in New Town. Mr. Wright further stated that he has had discussions with the applicant, representatives from New Town Associates, LLC and other Planning Commission members. Mr. Wright stated that he serves on the New Town Residential Association Board of Directors with Mr. Salzman so, therefore, he will recuse himself from discussing and voting on this matter.

Ms. Bledsoe stated that she is a homeowner in New Town. Ms. Bledsoe stated that the formal opinion from the County Attorney advises that she will not directly benefit from this application and could participate in the discussion and vote; however, she has decided to abstain from the discussion and vote.

Mr. Richardson stated that he had spoken with the applicant.

Mr. O'Connor stated that he had spoken with the applicant.

Mr. O'Connor opened the floor for questions from the Commission.

Mr. Richardson inquired if staff anticipated changes to the Master Plan in the future.

Ms. Sulouff stated that the applicant could best address future intentions; however, there are only three undeveloped parcels remaining and that there is far less flexibility for change than there was during the early development.

Mr. Richardson inquired about the length of time this application had been under review.

Ms. Sulouff stated that the application before the Commission is the result of many months of discussion and review that occurred prior to submission.

Mr. O'Connor inquired about the location of the second playground.

Ms. Sulouff stated that the proffers call for a second playground but do not specify a location. Ms. Sulouff stated that there was open space at the rear of Sections 2 & 4 which could have accommodated a playground.

Mr. O'Connor opened the public hearing.

Mr. Greg Davis, Kaufman & Canoles, PC, representing New Town Associates, stated that the application before the Commission is to essentially clean up certain outstanding matters. Mr. Davis stated that the application will confirm the remaining density, confirming installation of remaining infrastructure, and make changes to the Master Plan that will accommodate the changes made due to market demand. Mr. Davis provided the Commission with the rationale behind the changes related to the playground, bus shelters and trail connections. Mr. Davis noted that these amendments were to concentrate resources in a manner that best suited the needs of the community such as creating one larger playground to allow installation of playground equipment; cash in lieu for bus shelters to allow shelters to be located where needed with approval and concurrence from WATA and the creation of more useful trail connections. Mr. Davis further noted that in addition to the trails there are other amenities for walking and jogging such as the extensive sidewalk system and connections to the Ironbound Road Multi-Use Path. Mr. Davis stated that the New Town Design Review Board carefully considered and approved the requested changes. Mr. Davis further stated that notice of the proposed changes was made to property owners and that there was minimal opposition. Mr. Davis concluded by stating that New Town Associates is dedicated to the idea that New Town is a place to work, live and play. Mr. Davis further stated that the recreational opportunities meet or exceed minimum requirements Mr. Davis requested that the Commission recommend approval of the application.

Mr. Richardson inquired if a public meeting was held for property owners regarding the proposed changes.

Mr. Davis stated that a public meeting was not held.

Mr. Richardson inquired the time frame for receiving comments from the Home Owner's Association.

Mr. Davis stated that it has been about five months.

Mr. Richardson inquired if the applicant would be willing to consider keeping the trails.

Mr. Davis stated that the short answer is no. Mr. Davis further stated that while there are areas that might be desirable to construct a trail, in some cases New Town Associates no longer owns the property or the topography is not conducive to developing a trail.

Mr. Richardson inquired about the other terminus for the trail to the assisted living

facility.

Mr. Davis stated that it would be next to an existing trail behind existing residential lots.

Mr. Richardson stated that he would like to see where the smaller playgrounds would have been located.

Mr. Davis stated that the areas were not so much playgrounds as small areas of greenspace which would not have accommodated playground equipment. Mr. Davis stated that the larger playground has been built adjacent to the pool and playground equipment has been installed. Mr. Davis stated that the original vision was to have one of the small play areas in Sections 3 & 6 and two or three in Sections 2 & 4.

Mr. Richardson inquired if the goal was to draw residents to one central recreational area.

Mr. Davis confirmed. Mr. Davis further stated that this also consolidated the necessary amenities such as restrooms; provided playground equipment; and provided adults with a suitable place to relax while watching the children.

Mr. O'Connor inquired if Section 3& 6 are primarily commercial.

Mr. Davis stated that there are some residential rental units but it is predominantly office and commercial.

Mr. James Carey, 5195 Rollison, stated that he was drawn to the New Town Development because it is a walkable community. Mr. Carey stated that the Trail "A" would complete a loop system. Mr. Carey stated that he would like to see that loop completed.

Ms. Mary Cheston, 5178 Rollison, addressed the commission on concerns about the trail system not being completed and the additional playground not being provided. Ms. Cheston noted that it would be a mistake not to construct the additional recreational amenities in light of the homes still to be built. Ms. Cheston requested that the Commission ask for modifications to the proffers to retain the trails.

As no one else wished to speak Mr. O'Connor closed the public hearing.

Mr. O'Connor opened the floor for discussion by the commission.

Mr. Richardson stated that walkability is more than just linear feet. Mr. Richardson stated that while the community is very walkable as is, a natural viewscape is also important to the residents. Mr. Richardson stated that he would like to see the plan adjusted to reincorporate the Trail "A". Mr. Richardson further stated that having only one playground may not be as convenient as having some smaller greenspaces scattered through the development.

Mr. Krapf stated that he appreciates that the New Town DRB has reviewed and approved the application. Mr. Krapf further stated that he likes that the amendments do not just strike out certain proffers but offer alternatives such as cash in lieu and offers to WATA for other transportation improvements. Mr. Krapf stated that he does have concerns about not constructing Trail "A".

Mr. Krapf inquired about the length of trail section A.

Mr. Davis stated that it is approximately 500 feet.

Mr. Krapf stated that he would like to see section “A” of the trail constructed because it completes a loop for the walking trails.

Mr. O’Connor inquired if his understanding of the existing proffers was correct that certain items such as land uses, density, certain streets and certain open space were Fixed Development Items and others such as pedestrian connections, streets other than Required Streets, and areas of commercial use, office use, residential use, parking placement zones, view triangles, "build-to zones" and frontage zones and all other structures and improvements that are not Fixed Development Items are Flexible Development Items which could be altered, moved or eliminated. Mr. O’Connor further inquired if this application would fall under Flexible Development Items.

Mr. Max Hlavin, Assistant County Attorney, confirmed that the existing proffers delineated some flexible development items that could be altered by going through the non-legislative process within the New Town DRB. Mr. Hlavin further stated that this was legislative because it the items were reflected on the master plan.

Mr. Holt noted that the Flexible Development Items are shown on the Master Plan for illustrative purposes only, and may be altered, moved or eliminated subject to approval by the New Town DRB.

Mr. O’Connor stated that what is illustrated in a master plan is not always what comes to fruition and that this was anticipated with the development of New Town. Mr. O’Connor further stated that he had been more concerned with losing the play areas; however, it appears that Sections 3 & 6 are more commercial and a play area would not be a as necessary. Mr. O’Connor noted that the applicant has worked with Parks and Recreation to provide adequate recreational facilities. Mr. O’Connor stated that he has fewer concerns about the application than he did initially.

Mr. Krapf stated that how the other parcels have developed is an important consideration. Mr. Krapf stated that the fact that the New Town DRB has approved the amendments weigh in favor of the application. Mr. Krapf noted that he would tend to defer to the DRB regarding the development of the community. Mr. Krapf stated that he could support the application.

Mr. Richardson requested confirmation that the storage facility would be located where the trail head was for the portion of the trail that is not to be built. Mr. Richardson further inquired whether the decision not to build that portion of the trail system was related to concerns over safety of the equipment to be stored in the facility and whether other locations had been considered for the facility.

Mr. Davis confirmed the location of the storage facility. Mr. Davis stated that the location was chosen because there are very few undeveloped parcels that would be suitable for such a facility. Mr. Davis further stated that the concern is not the equipment but the safety of the residents.

Mr. Richardson stated that Trail “A” would be beneficial to the residents and that the

community has expressed a desire to see the trail section constructed. Mr. Richardson noted that it would be beneficial to have a path to the memory care facility. Mr. Richardson further stated that walkability is more than having the sidewalks; it includes the scenery as well. Mr. Richardson stated that he would like to see a change in the application that would keep Trail A. Mr. Richardson inquired how a change to the application would affect the Commission's ability to move the application forward.

Ms. Sulouff stated the map that shows the proffered trails is only illustrative. Ms. Sulouff further stated that the requirement in place is a matter of linear footage. Ms. Sulouff stated that staff uses the site plan process to formalize where the trails are actually located. Ms. Sulouff stated that if the Commission desired to specify a location for a trail, it would involve changing proffer language as well. Ms. Sulouff stated that the matter at hand is reflecting the change to earlier proffer requirements for trails on the Master Plan. Ms. Sulouff stated that if a specific change were requested it would require going back to the drawing board.

Mr. Richardson requested that the Commission consider requesting a change to retain Trail "A".

Mr. Richardson inquired if the applicant would be willing to adjust that portion of the proffers.

Mr. Davis stated that this is a difficult issue. Mr. Davis stated that similar discussions have been held with staff. Mr. Davis stated that New Town Associates stands firmly behind the decisions regarding the trails. Mr. Davis further stated that the development is nearly built out and that the time is near for the developer's involvement to end. Mr. Davis stated that to be sent back to the drawing board to develop an alternative to the trail plan and then bring those revisions back before the Commission and the Board of Supervisors would take the process far beyond the developer's deadline to complete development activities. Mr. Davis stated that it would be a critical business decision for this developer.

Mr. Richardson inquired about the deadline date.

Mr. Davis responded that is June 30, 2016.

Mr. Richardson stated that he is reluctant to recommend approval of the application without the amendment to the trail plan.

Mr. Krapf inquired if the developer had an option to extend the deadline.

Mr. Holt state that it was not a County deadline, but rather a timeframe set by the developer's team.

Mr. Richardson stated that deferring the application to the May meeting might be worthwhile if a change can be made to the application.

Mr. O'Connor stated that when you consider New Town in its entirety, the development has come very close to what was initially envisioned. Mr. O'Connor further stated that most master plans are designed to allow for some flexibility. Mr. O'Connor stated while it may not be the most popular decision, the trail system is one of the flexible items and he understands the need for that flexibility. Mr. O'Connor further noted that the trail

system will be inherited by the Home Owners Association and would become an additional expense as a long-term maintenance issue. Mr. O'Connor noted that the trail would have impacts on both the home owners and the RPA.

Mr. Krapf stated that he wants to respect Mr. Richardson's request; however, because the locations of the trails are shown only for illustrative purposes, because there is flexibility built into the legal documents, and because the change has been approved by the new Town DRB, he is still inclined to support the DRB's determination regarding what is best for their community.

Mr. Richardson stated that he appreciates the viewpoints of the other Commissioners. Mr. Richardson further stated that out of all the refinements in the application, he believes that the trail plan is the one piece that should be reconsidered.

Mr. O'Connor inquired if there was a motion on the matter.

Mr. Krapf moved to recommend approval of the application and the amended proffers.

On a roll call vote, the Commission voted to recommend approval of Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment (2-1-2, Ms. Bledsoe and Mr. Wright abstaining and Mr. Basic and Mr. Schmidt being absent).

G. PLANNING COMMISSION CONSIDERATIONS

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report

Mr. Holt stated that he would like to highlight the correspondence from the Clean County Commission. Mr. Holt stated that the James City County Clean County Commission and the County's Environmental Coordinator have been working with VDOT to install new signs at five of the main entrances to the County stating that littering is illegal and carries fine ranging from $250 to $2,500. Mr. Holt noted that while the County has had previous signs stating the littering is illegal, these are the first to state the penalties.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Ms. Bledsoe stated that the James City County Strategic Plan 2035 Open House was held on March 30. Ms. Bledsoe stated that the event was very successful and that those who could not attend should watch the video of the meeting.

Mr. Richardson noted that the Board of Supervisors would be holding budget workshops in their individual districts and that the dates are posted on the County's website.

Mr. O'Connor stated that he would like to propose the following committee assignments for 2016. Mr. O'Connor stated that Mr. Richardson would Chair the Development Review Committee, with the remainder of the membership being comprised of Ms. Bledsoe, Mr. Basic, Mr. Krapf and himself. Mr. O'Connor stated that

Mr. Krapf would chair the Policy Committee, with the remainder of the membership being comprised of Mr. Schmidt, Mr. Richardson and Mr. Wright.

