

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF FEBRUARY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Rachel Jones, a tenth-grade student at Lafayette High School led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

Mr. Matthew James, President and CEO of the Peninsula Council for Workforce Development, gave an overview of the Peninsula Council for Workforce Development efforts in the region. Mr. James presented a video describing the Youth Career Cafe, a workplace-readiness center for students and young adults ages 14 to 21. Mr. James stated Mr. Harrison was active on the Council and the Workforce Development Consortium. Mr. James related the Council was looking forward to a second location in Newport News in six to eight weeks, and eventually having a concentration of three centers on the Peninsula to serve youth.

Mr. Harrison stated that hopefully the Williamsburg/James City County area could become one of the locations.

E. PUBLIC COMMENT

1. Mr. Leonard Sazaki, 3927 Ironbound Road, commented on trash pickup, suggesting that citizens should be allowed to decide on this trash disposal option; and commented that the County should not buy the airport property because he believed the cost would ultimately fall on the citizens.

2. Mr. Jay Everson, 103 Branscome Boulevard, commented on what he saw as a disconnect on the adequate school facilities test and the potential ninth elementary school.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the purchase of the airport property; salaries for teachers; road repairs on Route 60; recent real estate market decline; biodiesel fuel shortcomings; and spending controls for schools in York County.

4. Mr. John Rhein, 3505 Hunter's Ridge, stated that a demonstration of audio/video voting machines would be held by A. J. Cole, General Registrar, on February 17, 2007, at 1 p.m. at the James City-Williamsburg Community Center. He stated the voting machine would make voting easier for the blind and visually impaired, illiterate, and others who have difficulty with voting ballots. The meeting is open to all interested citizens.

F. CONSENT CALENDAR

Mr. Bradshaw asked to pull Item No. 4 from the Consent Calendar.

Mr. Harrison made a motion to adopt the remaining items as amended.

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

1. Minutes -
 - a. February 1, 2007 - VACo/VML Legislative Day
2. Extension of One Temporary Overhire Position - Police

RESOLUTION

EXTENSION OF ONE TEMPORARY OVERHIRE POSITION

WHEREAS, the Board of Supervisors previously gave approval on September 12, 2006, for two temporary overhire positions for the Police Department that would expire on March 1, 2007, upon the expected retirement of two officers; and

WHEREAS, one of the officers scheduled to retire has extended his retirement date beyond March 1, 2007; and

WHEREAS, funds are available within the existing Police Department FY 2007 Budget to cover the cost of the extension of one overhire position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby extend the expiration date of one full-time temporary Police Officer I overhire position from March 1, 2007, to July 27, 2007.

- 3. Office of Emergency Medical Services (OEMS)/Rescue Squad Assistance Fund (RSAF) - Grant Award - \$12,500

RESOLUTION

OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)/RESCUE SQUAD

ASSISTANCE FUND (RSAF) - GRANT AWARD - \$12,500

WHEREAS, the James City County Fire Department has received a grant from the Virginia Department of Health, Office of Emergency Medical Services, Rescue Squad Assistance Fund in the amount of \$12,500; and

WHEREAS, the funds are to be used for the purchase and replacement of outdated Automatic External Defibrillators (AED's) for the Fire Department's administrative and command vehicles, at the Fire Training Center and at Fire Station 3; and

WHEREAS, the grant requires a match of \$12,500; and

WHEREAS, the matching funds are available in the County's Grants Match Account; and

WHEREAS, the grant expires on December 31, 2007, therefore, allowing unexpended funds to be carried over into the next fiscal year budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and appropriates the following budget appropriation to the County's Grants Match Account:

Revenues:

Rescue Squad Assistance Fund	\$12,500
JCC Grants Match Account	<u>12,500</u>
Total	<u>\$25,000</u>

Expenditure:

Rescue Squad Assistance Fund	<u>\$25,000</u>
------------------------------	-----------------

- 5. Virginia Department of Historic Resources Grant Award - \$55,000

RESOLUTION

VIRGINIA DEPARTMENT OF HISTORIC RESOURCES GRANT AWARD - \$55,000

WHEREAS, James City County has received grants from the Virginia Department of Historic Resources totaling \$55,000; and

7. Appropriation of VDOT Revenue Sharing Funds - Ironbound Square Revitalization Road Improvements - Phase I

RESOLUTION

APPROPRIATION OF VDOT REVENUE SHARING FUNDS -

IRONBOUND SQUARE REVITALIZATION ROAD IMPROVEMENTS - PHASE I

WHEREAS, on October 24, 2006, the James City County Board of Supervisors awarded a Construction Contract for the Ironbound Square Revitalization Road Improvements - Phase I.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Community Development Budget, as adopted for the fiscal year ending June 30, 2007, as follows:

Revenue:

Virginia Department of Transportation Revenue Sharing \$194,920

Expenditure:

Ironbound Square Revitalization Road Improvements - Phase I \$194,920

BE IT FURTHER RESOLVED that the appropriation of funds for the Ironbound Square Revitalization Road Improvements - Phase I, be designated a continuing appropriation to carry beyond FY 2007 until the road improvement contract is complete.