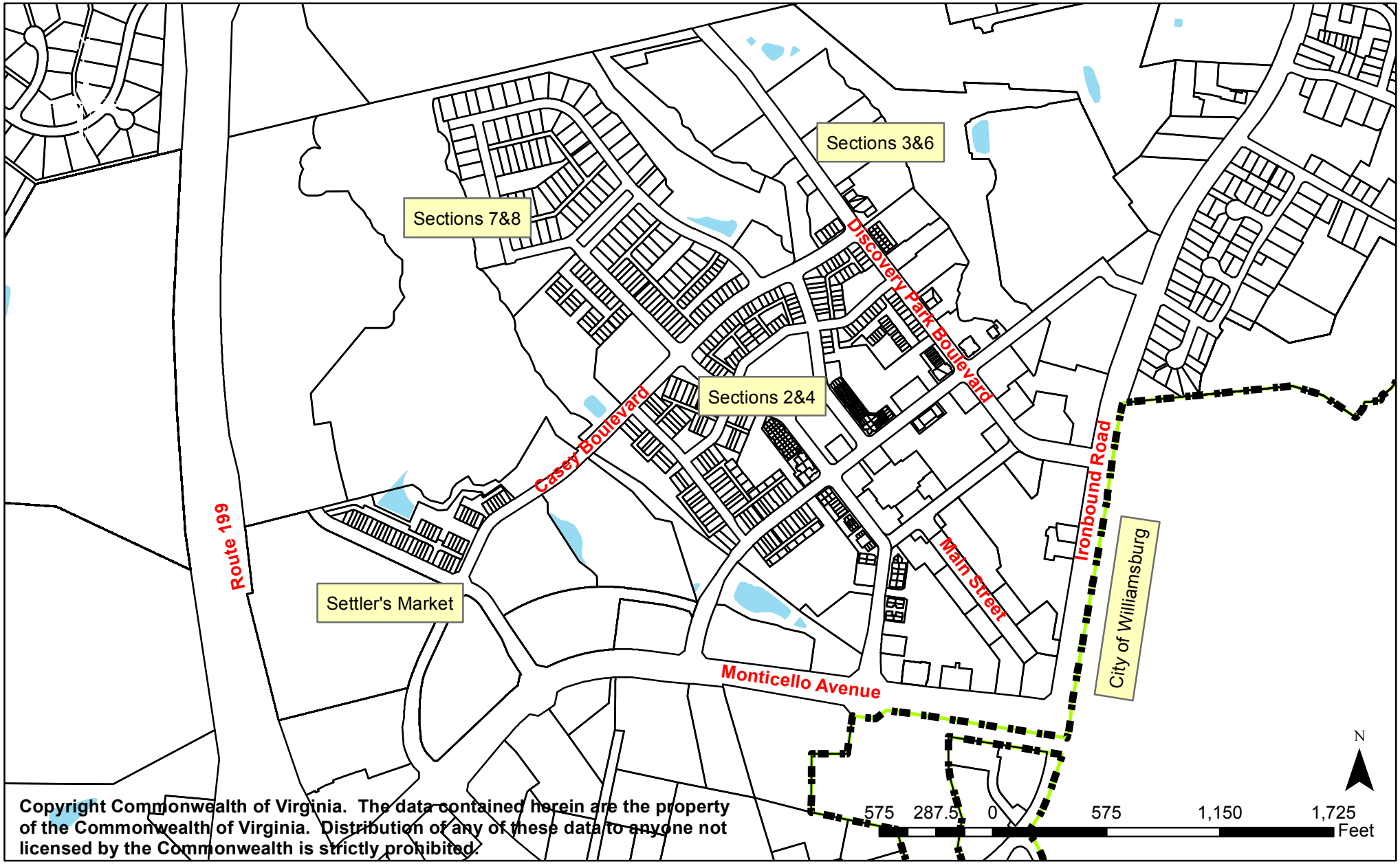
Mr. O'Connor noted that Mr. Basic would cover the Board of Supervisors meetings for April. Mr. O'Connor stated that he would send out the schedule for the remainder of the year shortly.

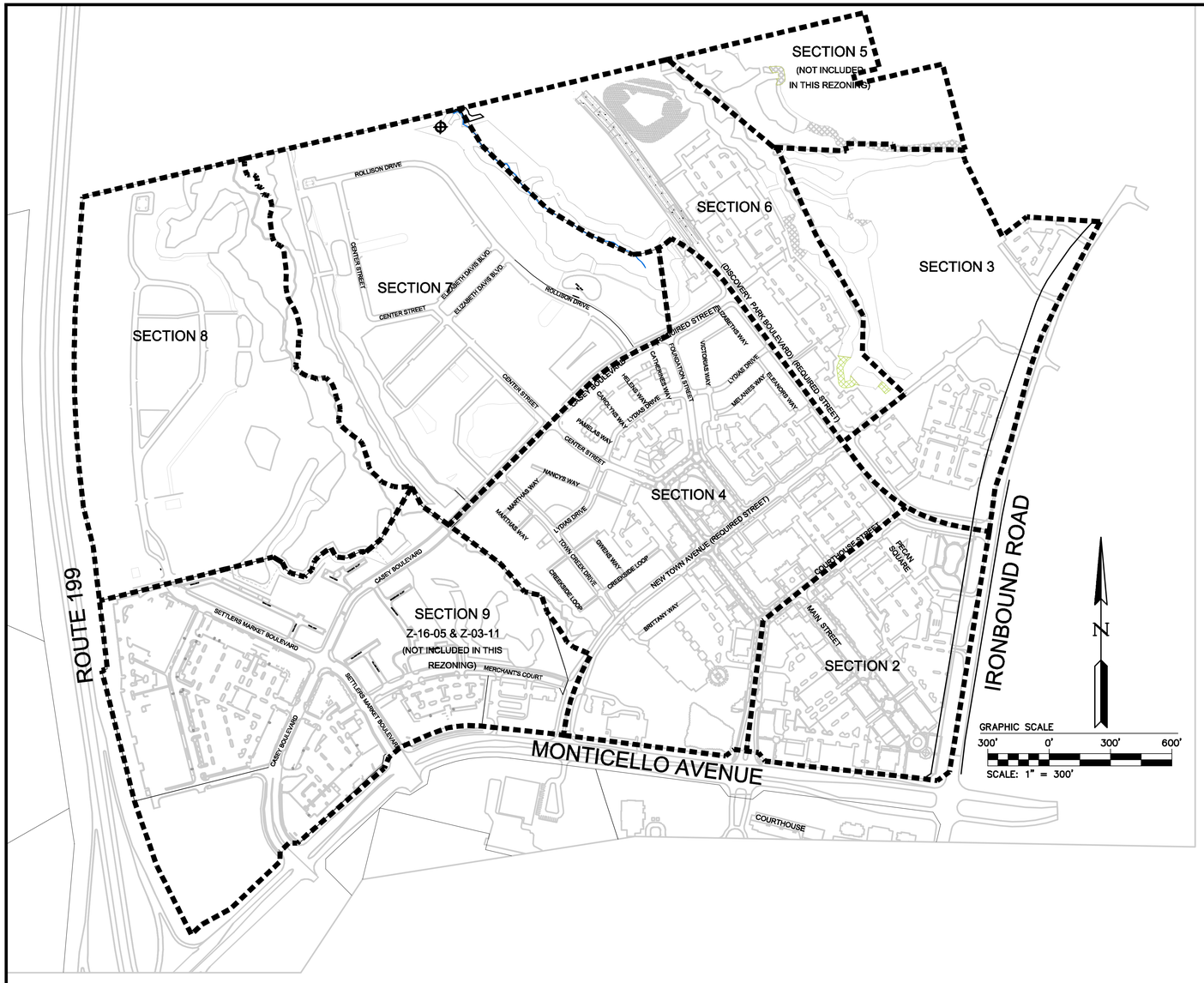
J. ADJOURNMENT

A motion to Adjourn was made by John Wright III, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2
Ayes: Bledsoe, Krapf, O'Connor, Richardson, Wright III

Absent: Basic, Schmidt

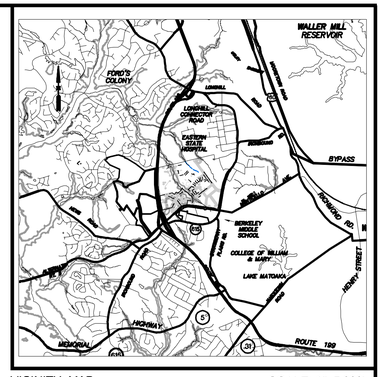
JCC-Z-0004-2016/MP-0001-2016
New Town Proffer and Master Plan Amendment





DEVELOPMENT TYPES

A	SINGLE FAMILY	F	WHOLESALE AND WAREHOUSES
B	TWO/THREE/FOUR FAMILY	G	OFFICE
C	TWO STORY TOWNHOUSES AND APARTMENTS	H	INDUSTRIAL
D	THREE STORY TOWNHOUSES AND APARTMENTS	I	INSTITUTIONAL AND PUBLIC
E	COMMERCIAL	J	COMMON OPEN SPACE
		M	MIXED USE STRUCTURES



VICINITY MAP SCALE: 1"=5,000'

NOTES:

1. UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR AND EXCEPT FOR APPROVED ROAD AND UTILITY CROSSINGS, ALL DEVELOPMENT WITHIN NEW TOWN SECTIONS 2 AND 4 SHALL BE EAST OF THE EASTWARD LINE OF THE JAMES CITY SERVICE AUTHORITY GRAVITY SEWER EASEMENT AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, OR ANY JURISDICTIONAL WETLANDS DELINEATED AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, WHICHEVER IS GREATER.
2. UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR, ALL PIPED STORMWATER OUTFALLS WILL BE DIRECTED TO A BEST MANAGEMENT PRACTICE (BMP).
3. AS PRACTICABLE, OWNER WILL EVALUATE THE POSSIBLE USE OF CIVIC SPACES, PARKING ISLANDS, AND OTHER LANDSCAPED AREAS AS WATER QUALITY ENHANCEMENT FEATURES.
4. PRIOR TO COMPLETION OF BUILD-OUT OF NEW TOWN SECTIONS 2 AND 4, IN ADDITION TO THE BMPS SHOWN ON THE PLAN DEPICTED ON THIS SHEET 2 OF 2, THAT BMP IDENTIFIED AS BMP #2 ON THE "MASTER STORMWATER PLAN, OPTION 4 CASEY PROPERTY", DATED 1/8/00, ON FILE WITH THE ENVIRONMENTAL DIRECTOR, OR OTHER SUITABLE ALTERNATIVE BMP(S) AS APPROVED BY THE ENVIRONMENTAL DIRECTOR, SHALL BE COMPLETED. THE TIMING OF CONSTRUCTION OF BMP #2 OR ALTERNATIVE BMP(S) SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE INTERIM STORMWATER MANAGEMENT PLAN DEVELOPED FOR THE CASEY PROPERTY AS PRESENTED IN A LETTER DATED NOVEMBER 18, 1997, FROM WILLIAMSBURG ENVIRONMENTAL GROUP TO THE ENVIRONMENTAL DIVISION.

LAND USE AND DENSITY TABULATIONS

EAST SIDE		RESIDENTIAL DENSITY							
SECTION	PERMITTED USES	Total Area (acres)	Devel. Area (acres)	Master Planned Open Spaces (ac.)	Master Planned Open Space % of Dev. Acres	Max. du at Max. Non-Res Density	Max res. Density	Max du\ac at Max non-res. Density	Max du\ac at Max res. Density
2,4	E,G,C,D,M(CE),M(GE),M(CG),M(GI),J	88.7	81.1	3.4	4.2%	375	803	4.2	9.1
3,6	B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.5	63.6	2.2	3.5%	365	365	5.3	5.3
7&8	A,B,C,D,E,G,I,J,M(CE),M(DE),M(CG),M(DG)	108.1	92.8	13.4	14.4%	400	400	3.7	3.7
TOTAL							1,568		

LAND USE AND DENSITY TABULATIONS

EAST SIDE		NON-RESIDENTIAL DENSITY							
SECTION	PERMITTED USES	Total Area (acres)	Devel. Area (acres)	Master Planned Open Spaces (ac.)	Master Planned Open Space % of Dev. Acres	Max. sf at Max. Res Density	Max. sf Max. Non-Res Density	Max sf\ac at Max res. Density	Max sf\ac at Max Non-res. Density
2,4	E,G,C,D,M(CE),M(GE),M(CG),M(GI),J	88.7	81.1	3.4	4.2%	357,500	655,000	4,031	7,385
3,6	B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.5	63.6	2.2	3.5%	431,394	431,394	3,165	7,913
7&8	A,B,C,D,E,G,I,J,M(CE),M(DE),M(CG),M(DG)	108.1	92.8	13.4	14.4%	62,300	62,300	576	576
TOTAL						851,194	1,148,694		

DENSITY NOTE:

(1) AT THE DATE OF THIS MASTER PLAN AMENDMENT (FEBRUARY 2016) THERE REMAINS 44,976 SQUARE FEET OF NON-RESIDENTIAL / 95 RESIDENTIAL DENSITY WITHIN SECTIONS 2 & 4; 29,000 SQUARE FEET OF NON-RESIDENTIAL / 28 RESIDENTIAL DENSITY WITHIN SECTIONS 3 & 6 AND 53,590 SQUARE FEET OF NON-RESIDENTIAL / 202 RESIDENTIAL DENSITY WITHIN SECTIONS 7 & 8.

NEW TOWN

COVER SHEET
MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY VIRGINIA

August 25th, 2006
Revised on Dec 28th, 2006
Revised on FEBRUARY, 2016

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS

MAP PREPARED BY

AES CONSULTING ENGINEERS
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Williamsburg, Virginia 23188
Phone: (757) 253-0040
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Hampton Roads | Central Virginia | Middle Peninsula

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

AES JOB #: 6632-S7-00

SECTION 5
(NOT INCLUDED IN THIS REZONING)

SECTION 6

SECTION 7

SECTION 8

SECTION 3

SECTION 9
Z-16-05 & Z-03-11
(NOT INCLUDED IN THIS REZONING)

SULLIVAN SQUARE

SECTION 4

PLAY GROUND

OPEN SPACE

LIMIT OF WETLAND RESTRICTED AREA

EX. SWM/BMP FACILITY
JCC BMP ID CODE PC-173
JCC #SP-125-97

MERCHANT'S COURT

DISCOVERY PARK

DISCOVERY PARK BOULEVARD (REQUIRED STREET)

ELIZABETH'S WAY

VICTORIA'S WAY

LYDIA'S DRIVE

FOUNDATION STREET

CATHERINE'S WAY

HELENA'S WAY

CAROLYN'S WAY

PAMELA'S WAY

CENTER STREET

CHRISTOPHER'S WAY

NANCY'S WAY

MARTHA'S WAY

MARTHA'S WAY

LYDIA'S DRIVE

TOWN CRIER DRIVE

CARPENTER'S WAY

CREEKSIDE LOOP

CREEKSIDE LOOP

NEW TOWN AVENUE (REQUIRED STREET)

CENTER STREET

BRITTANY WAY

COURTHOUSE STREET (REQUIRED STREET)

MAIN STREET

COURTHOUSE

RIGHT IN ONLY ACCESS

WOODLAND PRESERVE

COURTHOUSE GREEN

RIGHT IN ONLY ACCESS

PECAN SQUARE

SECTION 2

VILLAGE SQUARE

REQUIRED STREET CONNECTION

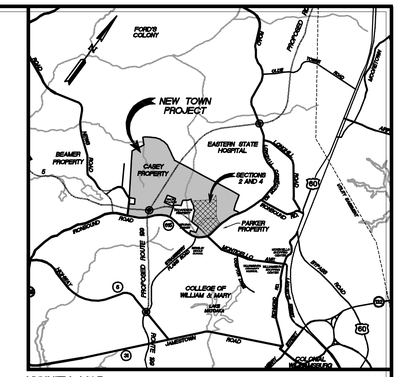
SECTION 2

CIVIC GREEN

BUS PULL-OFF

I-199

GRAPHIC SCALE
200' 0' 200' 400'
SCALE: 1" = 200'



VICINITY MAP SCALE: 1"=5,000'

OLD SECTION LINE
SECTION LINE
BUILD TO ZONE (100% FRONTAGE)
FRONTAGE ZONE (80% FRONTAGE)
FRONTAGE ZONE (60% FRONTAGE)
REQUIRED OPEN SPACE
PARKING PLACEMENT ZONE *
BUS SHELTER OR PULL-OFF
VIEW TRIANGLE (NO BUILDING)

*PER EXEMPTION IN GUIDELINES, OVERLAY TO BUILDING PLACEMENT ZONE

DRIVEWAY ACCESS

NATURE TRAIL (APPROXIMATE 3,206 LF)

NOTES:

CURRENT: ZONING IS MU, MIXED USE WITH PROFFERS.

PROPOSED: ZONING MU, MIXED USE WITH AMENDED PROFFER.

ALL STREETS WITHIN THE SECTION 2 AND 4 PROPERTY HAVE THE POTENTIAL TO BE PRIVATE; HOWEVER THE INTENTION IS THAT ALL STREETS WITHIN THE PROPERTY BE PUBLIC AND CONSTRUCTED IN CONFORMANCE WITH VDOT CONSTRUCTION STANDARDS, UNLESS VDOT WILL NOT APPROVE THE STREETS AS SUBSTANTIALLY DESCRIBED IN THE SECTION 2 AND 4 GUIDELINES, IN WHICH EVENT SUCH STREETS NOT APPROVED AS PUBLIC SHALL BE PRIVATE.

NEW TOWN

SECTIONS 2 AND 4

AMENDED MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA

JUNE , 2001

REVISED: SEPTEMBER 14, 2001
AMENDED: JUNE 23, 2003
REVISED: SEPTEMBER 1, 2004
REVISED: FEBRUARY 2016

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS

MAP PREPARED BY

AES CONSULTING ENGINEERS
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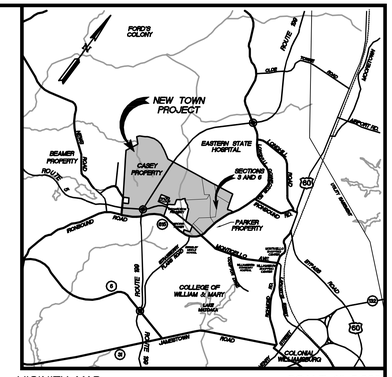
Rev.	Date	Description	Revised By
2	3/16	REVISIONS PER JCC COMMENTS	JAG
1	2/16	UPDATE BUILDING LINES TO ALIGN WITH BUILT CONDITIONS	JAG

AES JOB #: 6632-E-01



VICINITY MAP SCALE: 1"=5,000'

- SECTION LINE
- BUILD TO ZONE (100% FRONTAGE)
- FRONTAGE ZONE (80% FRONTAGE)
- FRONTAGE ZONE (40% FRONTAGE)
- REQUIRED OPEN SPACE
- PARKING PLACEMENT ZONE
- DRIVEWAY ACCESS
- NATURE TRAIL (APPROXIMATE 2,875 LF) (APPROXIMATE 632± LF TO BE BUILT)
- BUS SHELTER OR PULL-OFF

NOTES:

1. CURRENT: ZONING IS MU, MIXED USE WITH PROFFERS.
2. PROPOSED: ZONING MU, MIXED USE WITH AMENDED PROFFER.
3. ALL STREETS WITHIN THE SECTION 3 AND 6 PROPERTY HAVE THE POTENTIAL TO BE PRIVATE; HOWEVER THE INTENTION IS THAT ALL STREETS WITHIN THE PROPERTY BE PUBLIC AND CONSTRUCTED IN CONFORMANCE WITH VDOT CONSTRUCTION STANDARDS, UNLESS VDOT WILL NOT APPROVE THE STREETS AS SUBSTANTIALLY DESCRIBED IN THE SECTION 3 AND 6 GUIDELINES, IN WHICH EVENT SUCH STREETS NOT APPROVED AS PUBLIC SHALL BE PRIVATE.

NEW TOWN

SECTIONS 3 AND 6 MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA
JUNE 1, 2004
REVISED: AUGUST, 2004
REVISED: FEBRUARY 2016

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS

MAP PREPARED BY

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

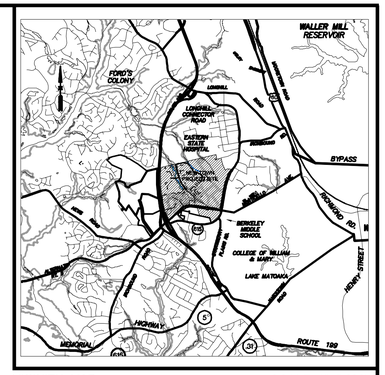
AES JOB #: 6632-E-18

NOTES:

1. CURRENT: ZONING IS MU, MIXED USE WITH PROFFERS.
2. PROPOSED: ZONING MU, MIXED USE WITH AMENDED PROFFER.
3. ALL STREETS WITHIN THE SECTION 7 AND 8 PROPERTY HAVE THE POTENTIAL TO BE PRIVATE; HOWEVER THE INTENTION IS THAT ALL STREETS WITHIN THE PROPERTY BE PUBLIC AND CONSTRUCTED IN CONFORMANCE WITH VDOT CONSTRUCTION STANDARDS, UNLESS VDOT WILL NOT APPROVE THE STREETS AS SUBSTANTIALLY DESCRIBED IN THE SECTION 7 AND 8 GUIDELINES, IN WHICH EVENT SUCH STREETS NOT APPROVED AS PUBLIC SHALL BE PRIVATE.
4. PROJECT IS LOCATED WITHIN THE POWHATAN CREEK SUBWATERSHED 208.

GENERAL NOTES FOR SWM:

1. UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR, ALL PIPED STORMWATER OUTFALLS WILL BE DIRECTED TO A BEST MANAGEMENT PRACTICE (BMP).
2. AS PRACTICABLE, OWNER WILL EVALUATE THE POSSIBLE USE OF CIVIC SPACES, COMMON AREAS, PARKING ISLANDS, AND OTHER LANDSCAPED AREAS AS WATER QUALITY ENHANCEMENT FEATURES AT THE TIME OF SUBMISSION OF SPECIFIC PLANS OF DEVELOPMENT FOR THESE SUBJECT SECTIONS.
3. INTEGRATED MANAGEMENT PRACTICES (SUCH AS BIO-RETENTION, INFILTRATION, LEVEL SPREADERS AND DRY SWALES) ARE BASED ON THE "SECTION 7 & 8 CONCEPT LID PLAN" DATED 12/19/06. SIZE AND LOCATION SUBJECT TO FINAL SITE PLAN DESIGN PROVIDED THAT AT LEAST 13.55 ACRES ARE TREATED BY INTEGRATED MANAGEMENT PRACTICES.



VICINITY MAP SCALE: 1"=5,000'

LEGEND:

- SECTION LINE
- 80% FRONTAGE ZONE
- 60% FRONTAGE ZONE
- OPEN SPACE
- PLAYGROUND
- MEDIANS/URBAN PARKS — CONCEPTUAL SIZE AND LOCATION. FINAL SIZE AND LOCATION TO BE DETERMINED AT SITE PLAN.
- PARKING PLACEMENT ZONE
- RPA BUFFER — BASED ON PERMIT SUPPORT DOCUMENT NEW TOWN SECTIONS 7, 8 & 9 BY WILLIAMSBURG ENVIRONMENTAL GROUP INC. DATED DECEMBER 2005.
- VOLUNTARY WETLAND BUFFER (>50') — BASED ON PERMIT SUPPORT DOCUMENT NEW TOWN SECTIONS 7, 8 & 9 BY WILLIAMSBURG ENVIRONMENTAL GROUP INC. DATED DECEMBER 2005.
- DRIVEWAY ACCESS
- PEDESTRIAN CONNECTIONS
- NATURE TRAIL (APPROXIMATE 5,047 LF, (APPROXIMATE 105± LF TO BE BUILT) — 8' WIDE UNPAVED FOOT TRAIL WITH A 12' WIDE LIMIT OF DISTURBANCE DURING CONSTRUCTION. LOCATION SHALL INSURE MAXIMUM TREE PROTECTION AND SHALL BE FIELD REVIEWED BY JCC STAFF PRIOR TO CONSTRUCTION. NO SPECIMEN TREES PER JCC ORDINANCE DEFINITION SHALL BE REMOVED DURING CONSTRUCTION. 8' TRAIL BETWEEN SECTIONS 7 &8 SHALL BE HARDENED PATH WITH A BRIDGE.
- RESIDENTIAL
- RESIDENTIAL / MU
- COMM COMMERCIAL / MU

NEW TOWN

SECTION 7 AND 8 MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY VIRGINIA

August 25th, 2006
Revised on Dec 28th, 2006
Revised on FEBRUARY, 2016

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS

MAP PREPARED BY

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

AES JOB #: 6632-S7-00

NEW TOWN - SECTIONS 2 and 4 - PROFFERS

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

RECITALS

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

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

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

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

Prepared by:
Kaufman & Canoles, P.C.
1200 Old Colony Lane
Williamsburg, VA 23185

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

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

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

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

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

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

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

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

PROFFERS:

PROFFERS APPLICABLE TO ALL THE PROPERTY

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

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

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

3. Development Process and Land Use.

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

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

"Fixed Development Items":

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

"Flexible Development Items":

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

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

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

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

(c) Procedures for Changes to Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines. Applications to change the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines are to be made to the Planning Commission or the Board of Supervisors, as appropriate, as hereinafter provided and in accordance with the Zoning Ordinance.