8. Contingency Transfer - Facilities Management

RESOLUTION

CONTINGENCY TRANSFER - FACILITIES MANAGEMENT

WHEREAS, the James City/Williamsburg Community Center heat exchanger and the Human Services Building cooling tower have failed; and

WHEREAS, the adopted budget for FY 2007 did not include these major repairs; and

WHEREAS, the estimates have been received totaling \$33,000 for the Community Center and \$78,890 for the Human Services Building cooling tower.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, amend the previously adopted budget for FY 2007 as follows:

Expenditures:

Facilities Management Division \$111,890
Operating Contingency (\$111,890)

4. Natural Resources Conservation Service (NRCS) Grant - Greenspace Acquisition - \$250,000

Ms. Tammy Rosario, Senior Planner, stated that the Board authorized the acquisition of conservation easements on the Whitehall Tavern property near Anderson's Corner, owned by Mr. Bert Geddy, Jr. She stated grant funds were sought to augment the County's investment in this historic property and the County was recently advised that it had received \$250,000 from the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) for the Federal Farm and Ranch Lands Protection Program. Staff recommended approval of the resolution appropriating the grant funds.

Mr. Bradshaw stated that Ms. Rosario and other staff members have done a very good job in seeking non-County funds to offset the cost of a very important easement.

Mr. Bradshaw made a motion to adopt the resolution.

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

RESOLUTION

NATURAL RESOURCES CONSERVATION SERVICE (NRCS) GRANT -

GREENSPACE ACQUISITION - \$250,000

WHEREAS, the Board of Supervisors has acquired conversation easements on portions of the historic Whitehall Tavern property and sought out Federal grant funds to augment County Greenspace funds; and

WHEREAS, the County has recently been notified that it will receive \$250,000 from the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) for the Federal Farm and Ranch Lands Protection Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts this grant of \$250,000 and appropriates it to the Capital Improvement Budget for Greenspace.

Mr. McGlennon stated that there was \$317,000 in grant funds to offset the burden upon taxpayers.

G. PUBLIC HEARINGS

1. Case No. Z-5-06/MP-7-06. New Town Sections 7 and 8 (continued from January 9, 2007)

Mr. Matthew Smolnik, Planner, stated Mr. Gregory Davis, on behalf of New Town Associates, LLC, has applied to rezone approximately 108 acres in Sections 7 and 8 located north of the intersection of Monticello Avenue and Route 199, further identified as Tax Map/Parcel Nos.: (38-4)(1-51) and (38-4)(1-56) from R-8, with proffers, to MU, with proffers. The project area for Sections 7 and 8 is located in the northwestern corner of New Town, which is west of Sections 3 and 6, north of Section 9 (Settler's Market), and east of State Route 199. Sections 7 and 8 will be primarily residential development with up to 400 dwelling units made up of a mixture of single-family attached and single-family detached dwelling units. Sections 7 and 8 may also include up to 62,300 square feet of nonresidential development.

Staff found the proposal for New Town Sections 7 and 8 is generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines, with the exception of the Community Character

Corridor (CCC) buffer (formerly known as a greenbelt), which is depicted as a 150-foot open-space greenbelt road easement on the original Master Plan and Section 6.9 on page 121 of the original Design Guidelines, which references a 150-foot greenbelt buffer along Route 199. The proposed development is compatible with surrounding zoning and development; however, the proposal is not consistent with the 2003 Comprehensive Plan recommendations, specifically the section pertaining to the width of CCC buffers. The inconsistencies with the Comprehensive Plan, original Design Guidelines and Master Plan, and previously approved residential development in New Town are outlined in the staff report.

On November 6, 2006, the Planning Commission voted 4-3 to recommend approval of this application. The Planning Commission also made suggestions regarding water quality monitoring, stream channel monitoring, and remediation, and holding a public meeting with persons that spoke at the public hearing. Changes have been made to the proffers to address monitoring and remediation, and the applicant has met with the persons who spoke at the public hearing to discuss the proposal in greater detail. Staff supports the applicant's amendments to the proffers but continues to recommend denial of the application.