In accordance with Section 24-518 of the Zoning Ordinance, all of such amendments shall be subject to the approval of the County Planning Commission if, after reviewing written confirmation from the County's Director of Planning, the Planning Commission concludes that the changes do not significantly alter the character of the land uses or other features or conflict with any conditions placed on the approval of the rezoning.

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

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

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

4. Traffic Study and Road and Signal Improvements/Traffic Signal Preemption Equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Community Spaces. The Sections 2 and 4 Master Plan and the Sections 2 and 4 Guidelines set forth (i) a "Village Green" and a "Village Square" or such alternative centrally located village community space as the DRB may approve as consistent with the Sections 2 and 4 Guidelines (collectively, the "Village Community Spaces"), (ii) a "Civic Green" ("Civic Green"), (iii) a "Court Square" ("Court Square"), and (iv) "Pecan Square" ("Pecan Square"). The construction of the Civic Green and Court Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising twenty-five percent (25%) of the allowable non-residential density of Section 2. The construction of the Village Community Spaces shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising sixty percent (60%) of the allowable non-residential density of Section 2. The construction of Pecan Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising fifty percent (50%) of the allowable residential or non-residential density of that portion of Section 2 identified on the Sections 2 and 4 Master Plan as fronting Ironbound Road, lying between Pecan Square and the Civic Green, and bounded on two sides by Required Streets. In lieu of such completion, but in order to provide completion assurances, an agreement may be made with the County and the County may be furnished with a certified check, bond with surety or letter of credit in an amount equal to one hundred fifty percent (150%) of the estimated cost to complete the respective improvements based upon preliminary site development plans approved by the DRB, in form satisfactory to the County, along with such other

agreements which are satisfactory to and approved by the County Attorney, all as more particularly set forth in the County Code. Notwithstanding the aforesaid, the configuration, composition and location of the design of the Civic Green, the Court Square, the Pecan Square, the "Neighborhood Green" (as designated on the Sections 2 and 4 Master Plan), and the Village Community Spaces (collectively, the "Community Spaces") are subject to the provisions of paragraph 3(c) hereof, and shall be further expressly subject to such changes in configuration, composition and location as required by governmental authorities, other than the County, having jurisdiction over said areas, provided such changes are in compliance with the Zoning Ordinance, are reviewed by the County Planning Director and receive DRB review and approval. The Community Spaces shall be maintained by the Commercial Association, the Residential Association and/or a Separate Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the responsible association; provided, however, no permanent barriers shall be erected or maintained to prohibit pedestrian access to such Community Spaces and such Community Spaces shall be open to the owners of the Property, their respective mortgagees, and tenants and occupants of buildings constructed on the Property and the respective subtenants, licensees, concessionaires, business invitees, employees and customers of all such persons.

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

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

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

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

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

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

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

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

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

13. Contribution for Public Facilities.

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

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Property at the time of issuance of a building permit by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

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

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

Unit Contributions shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the Per Unit Contributions to approximate the rate of annual inflation in the County.

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

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

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

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

17. Prohibition of Restrictions on Vehicular Access. Notwithstanding anything in the New Town Master Plan, the New Town Design Guidelines, the New Town Proffers, the Sections 2 and 4 Master Plan, the Sections 2 and 4 Guidelines and/or these Proffers to the contrary, no private

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streets installed pursuant to the provisions of Section 14 above for the purpose of providing access from Ironbound Road or Monticello Avenue to the Property or the R-8 Property now owned by Associates shall have erected thereon at Monticello Avenue or Ironbound Road any permanent fence, gate or other structure to prohibit or restrict (except for curbs, landscaping features and other forms of traffic control measures, including, without limitation, one way streets, truck traffic limitations and traffic signals) public vehicular access from Monticello Avenue and/or Ironbound Road to the Property and/or the R-8 Property now owned by Associates.

MISCELLANEOUS PROVISIONS

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

19. 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 Associates hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

20. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any

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portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

21. Conflicts. In the event there is a conflict between: (1) these Proffers, the Sections 2 and 4 Guidelines, and/or the Sections 2 and 4 Master Plan; and (2) the New Town Proffers, the New Town Master Plan and/or the New Town Guidelines, then these Proffers, the Sections 2 and 4 Guidelines and the Sections 2 and 4 Master Plan shall govern. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts or as otherwise provided by law.

22. Signature by the County. The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings and submissions described herein and confirming approval by the Board of Supervisors of the rezoning of the Property with these Proffers by resolution dated December 11, 2001.

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

24. Conditions Applicable Only To The Property. Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Associates and its successors in interest to develop its other property in accordance with the other applicable provisions of the County Zoning Ordinances.

DEC 19 = 0112

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By: _____
James D. Franklin

Its: Authorized Representative

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____

Its: DIRECTOR OF PLANNING

APPROVED AS TO FORM:

_____
County Attorney

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STATE OF VIRGINIA
~~CITY~~/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 11th day of December, 2001 by James D. Franklin as Authorized Representative of New Town Associates, LLC, a Virginia limited liability company, on its behalf, under Limited Power of Attorney, dated October 19, 2001.

Sara Rosenberger
NOTARY PUBLIC

My commission expires: 3-31-2004

STATE OF VIRGINIA
~~CITY~~/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 13 day of December, 2001 by O. Marvin Sowers as Director of Planning for the County of James City, Virginia.

Carole C. Giuliano
NOTARY PUBLIC

My commission expires: May 31, 2002

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EXHIBIT A

I

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

II

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

Parcels I and II above comprise approximately 82.8 acres.

VIRGINIA: City of Williamsburg and County of James City, to Wit:
In the Clerk's Office at the Circuit Court for the City of Williamsburg and County of James City the 19 day of Dec. 2001 this Proffer was presented with the certificate annexed and admitted to record at 9:26 AM o'clock.
Teste:
By: Deputy Clerk

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EXHIBIT A

I

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

Parcels I and II above comprise approximately 82.8 acres.

VIRGINIA: City of Williamsburg and County of James City, to Wit:
In the Clerk's Office at the Circuit Court for the City of Williamsburg and County of James City the 19 day of Dec. 2001 this (Proffers) was presented with the certificate annexed and admitted to record at 9:36 AM o'clock.
Teste:
By: Deputy Clerk

DEC 19 01 0115

COMMONWEALTH OF VIRGINIA

OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 12/19/01 TIME: 09:30:49 ACCOUNT: 830CLR010023715 RECEIPT: 01000037969
CASHIER: CMB REG: WI04 TYPE: OTHER PAYMENT: FULL PAYMENT
INSTRUMENT : 010023715 BOOK: PAGE: RECORDED: 12/19/01 AT 09:26
GRANTOR: NEW TOWN ASSOCIATES LLC EX: N LOC: CO
GRANTEE: COUNTY OF JAMES CITY EX: N PCT: 100%
AND ADDRESS :
RECEIVED OF : JCCO DATE OF DEED: 11/01/01
CHECK : $31.00
DESCRIPTION 1: NEW TOWN SEC 2 & 4 PROFFERS PAGES: 22
2: NAMES: 0
CONSIDERATION: .00 ASSUME/VAL: .00 MAP:

CODE	DESCRIPTION	PAID	CODE	DESCRIPTION	PAID
301	DEEDS	29.50	145	VSLF	1.50

TENDERED : 31.00
AMOUNT PAID: 31.00
CHANGE AMT : .00

CLERK OF COURT: BETSY WOOLRIDGE

DC-18 (8/01)

PLEASE RETURN TO:
COUNTY ATTORNEY
JCC - BLDG. C

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

NEW TOWN - SECTIONS 3 and 6 - PROFFERS

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

RECITALS

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

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

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

VIRGINIA", dated September 3, 1997, prepared by Cooper, Robertson & Partners. A copy of the New Town Master Plan and New Town Design Guidelines are on file with the County Planning Director.

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

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

R-6. In accordance with the requirements of paragraph 4 of the New Town Proffers, Owner has submitted to the County an updated traffic study (the "Traffic Study") entitled "TRAFFIC STUDY FOR SECTIONS 3 & 6 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA", dated June 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia, which is on file with the County Planning Director.

R-7. Pursuant to subparagraph 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

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

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

R-10. A Phase I Archaeological Study (the "Casey Study") was conducted on the Property as detailed in that certain report entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, which report has been submitted to, reviewed and approved by the County Planning

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

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

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

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

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

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

PROFFERS:

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

2. New Town Owner's Association.

(a) A supplemental declaration ("Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as Instrument Number

980013868 (including the articles of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof).

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

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

(d) Any Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with the Residential Association or a Separate Association for the Property (collectively, the "Governing Documents") and the Shared Facilities Agreements, if

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

3. Development Process and Land Use.

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

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

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

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

arising out of the manner or quality of any construction on the Property.

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

(a) A northbound left turn lane on Ironbound Road at Watford Lane;

(b) A southbound right turn lane on Ironbound Road at Watford Lane;

(c) A minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road on Watford Lane in New Town Section 3; and

(d) A traffic signal which shall include: i) signal coordination equipment at the request of VDOT, and ii) traffic signal preemption equipment acceptable to the County Fire Chief.

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

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

6. Community Spaces. The Sections 3 and 6 Master Plan and the Sections 3 and 6 Guidelines set forth a "Northern Focal Open Space" ("Northern Community Space"). The site plan for the Northern Community Space shall be submitted to the County prior to fmal approval of the site plan for that portion of New Town Avenue located on Sections 3 and 6. The Northern

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

7. Open Spaces. The Property shall be developed in compliance with applicable County open space requirements, including Section 24-524 of the Zoning Ordinance. With the approval of the County Planning Director, the applicable open space requirements in developing the Property may be met by specifically designating open space on other property within the

New Town Property as and when the Property is developed if such open space requirements applicable to the Property cannot reasonably be met by identifying open space located on the Property. Such designation of open space on the New Town Property may be changed with the prior written approval of the County Planning Director. Owner may utilize the Community Spaces or portions thereof to meet the open space requirements for the Property, provided such space meets the applicable definition of open space contained in the Zoning Ordinance.

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

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

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

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

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

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

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

13. Contribution for Public Facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

MISCELLANEOUS PROVISIONS

17. Consumer Price Index Adjustment. All cash contributions and pricing

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

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

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

19. 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.

20. 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.

21. 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 signature, thereunto duly authorized:

EXHIBIT A

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

EXHIBIT B

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

NEW TOWN – PROFFER AMENDMENT

SECTIONS 2 AND 4

THIS PROFFER AMENDMENT is made as of this 21st day of April, 2016, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (together with its successors and assigns, "Associates") (to be indexed as Grantor) and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (to be indexed as Grantee.)

RECITALS

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

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

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

Proffers to administer the New Town Design Guidelines and oversee development of the Property.

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

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

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

PROFFER AMENDMENTS

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

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

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

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

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

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

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

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

ii. The escrow funds described above shall be utilized by the County for transportation improvements benefitting the Property, as determined by the Director of

Planning. Such transportation improvements may include but shall not be limited to bus stop or bus shelter infrastructure supporting the Williamsburg Area Transit Authority.

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

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

5. **Interpretation**. Except as expressly modified hereby, the terms of the Existing Proffers shall remain unchanged.

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

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

WITNESS the following signatures and seals:

NEW TOWN ASSOCIATES, LLC

By:_____
Lawrence Salzman

Title: President

APPROVED AS TO FORM:

_____
County Attorney

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was subscribed and sworn before me this 21st day of April, 2016, by Lawrence Salzman, President of New town Associates, LLC, ☒ who is personally known to me or ☐ who has produced satisfactory evidence of identity.

My Commission expires: 7-31-2016
Notary Registration no.: 7199694

_____
Notary Public [Affix Notarial Stamp]

CORINA CASSIE PAULSEN
COMMONWEALTH
OF
VIRGINIA
NOTARY PUBLIC

EXHIBIT A-1

DESCRIPTION OF PROPERTY – NEW TOWN SECTIONS 2 & 4

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

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

All as more particularly described as the New Town Sections 2 and 4 Amended Master Plan made by AES Consulting Engineers, last revised February 2016, which has been submitted to James City County as part of Case No. MP-0001-2016.

NEW TOWN – PROFFER AMENDMENT

SECTIONS 3 AND 6

THIS PROFFER AMENDMENT is made as of this 21st day of April, 2016, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (together with its successors and assigns, "Associates") (to be indexed as Grantor) and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (to be indexed as Grantee).

RECITALS

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

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

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

Proffers to administer the New Town Design Guidelines and oversee development of the Property.

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

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

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

PROFFER AMENDMENTS

1. **Bus/Transit Facilities**.

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

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

C. The other bus stop with shelter is proposed for the northeast side of Discovery Park Boulevard between Ironbound Road and New Town Avenue, subject to the approval of the bus stop design and location by the County, the DRB, VDOT, and the

Williamsburg Area Transit Authority. In the event that the approvals described in the proceeding sentence have not been received within six (6) months of the submittal to the County of a plan, exhibit, or conceptual plan for approval of a bus stop and/or bus shelter, Associates may satisfy this proffer at any time thereafter by paying to the County in escrow the sum of Eleven Thousand and 00/100 Dollars ($11,000.00.)

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

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

D. This provisions superseded Paragraph 10 of the New town Sections 3 and 6 Proffers.

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

3. **Recreation Facilities: Trails**.

A. A trail shall be constructed connecting Discovery Park Boulevard in Section 6 of New Town to the existing trail in Section 7 of New Town near Rollison Drive, as shown on the Master Plan as amended pursuant to approval of James City County case no. MP-0001-2016. This section of trail connecting Sections 6 and 7 shall be subject to regulation and/or closure by the New Town Residential Association or its delegee the New Town Amenities Management Committee in order to address, inter alia, safety issues, special events, seasonal or weather considerations, or negative impacts associated with the trail section.

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

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

5. **Interpretation**. Except as expressly modified hereby, the terms of the Existing Proffers shall remain unchanged.

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

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

WITNESS the following signatures and seals:

NEW TOWN ASSOCIATES, LLC

By:_____
Lawrence Salzman

Title: President

APPROVED AS TO FORM:

_____
County Attorney

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was subscribed and sworn before me this 21st day of April, 2016, by Lawrence Salzman, President of New town Associates, LLC, ☒ who is personally known to me or ☐ who has produced satisfactory evidence of identity.

My Commission expires: 7-31-2016
Notary Registration no.: 7199694

_____
Notary Public [Affix Notarial Stamp]

CORINA CASSIE PAULSEN
COMMONWEALTH
OF
VIRGINIA
NOTARY PUBLIC

EXHIBIT A

All those certain pieces, parcels, or tracts of land shown as "Section 3" and "Section 6" on that certain plan entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated April 26, 2004, prepared by AES Consulting Engineers, last revised February 2016, which has been submitted to James City County as part of Case No. MP-0001-2016.

COVER MEMO

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Roberta Sulouff, Planner

SUBJECT: Z-0004-2016/MP-0001-2016 New Town Proffer and Master Plan Amendment: Citizen Correspondence

ATTACHMENTS:

1. Letter from Roberta Falquet dated April 6, 2016
2. Letter from Terry Hancock dated April 6, 2016
3. Letter from Mary and Richard Cheston dated April 5, 2016
4. Letter from James Carey dated April 4, 2016
5. Letter from Daisy Dallas Henna dated March 31, 2016

Beth Klapper

From: Bobbie Falquet <bobbie.falquet@gmail.com>
Sent: Wednesday, April 06, 2016 3:52 PM
To: Development Management
Subject: Planning Commission Meeting 4/6/16 @ 7:00 pm
Attachments: Scan.pdf

Attached is a letter outline our concerns regarding the New Town Proffer and Master Plan Amendment Z-0004-2016/MP-0001-2016. Please add this letter into record regarding this issue.

Thank you,

Roberta J. Falquet
5199 Rollison Drive
Williamsburg, VA 23100

Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment
Comments by Roberta and Russell Falquet

April 6, 2016

We are new residents of New Town, approaching our 1-year anniversary, Roberta and Russell Falquet at 5199 Rollison Drive (Section 7).

We strongly oppose two specific amendment proposals by New Town Associates:

1) reducing walking trails by 763 feet or 20% in violation of applicable Parks & Recreation Proffer Guidelines.

2) failing to provide any additional playgrounds or alternative recreational spaces. This is especially significant due to the new Village Walk town house development (Eagle Construction) being completed on the borders of Section 8 and 9 which are designed to share existing recreational amenities in New Town.

Particularly objectionable and even specious is the developer's rationale (paragraph R-5 of both proffer amendments) stating that "As development has progressed, topography, environmental considerations, amenities usage by residents of New Town and evolving policies and laws affecting real estate development" have caused them to seek this change.

Reduction of Walking Trails

There has been no consultation with residents of New Town on this proposal despite available forums such as our association's Annual Meeting and Town Halls, newsletters, websites and other communication vehicles. Officers of our Resident Advisory Board were taken by surprise along with all homeowners when the notice of this Planning Commission meeting arrived.

New Town residents value their walking trails and recreational facilities. New Town has formed a Walking Club, of which we are members, that regularly uses the trails. The Virginia Gazette advertises a Community Walking Group that meets each Wednesday to walk in New Town. The New Town Commercial Association's website encourages visitors to use the area's "parks and walking trails" whether for an afternoon or permanently. ( ) These trails are a community asset shared with all.

Despite this asset, the existing trails vary in quality and maintenance and are already showing signs of deterioration, such as the bridge between Discovery Boulevard and the Pointe at New Town (Glynn Springs Drive).

The argument that sidewalks are abundant and contribute to a walkable environment is not the same as accessing green space. The number one recreational activity in the United States is walking for pleasure, and James City County's own Parks and Recreation Master Plan professes that greenways and connectivity through an integrated network of trails is a strategic focus. This was part of the original vision for New Town, one that we embraced by moving here.

As residents who walk the trails and sidewalks frequently, we can attest that the New Town walking trails receive daily use. Why then would the developer not wish to complete them as designed? If the storage area is a concern as the staff report states, no alternative sites have been explored. Simply put, they wish to save money.

Playground Need

New Town Associates states that "No playgrounds or alternative neighborhood recreation or urban park areas in lieu of playgrounds" will be built that are not already in place as of March 31, 2016 (para. 2, page 2, Proffer Amendment Sections 2 and 4). This is untenable given the undeveloped tract of land in Section 8 and the ongoing construction of 107 townhomes at Village Walk. Moreover, as staff has noted, there are remaining undeveloped parcels in Sections 2 & 4 and 3 & 6 that could add to demand for recreational use.

Having a large playground half a mile or more from new residential development is not attractive to young families. As these dwellings are completed, more children will be living in New Town. New Town Associates acknowledges this demand by providing for a "hard surfaced path" between the developments in sections 7 & 8, but provides no additional facilities. (Perhaps the County Staff's analysis has failed to address the impact of Village Walk because technically the development is outside of the current map, however, New Town has already incorporated these residences into its operations since they pay dues to our residential association.)

Our New Town Community Pool is already at weekend capacity, yet there are no plans for a second facility. The "urban park" credited to the developer at Olive Drive (shown erroneously on map as Center Street) and Christine Court is little more than a grassy strip aka cul-de-sac circle. No new green space appears to be planned for the Parks Edge/Townhomes on the Green development along Center Street.

We do not believe that the developers should be allowed to pack more residences into our community without providing for adequate recreational space. The County should not release the applicant from its commitments and should require New Town Associates to provide plans for a playground or alternative recreational space, perhaps outside of the original map sections 2 & 4, that will keep New Town an attractive and vibrant place to live.

Summary

A truer rationale for New Town Associates proposed proffer changes would be "The development of the Property is nearing completion . . . We no longer wish to incur expenses for amenities that will benefit the residents or the greater community."

James City County professes that "The establishment of parks and recreational opportunities is vital to the creation of a sustainable and healthy community." (James City County Parks and Recreation Master Plan). Please help us to keep New Town "sustainable and healthy" and deny these two specific proposed proffer changes by New Town Associates.

Sincerely,

Roberta J. Falquet

Russell A. Falquet

From: Terry Hancock [mailto:tjhancock1@cox.net]
Sent: Wednesday, April 06, 2016 10:58 AM
To: Development Management <Development.Management@jamescitycountyva.gov>
Cc: Terry Hancock <tjhancock1@cox.net>; Jim Carey <jcarey10@cox.net>; John Marston <johnmarston@gmail.com>
Subject: James City County Case Numbers Z-0004-2016 & MP-0001-2016

To Whom it may Concern:

This evening there is a meeting to look at Proffer and Master Plan Amendments, New Town: Sections 2&4, 3&6, 7&8. As I'm unable to attend I'd like to offer up a concern.

Eliminating a trail does not seem reasonable since the guidelines call for a certain linear feet of trail and it's reasonable to expect this. If the trial needs to be moved, so be it, or change the location for the storage and work area. Also trails that have been put in behind Rollison Drive and Olive were not done very well, to say the least. Trees cut down were thrown to the side, and in several locations trees have fallen across the path and are suspended by other trees. Eventually they will come down, hopefully not on somebody. If the powers that be feel the new section of trail should be eliminated maybe the funds that would be saved could be used to repair the existing trial.

Thanks for you consideration.

Sincerely,

Terry Hancock
5194 Rollison Drive
Williamsburg, VA 23188
757-645-4450

Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment
Comments by Mary and Richard Cheston

April 5, 2016

We are new residents of New Town, approaching our 1-year anniversary, Mary and Richard Cheston at 5178 Rollison Drive (Section 7). Our home directly abuts one of New Town's existing walking trails encircling the Charlotte Park neighborhood.

We strongly oppose two specific amendment proposals by New Town Associates:

1) reducing walking trails by 763 feet or 20% in violation of applicable Parks & Recreation Proffer Guidelines.

2) failing to provide any additional playgrounds or alternative recreational spaces. This is especially significant due to the new Village Walk town house development (Eagle Construction) being completed on the borders of Section 8 and 9 which are designed to share existing recreational amenities in New Town.

Particularly objectionable and even specious is the developer's rationale (paragraph R-5 of both proffer amendments) stating that "As development has progressed, topography, environmental considerations, **amenities usage by residents of New Town** and evolving policies and laws affecting real estate development" have caused them to seek this change.

Reduction of Walking Trails

There has been no consultation with residents of New Town on this proposal despite available forums such as our association's Annual Meeting and Town Halls, newsletters, websites and other communication vehicles. Officers of our Resident Advisory Board were taken by surprise along with all homeowners when the notice of this Planning Commission meeting arrived.

New Town residents value their walking trails and recreational facilities. New Town has formed a Walking Club, of which we are members, that regularly uses the trails. The Virginia Gazette advertises a Community Walking Group that meets each Wednesday to walk in New Town. The New Town Commercial Association's website encourages visitors to use the area's "parks and walking trails" whether for an afternoon or permanently. (http://www.newtownwilliamsburg.com) These trails are a community asset shared with all.

Despite this asset, the existing trails vary in quality and maintenance and are already showing signs of deterioration, such as the bridge between Discovery Boulevard and the Pointe at New Town (Glynn Springs Drive).

The argument that sidewalks are abundant and contribute to a walkable environment is not the same as accessing green space. The number one recreational activity in the United States is walking for pleasure, and James City County's own Parks and Recreation Master Plan professes that greenways and connectivity through an integrated network of trails is a strategic focus. This was part of the original vision for New Town, one that we embraced by moving here.

As abutting homeowners, we can attest that the New Town walking trails receive daily use. Why then would the developer not wish to complete them as designed? If the storage area is a concern as the staff report states, no alternative sites have been explored. Simply put, they wish to save money.

Z-0004-2016/MP-0001-2016, New Town Proffer and Master Plan Amendment
Comments by Mary and Richard Cheston

Playground Need

New Town Associates states that "No playgrounds or alternative neighborhood recreation or urban park areas in lieu of playgrounds" will be built that are not already in place as of March 31, 2016 (para. 2, page 2, Proffer Amendment Sections 2 and 4). This is untenable given the undeveloped tract of land in Section 8 and the ongoing construction of 107 townhomes at Village Walk. Moreover, as staff has noted, there are remaining undeveloped parcels in Sections 2 & 4 and 3 & 6 that could add to demand for recreational use.

Having a large playground half a mile or more from new residential development is not attractive to young families. As these dwellings are completed, more children will be living in New Town. New Town Associates acknowledges this demand by providing for a "hard surfaced path" between the developments in sections 7 & 8, but provides no additional facilities. (Perhaps the County Staff's analysis has failed to address the impact of Village Walk because technically the development is outside of the current map, however, New Town has already incorporated these residences into its operations since they pay dues to our residential association.)

Our New Town Community Pool is already at weekend capacity, yet there are no plans for a second facility. The "urban park" credited to the developer at Olive Drive (shown erroneously on map as Center Street) and Christine Court is little more than a grassy strip aka cul-de-sac circle. No new green space appears to be planned for the Parks Edge/Townhomes on the Green development along Center Street.

We do not believe that the developers should be allowed to pack more residences into our community without providing for adequate recreational space. The County should not release the applicant from its commitments and should require New Town Associates to provide plans for a playground or alternative recreational space, perhaps outside of the original map sections 2 & 4, that will keep New Town an attractive and vibrant place to live.

Summary

A truer rationale for New Town Associates proposed proffer changes would be "The development of the Property is nearing completion . . . We no longer wish to incur expenses for amenities that will benefit the residents or the greater community."

James City County professes that "The establishment of parks and recreational opportunities is vital to the creation of a sustainable and healthy community." (James City County Parks and Recreation Master Plan http://www.jamescitycountyva.gov/DocumentCenter/Home/View/1018). Please help us to keep New Town "sustainable and healthy" and deny these two specific proposed proffer changes by New Town Associates.

Sincerely,

Mary Cheston Richard Cheston

Mary K. Cheston Richard P. Cheston

From: jcarey10@cox.net [mailto:jcarey10@cox.net]
Sent: Monday, April 04, 2016 2:04 PM
To: Development Management <Development.Management@jamescitycountyva.gov>
Subject: Fw: Planning Commission Meeting 4/6 @7:00PM

Below are my concerns regarding the elimination of the walkway that was mentioned on page 3 of the staff report. My objection is based on the following:

- New Town Associates has not provided convincing evidence of the financial or technical reasons for eliminating the proposed walkway connection
- New Town Associates has not provided any mitigating actions if the walkway is to be eliminated
- New Town Associates has not provided any justification for their failure to comply of the James City County Parks & Recreation Proffer Guidelines.

James F. Carey
5195 Rollison Drive
Williamsburg, VA 23188

From: jcarey10@cox.net
Sent: Monday, April 4, 2016 1:48 PM
To: Alan Falquet ; Dave Gaydox ; Richard Cheston ; Tom Dawson ; cartertm@live.com ; stuartdopp@cox.net ; tjhancock1@cox.net ; johnrmarston@gmail.com ; 1england4me@gmail.com ; CMSSAS@aol.com ; wbvoliva49@msn.com ; susanmulnix@gmail.com ; nfb5@cox.net ; thomasnichols@cox.net ; nnealena@aol.com ; Sarah Carey
Subject: Planning Commission Meeting 4/6 @7:00PM

I just had a chance to review the proposed changes to the Newtown Master Plan that were mentioned in the letter we received in the mail from New Town Associates last week. For the most part the changes are clean up items that didn't raise any concerns.

I did want to bring one item to your attention. New Town Associates has requested a Master Plan Change to eliminate their obligation to connect the walkways in the Charlotte Park neighborhood with the walkways in the Discovery Park neighborhood. The change also significantly reduces the amount of walkways they agreed to build when the plan was originally approved. I have highlighted the sections of the attached staff report that address this issue on page 3 of five of the report. I have also attached a copy of an illustrative plan that I marked the section of the walkway that would be eliminated. As some of you know Sarah and I like to walk and we really are enjoying the walkways. I would like to have New Town Associates complete the walkway connection between our neighborhood and the Discovery Park area to provide more of a loop. Another item I noted is that staff report mentions that the current plan for New Town is deficient in the amount of walkways that are provided. Under James City Recreation Department standards New Town Associates should provide 3638 lineal feet of walkways. They are providing only 2875 lineal feet (20% less than required) with the deletion of this walkway (see page 4 of 5 in the staff report).
I am planning on attending the hearing and requesting that the Planning Commission recommend denial of the change to the New Town Master Plan to eliminate the walkway.
Below is the link to the all the documents associated with the action before the Planning Commission if you review the full file.
Please feel free to forward this email to others who might be interested in this matter.
Jim

-----Original Message-----
From: Daisy & Dallas Henna [mailto:ddhenna74@yahoo.com]
Sent: Thursday, March 31, 2016 9:34 PM
To: Development Management <Development.Management@jamescitycountyva.gov>
Subject: James City County Case Numbers: Z-0004-2016 & MP-0001-2016

To whom it concerns at James City County Development Management

Reference letter received from the New Town Associates LLC in regards to the James City County case numbers Z-0004-206 and MP-0001-2016; along with Proffer and Master Plan Amendments, New Town Sections 2 & 4, 3 & 6, and 7 & 8

As we will be out of town on the date of stated hearing on April 6, 2016, we wish to provide comments on the application(s). It has come to our attention that a previously planned park will be eliminated as part of an application in the New Town area. As such, we would like to state that we are against the elimination of any planned park in the New Town community where we live and call our home. We wish to provide some bullet comments to substantiate the need for an additional park in our community:

- due to the continuing growth of the New Town community, there is already a need for additional park, playground, recreation areas
- there is always a need for additional "free" activities to entertain our young family members; whether children or grandchildren
- the continuing aging of baby boomers into grandparents and retirees, allows these individuals who are on a fixed income to enjoy time with grandchildren
- a park offers our children and grandchildren to meet new friends and enjoy kid games; as children are coming and going throughout the day
- with the continued growth of New Town, the elimination of a planned park will put extra burden on existing parks to meet demand

In particular, the New Town Charlotte Park small playground next to the community swimming pool, at the intersection of Center Street and Olive, could
easily become over burdened by additional demand. The playground was not designed to accept additional New Town residents and is already in
competition with the community pool for parking.

Before April 6th, we encourage Planning Commission members and Development Management personnel to drive around the New Town community and get
an in person look at the existing parks and/or playgrounds. Especially, the playground at Center Street and Olive, and how small the parking area is and
consider the lack of parking when the pool is open too. Just drive by Kidsburg park any time of day and see the crowd of children. Yes, another park and
playground is needed to support the community. If not as previously planned, possibly a scaled down version to still allow mothers, fathers, and grandparents
to have an additional "free" admission location for their children and grandchildren. Being a tourist town, Williamsburg has great expensive attractions for children; however, the local residents cannot afford that day after day on the weekends, holidays, and school breaks.

We thank you for this opportunity to speak and to allow our feelings to be heard on this matter.

Very Respectfully,
Dallas & Daisy Henna
5500 Center Street (New Town)
Williamsburg, VA, 23188-2925
830-708-8964

AGENDA ITEM NO. I.1.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Planner

SUBJECT: Z-0005-2016, The Promenade at John Tyler Proffer Amendment - Community Character Corridor Buffer - Jamestown District

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ATTACHMENTS:

	Description	Type
🗋	Staff Report	Staff Report
🗋	Resolution	Resolution
🗋	Location Map	Backup Material
🗋	Unapproved minutes from the May 4, 2016, Planning Commission meeting	Backup Material
🗋	Narrative provided by the applicant	Backup Material
🗋	Adopted Proffers dated October 15, 2014	Backup Material
🗋	Draft Proffers dated April 13, 2016	Backup Material
🗋	Buffer cross-section provided with Z-0003-2014/MP-0003-2014	Backup Material
🗋	Proposed Route 199 Buffer Landscape Elevation and Narrative	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	5/27/2016 - 5:04 PM
Development Management	Holt, Paul	Approved	5/27/2016 - 5:04 PM
Publication Management	Burcham, Nan	Approved	5/31/2016 - 7:23 AM
Legal Review	Kinsman, Adam	Approved	5/31/2016 - 8:54 AM
Board Secretary	Fellows, Teresa	Approved	5/31/2016 - 9:09 AM
Board Secretary	Purse, Jason	Approved	6/3/2016 - 8:47 AM
Board Secretary	Fellows, Teresa	Approved	6/3/2016 - 9:55 AM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Planner

SUBJECT: Case No. Z-0005-2016. The Promenade at John Tyler Proffer Amendment – Community Character Corridor Buffer

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On December 9, 2014, the Board of Supervisors rezoned approximately 24.54 acres of land located in the southeast corner of the Williamsburg Crossing Shopping Center, adjacent to the Winston Terrace subdivision, from B-1, General Business, to MU, Mixed Use, with proffers. The development was approved for construction of up to 204 dwelling units and commercial space. This will consist of up to 11 ten-plex buildings, 40 duplex buildings and 14 live-above units located above the commercial space. On April 12, 2016, the Board of Supervisors approved an application to amend Condition No. 2 of the Adopted Proffers to clarify language regarding adherence to the Housing Opportunities Policy.

Mr. Gary Werner, of Franciscus Homes, has submitted a request to amend Condition No. 8 of the Adopted Proffers, dated October 15, 2014, made by University Square Associates and amend the narrative description and conceptual cross-section of the Route 199 Community Character Corridor (CCC) buffer that was submitted with the original rezoning application in order to allow the placement of a 5.5-foot berm within the northern portion of the buffer as shown on the attached drawing titled Route 199 Buffer Landscape Elevation, dated April 13, 2016. The southern portion of the buffer will remain subject to selective clearing and supplemental planting, consistent with the cross-section provided with the original rezoning application. Language was also provided to allow for the Planning Director or his designee to inspect the southern portion of the buffer once completed to ensure it complies with Condition No. 8 of the Proffers.

As provided in the Adopted Proffers, landscaping within the buffer will still be provided in accordance with the Enhanced Landscaping Policy, adopted by the Board of Supervisors April 9, 2013, and there will be no change in the total number of plantings that will be provided within the buffer. There are no other proposed changes to the Adopted Proffers or Master Plan.

This property is located on the Route 199 CCC and subject to the Urban/Suburban CCC Buffer Treatment Guidelines, adopted by the Board of Supervisors November 22, 2011. According to this policy: *"Urban/Suburban CCC's are characterized as having high to moderate traffic, commercial uses and some residential uses. The predominant visual character of these corridors should be the built environment and the natural landscape, with parking and other auto-related areas as a secondary component. The buffer treatments should incorporate existing specimen and understory trees, required plantings and any legislated enhancements such as over-sized landscape plants, the use of berms, and other desirable design features to complement and enhance the visual quality of the urban corridor. Auto-related activities such as parking lots and other outdoor operations should be screened with required evergreen plantings…"* Staff finds that this proposal is consistent with the CCC Buffer Treatment Guidelines. In addition, the proposed berm would result in less excess dirt having to be removed from the site during construction, and thus, potentially reducing heavy vehicle traffic on Kings Way and Route 5.

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This

application does not affect conditions of use or density. As such, the County Attorney's Office consulted the Board of Supervisors and the Board voiced no objection to the applicant's request to consider amending these proffers as a consideration item.

At its May 4, 2016 meeting, the Planning Commission recommended approval of this Proffer Amendment by a vote of 7-0. There have been no proposed changes to the application since the Planning Commission meeting.

Staff Recommendation

Staff finds that the requested Proffer amendment would not negatively impact the development, surrounding development or the Route 199 CCC. Staff recommends that Board of Supervisors approve this application and accept the amended proffers.

SP/nb
Z05-16PromenadePAmd-mem

Attachments:
1. Resolution
2. Location map
3. Unapproved minutes from the May 4, 2016, Planning Commission meeting
4. Narrative provided by the applicant
5. Adopted Proffers dated October 15, 2014
6. Draft Proffers dated April 13, 2016
7. Buffer cross-section provided with Z-0003-2014/MP-0003-2014
8. Proposed Route 199 Buffer Landscape Elevation and Narrative

R E S O L U T I O N

CASE NO. Z-0005-2016. THE PROMENADE AT JOHN TYLER PROFFER AMENDMENT –

COMMUNITY CHARACTER CORRIDOR BUFFER

WHEREAS, Mr. Gary Werner of Franciscus Homes, Inc. has applied for a change in zoning for +/-24.54 acres owned by University Square Associates from MU, Mixed Use with proffers to MU, Mixed Use with amended proffers; and

WHEREAS, the properties subject to the application are located at 5294, 5299, 5303, 5307, 5311 and 5304 John Tyler Highway and can be further identified as James City County Real Estate Tax Map Parcel Nos. 4812200020, 4812200025, 4812200026, 4812200027, 4812200028 and 4812200029, respectively (together, the "Property"); and

WHEREAS, on December 9, 2014, the Board of Supervisors approved Case Nos. Z-0003-2014/MP-0003-2014, which rezoned the Property from B-1, General Business to MU, Mixed Use, with proffers (the "Existing Proffers"); and

WHEREAS, on April 12, 2016, the Board of Supervisors approved Case No. Z-0001-2016, which amended Condition No. 2 of the Existing Proffers, which did not affect the use or density of the Property and retained all other proffers contained in the Existing Proffers; and

WHEREAS, this request proposes to amend Condition No. 8 of the Existing Proffers, which does not affect the use or density of the Property, and retain all other proffers contained in the Existing Proffers; and

WHEREAS, in accordance with Section 24-20 of the County Code and § 15.2-2302 of the Code of Virginia, which allow for waiver of public hearings for amendments of proffer conditions that do not affect use or density, the Planning Commission and Board of Supervisors have considered Case No. Z-0001-2016; and

WHEREAS, the Planning Commission of James City County, following its consideration on May 4, 2016, recommended approval of Case No. Z-0005-2016, by a vote of 7 to 0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-0005-2016 to be required by public necessity, convenience, general welfare and good zoning practice.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0005-2016 as described herein and accepts the amended voluntary proffers.

_____
Michael J. Hipple
Chairman, Board of Supervisors

	VOTES		
	AYE	NAY	ABSTAIN
MCGLENNON	____	____	____
LARSON	____	____	____
ONIZUK	____	____	____
SADLER	____	____	____
HIPPLE	____	____	____

ATTEST:

_____
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of June, 2016.

Z05-16PromenadePAmd-res

Z-0005-2016, The Promenade At John Tyler Proffer Amendment

Unapproved Minutes of the May 4, 2016
Planning Commission Meeting

Z-0005-2016, The Promenade at John Tyler Proffer Amendment - CCC Buffer

Ms. Savannah Pietrowski, Planner I, presented a report to the Commission on the request to amend Condition No. 8 of the Adopted Proffers, for the Promenade at John Tyler and to amend the narrative description and conceptual cross-section of the Route 199 Community Character Corridor (CCC) buffer that was submitted with the original rezoning application in order to allow the placement of a 5.5-foot berm within the northern portion of the buffer. Ms. Pietrowski stated that the southern portion of the buffer will remain subject to selective clearing and supplemental planting, consistent with the cross-section provided with the original rezoning application. Language was also provided to allow for the Planning Director or his designee to inspect the southern portion of the buffer once completed to ensure it complies with Condition No. 8 of the Proffers. Ms. Pietrowski noted that landscaping within the buffer will still be provided in accordance with the Enhanced Landscaping Policy, adopted by the Board of Supervisors April 9, 2013, and there will be no change in the total number of plantings that will be provided within the buffer. Ms. Pietrowski further noted that there are no other proposed changes to the Adopted Proffers or Master Plan. Ms. Pietrowski further noted that the requested Proffer amendment would not negatively impact the development, surrounding development or the Route 199 CCC.

Mr. Oconnor opened the floor for questions from the Commission.

Mr. Wright inquired if there would be a slope to the berm.

Ms. Pietrowski stated that there would be a slope.

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

On a roll call vote, the Commission voted to recommend approval of Z-0005-2016, The Promenade at John Tyler Proffer Amendment - CCC Buffer (7-0).

APPLICANT'S NARRATIVE

TO ACCOMPANY PROFFER AMENDMENT APPLICATION

The applicant has applied to amend Condition 8 of the existing Proffers to revise the proffered treatment of the Route 199 Community Character Buffer because as the survey and engineering work proceeded in the site plan approval process, it became clear that Route 199 is higher than the mixed-use parcels parking areas and the applicant believes that it is necessary to get the benefit of as much additional screening of those parking areas as possible. The heightened berm should provide a more effective screen between these parking areas and the cars using the adjacent roadway. The proposed treatment of the buffer is shown on and described in the narrative set out on the Route 199 Buffer Landscape Elevation prepared by AES Consulting Engineers submitted with the proffer amendment application.

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

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

PROFFERS

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

RECITALS

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

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

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

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

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

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

CONDITIONS

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

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

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

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

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

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

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

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

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

Table 1 – 190 units on Parcels 4812200020 and 4812200029

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Community Spaces. The clubhouse and pool, two welcome parks, pocket park and community park shown on the Master Plan shall be installed prior to the County being obligated

to issue certificates of occupancy for more than 48 residential units on the Property. The Public Square shown on the Master Plan shall be installed prior to the County being obligated to issue certificates of occupancy for the first building in the area designated on the Master Plan as M (EGC).

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

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

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

WITNESS the following signature.

UNIVERSITY SQUARE ASSOCIATES

By: _____

Title: Partner

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

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

_____
NOTARY PUBLIC

HEIDI MARIE MACEMORE
NOTARY PUBLIC
REGISTRATION # 7562623
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
APRIL 30, 2017

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

Schedule A

Property Description

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

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 6-2-2015
at 8:51 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

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

DEED RECEIPT

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

TENDERED : .00
AMOUNT PAID: .00
CHANGE AMT : .00

CLERK OF COURT: BETSY B. WOOLRIDGE

PAYOR'S COPY
RECEIPT COPY 1 OF 2

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

Prepared By: Vernon M. Geddy, III, Esquire (VSB No: 21902)
Geddy, Harris, Franck & Hickman
1177 Jamestown Road
Williamsburg, VA 23185

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

SECOND AMENDMENT TO PROFFERS

This Second Amendment to Proffers is made this 13th day of April, 2016 by UNIVERSITY SQUARE ASSOCIATES, a Virginia general partnership (together with its successors in title and assigns, the "Owner"), to be indexed as "Grantor." James City County, Virginia shall be indexed as "Grantee."

RECITALS

A. Owner is the owner of certain real property (the "Property") in James City County, Virginia now zoned MU – Mixed Use, and subject to Proffers dated October 15, 2014, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 150010679, as amended by First Amendment to Proffers dated February 12, 2016 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend Condition 8 of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

AMENDMENTS TO CONDITIONS

1. The third sentence of Condition 8 of the Existing Proffers is hereby amended to read as follows:

"The buffers shall contain enhanced landscaping in accordance with the County's Enhanced Landscaping Policy as adopted April 9, 2013 and shall be consistent with the narrative description and conceptual cross-section of the buffer dated April 13, 2016 submitted to and on file with the County Planning Department."

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

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

WITNESS the following signature.

UNIVERSITY SQUARE ASSOCIATES

By: _____

Title: MANAGER

STATE OF Virginia

CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 13 day of ~~February~~ April, 2016, by Cheryl L. Werner as Manager of UNIVERSITY SQUARE ASSOCIATES, a Virginia general partnership, on behalf of the partnership.

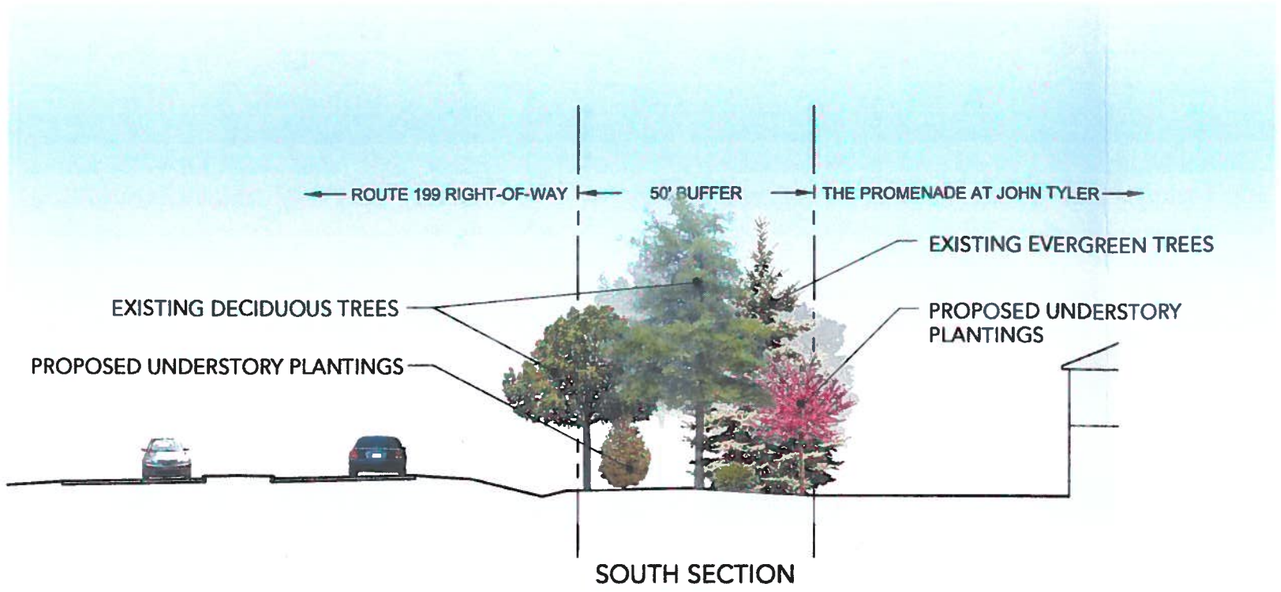
_____

NOTARY PUBLIC

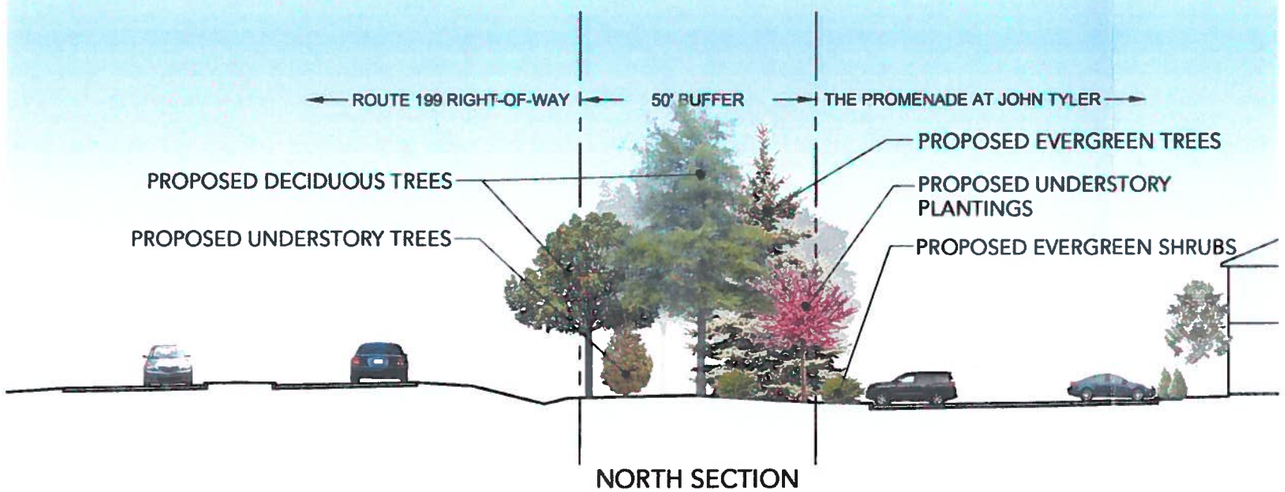
HEIDI MARIE MACEMORE
NOTARY PUBLIC
REGISTRATION # 7562623
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
APRIL 30, 2017

My commission expires: April 30, 2017

Registration No.: 7562623



SOUTH SECTION



NORTH SECTION

Promenade at John Tyler Landscape

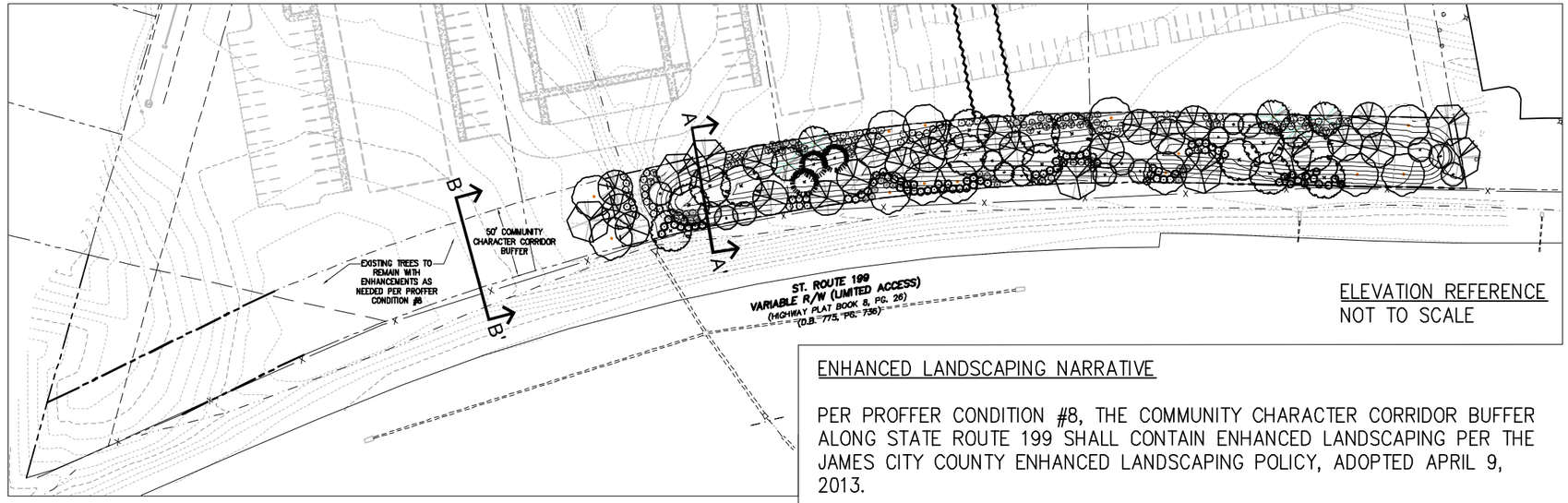
The landscape will achieve the goal of creating a sense of place that continues the character of James City County. The character will be consistent throughout the residential and commercial uses and compatible with the established landscape elements. Existing specimen trees will be identified and preserved to the greatest extent. New plantings will soften the hardscape and building facades as well as create buffers to adjacent properties. The design will be in accordance with James City County Article II Division 4- Landscaping.

Route 199 Community Character Corridor (CCC) Buffer

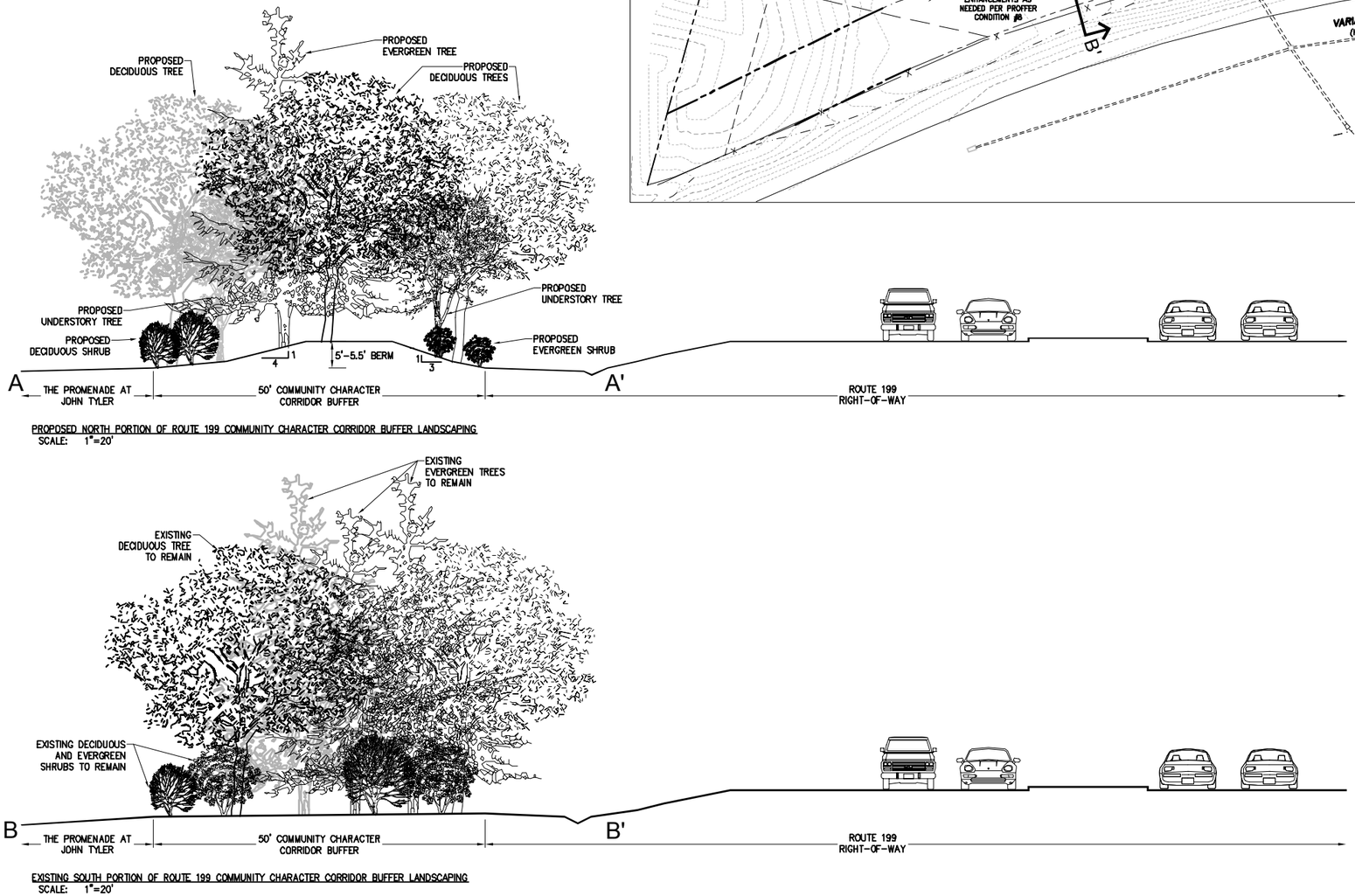
The buffer along Route 199 is designated as an Urban/Suburban Buffer and will be designed in accordance with the buffer design guidelines. The treatment will provide visibility for the commercial built environment. Evergreen plantings will provide screening for parking and other auto related activities.

The existing vegetation along the property abutting Route 199 varies. A thick mature canopy of deciduous and evergreen trees are evident along the southern half of the buffer along the right-of-way. As shown on the section, existing vegetation will be preserved within the Urban/Suburban CCC. The trees will receive selective pruning and limbing along with removal of any diseased or dead trees. Any invasive plantings and vines will be eradicated. New planting will be installed to supplement any open areas.

Proceeding north along the buffer, existing vegetation becomes scarce and visibility increases substantially. A combination of deciduous and evergreen trees and understory plantings will be installed to visually expand the buffer and blend with the existing mature buffer to the south. Evergreen shrubs will screen parking lots that front the buffer. Plant sizes will be increased beyond the required minimum size to create a contiguous buffer along the corridor.



ELEVATION REFERENCE
NOT TO SCALE



PROPOSED NORTH PORTION OF ROUTE 199 COMMUNITY CHARACTER CORRIDOR BUFFER LANDSCAPING
SCALE: 1"=20'

EXISTING SOUTH PORTION OF ROUTE 199 COMMUNITY CHARACTER CORRIDOR BUFFER LANDSCAPING
SCALE: 1"=20'

ENHANCED LANDSCAPING NARRATIVE

PER PROFFER CONDITION #8, THE COMMUNITY CHARACTER CORRIDOR BUFFER ALONG STATE ROUTE 199 SHALL CONTAIN ENHANCED LANDSCAPING PER THE JAMES CITY COUNTY ENHANCED LANDSCAPING POLICY, ADOPTED APRIL 9, 2013.

- IN THE FIRST APPROXIMATELY 620 FEET ALONG STATE ROUTE 199, AT THE NORTHERN END OF THE SITE, EXISTING VEGETATION IS SCARCE AND VISIBILITY INTO THE SITE IS SUBSTANTIALLY INCREASED. A MIX OF EVERGREEN AND DECIDUOUS TREES AND UNDERSTORY PLANTING WILL BE INSTALLED AT INCREASED INSTALL SIZE EXCEEDING COUNTY REQUIREMENTS. THE PROPOSED PLANTINGS WILL BLEND WITH EXISTING MATURE BUFFER ELEMENTS TO THE SOUTH, AND WILL ENHANCE THE BUFFER AND INCREASE ITS EFFECTIVENESS AS A SCREEN BETWEEN ROUTE 199 AND THE PROPOSED DEVELOPMENT.
- THE REMAINING 435 FEET OF THE BUFFER EXTENDING TO THE SOUTH PROPERTY LINE CONTAINS A THICK MATURE CANOPY OF DECIDUOUS AND EVERGREEN TREES EXCEEDING JAMES CITY COUNTY BUFFER REQUIREMENTS. AT THE SOUTHERN END OF THE BUFFER, 156' PORTION IS WITHIN THE CITY OF WILLIAMSBURG. WITHIN THIS PORTION AND THE REMAINING 279' OF BUFFER WITHIN JAMES CITY COUNTY, THE PROMENADE PROPOSES SELECT CLEARING THAT WILL RETAIN VIABLE, HEALTHY TREES AND SHRUBS. THE TREES WILL RECEIVE SELECTIVE PRUNING AND LIMBING ALONG WITH REMOVAL OF ANY DISEASED OR DEAD TREES. INVASIVE PLANTINGS AND VINES WILL BE REMOVED. THE PURPOSE OF THIS CLEANUP WILL BE TO ENSURE THE EFFECTIVENESS OF THE BUFFER AND TO PROMOTE THE HEALTH OF THE REMAINING TREES AND SHRUBS. NEW PLANTING WILL BE INSTALLED TO SUPPLEMENT ANY OPEN AREAS CONSISTENT WITH THE CROSS SECTION PROVIDED IN SECTION 12 OF THE NARRATIVES CONTAINED IN THE APPLICATION FOR REZONING MASTER PLAN AND GUIDELINES PREPARED BY CLARK NEXSEN. THE JAMES CITY COUNTY PLANNING DIRECTOR OR HIS REPRESENTATIVE SHALL INSPECT THIS PORTION OF THE BUFFER WITH THE LANDSCAPE ARCHITECT TO ENSURE THAT THE COMPLETED BUFFER COMPLIES WITH PROFFER CONDITION #8.

0' 20' 40' 80' 160' 320'

S:\JOBS\8642\19-The Promenade at John Tyler\Engineering\Design\Lighting\W08642-19_CCC Buffer Exhibit.dwg, 4/25/2016 3:57:36 PM, jordanbristow

DATE: ____ __, ____
SCALE: 1"=20'
SHEET 1 of 1

ROUTE 199 BUFFER LANDSCAPE ELEVATION

THE PROMENADE AT JOHN TYLER

JAMES CITY COUNTY, VIRGINIA

(AES PROJECT #: 8642-19 - AES PROJECT CONTACT: GRAHAM CORSON, P.E.)

AES CONSULTING ENGINEERS
5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
Phone: (757) 253-0040
Fax: (757) 220-8994
www.aesva.com
Hampton Roads | Central Virginia | Middle Peninsula

AGENDA ITEM NO. K.1.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Bryan J. Hill, County Administrator

SUBJECT: County Administrator's Report

ATTACHMENTS:

	Description	Type
	CA Report	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	6/1/2016 - 2:53 PM

M E M O R A N D U M

DATE: June 14, 2016

TO: The Board of Supervisors

FROM: Bryan J. Hill, County Administrator

SUBJECT: County Administrator's Report

The following is a summary of activities that took place May 18, 2016 through June 7, 2016:

May 18, 2016 (Wednesday)

- Radio Show
- Speaking Engagement: Police Academy

May 19, 2016 (Thursday)

- Met with Sue Mellen, FMS Director
- Attended the Virginia Department of Transportation public hearing

May 20, 2016 (Friday)

- Speaking Engagement: Adult Prevention Expo: "Got A Plans?"

May 21, 2016 (Saturday) - May 24 (Tuesday)

- Attended Government Financial Officers Association of the United States and Canada Conference, Toronto, Canada (Two Speaking Engagements)

May 24, 2016 (Tuesday)

- Attended Board of Supervisors work session
- Attended Board of Supervisors meeting

May 25, 2016 (Wednesday)

- Met with Jason Purse, Assistant County Administrator, and Adam Kinsman, County Attorney
- Met with Doug Powell; preparation for Department of Environmental Quality meeting
- Met with John Carnifax, Parks & Recreation Director, and Jason Purse, Assistant County Administrator
- Attended Anheuser-Busch Reception

May 26, 2016 (Thursday)

- Met with Randy Wheeler, Poquoson City Manager
- Attended Executive Leadership Team meeting
- Radio Show

May 27, 2016 (Friday)

- Attended Coffee with the County Administrator, staff event

May 31, 2016 (Tuesday)

- Visited Clara Byrd Baker Elementary School; student recognition, Sam Tighe
- Attended meeting with the Department of Environmental Quality, Doug Powell, JCSA Manager, and Mike Vergakis, JCSA Engineer

June 1, 2016 (Wednesday)

- Attended New Employee Orientation
- Conference Call with Clarion and Jody Puckett, Communications Director
- Met with John Horne, General Services Director
- Met with Hampton Roads Planning District Commission CAO meeting

June 2, 2016 (Thursday)

- Attended Pre-agenda meeting
- Met with Jeremy Martin, College of William & Mary professor
- Radio Show
- Attended LEAD Board of Directors and Class of 2015 event

June 3, 2016 (Friday)

- Met with Al Ashley, Government Transparency

June 6, 2016 (Monday)

- Attended Strategic Planning Technical Advisory Group meeting
- Met with Sue Mellen, FMS Director
- Met with Angie Gilliam, HR Director

June 7, 2016 (Tuesday)

- Met with Karen Riordan, President and Chief Executive Officer of Greater Williamsburg Chamber and Tourism Alliance and Jeanne Zeidler, President and Chief Executive Officer
- Met with Ryan Ashe, Fire Chief
- Attended WATA public hearing
- Speaking Engagement, Ford's Colony

BJH/ab
CAReport061416-mem

AGENDA ITEM NO. N.1.

ITEM SUMMARY

DATE: 6/14/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Adjourn until 4 pm on June 28, 2016 for the Work Session

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REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	6/1/2016 - 3:00 PM