Mr. McGlennon recognized Ms. Shereen Hughes of the Planning Commission in attendance.

Mr. Icenhour confirmed that the stream monitoring as proffered is paid for by the developer rather than the Homeowners Association.

Mr. Harrison asked for confirmation that the developer would contribute \$60,000 up front on future remediation.

Mr. Smolnik confirmed that this was correct.

Mr. Smolnik stated this was correct and the monies would be given up front for any remediation necessary prior to site plan and development.

Mr. Harrison asked if this funding would come forward when the permit was issued.

Mr. Smolnik stated the bond or letter of credit to the County would be issued prior to the first development plan approval.

Mr. Bradshaw asked that in addition to the \$60,000 for remediation, was the developer paying for the estimated \$150,000 for stream monitoring.

Mr. Smolnik stated this was correct.

Mr. McGlennon stated the revised application provided for 11.55 acres to be treated by LID, whether by the four systems identified, or some other techniques.

Mr. Smolnik stated this was correct.

Mr. McGlennon opened the public hearing.

1. Mr. Greg Davis, on behalf of New Town Associates, stated since the case initially came forward, proffer changes were made to the LID plan, and the Williamsburg Environmental Group provided a detailed commentary on the stream monitoring and remediation program. Mr. Davis stated his client would develop monitoring plans and conduct monitoring at the estimated cost of \$150,000 with an additional bond of \$60,000 when the site plan was approved. He stated his client met with the James City County Concerned Citizens' group the Historic Route 5 Association, and the Friends of Powhatan Creek Watershed on January 29, 2007, and had a meaningful exchange. Mr. Davis stated the CCC buffer plan was revised and he had

provided a letter from Virginia Department of Transportation (VDOT) stating the supplemental plantings would be permitted on the Route 199 VDOT right-of-way. He stated that New Town Associates received confirmation from the U.S. Army Corps of Engineers and the Department of Environmental Quality that permits were approved for the protection of the small whorled pogonia. He stated the protection plan met both Federal and State approval. Mr. Davis requested approval of the application.

Mr. Bradshaw highlighted that the LID process was described in a very precise way in the memorandum from AES Consulting Engineers describing LID practices.

Mr. McGlennon stated his appreciation of the proffer to integrate the low-income housing within the other housing units.

2. Ms. Sarah Kadec, on behalf of the James City County Concerned Citizens Group, thanked New Town Associates for their response to the environmental proffers and thanked Mr. Greg Davis for providing revised proffers and a better understanding for the Concerned Citizens group. She stated AES met with group members and responded to remaining questions, which they believed demonstrated a significant improvement over previous environmental efforts. She stated the group felt the stream monitoring and remediation plan set a precedent and the additional LID acreage should help improve water quality in the Powhatan Creek Watershed. She stated the remaining concerns were the CCC buffer variance, traffic, and stormwater management.

3. Ms. Donna Ware, 14 Buford Road, stated she was a retired botanist with the College of William & Mary and had studied the Casey property colony of the small whorled pogonia, and in doing so deduced that the project would interfere with the colony. She indicated the realignment of Route 199 spared the colony but it was still not adequately protected in the proposed design. She stated the proposal included the development of almost half of the ravine and headwaters of the colony; and if the surface water was diverted into stormwater ponds, it would affect hydrology of the colony, or if surface water was not diverted, it will carry contaminants into the ravine where the small whorled pogonias are located. Ms. Ware stated there was an eminent need to adequately protect the colony and asked that the preserve design be modified to exclude development in the ravine headwaters.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Icenhour asked how the agreement was documented that development would occur outside the Resource Protection Area (RPA) buffer since it was not listed in the proffers.

Mr. Smolnik stated the 100-foot buffer was shown on the Master Plan, and with Board approval the Master Plan became a legally binding document.

Mr. Icenhour stated he believed the CCC buffer requirements were unclear between the Comprehensive Plan and the zoning ordinance for MU-Mixed Use development and requested staff examine this to have the buffer requirements apply universally as he felt the Comprehensive Plan intended.

Mr. McGlennon asked Mr. Davis about issues regarding the small whorled pogonia colony brought up by Ms. Ware.

Mr. Davis stated he had not previously been in contact with Ms. Ware, and commented that the Fish and Wildlife Service was a commenting agency who suggested more protection than the permitting agencies required. He stated that originally there were three acres of protection for the small whorled pogonia and there were now approximately 8.5 acres of protection, which was deemed appropriate by environmental permitting agencies.

Mr. Goodson made a motion to adopt the resolution.

Mr. Goodson thanked the applicant for working with the Board and citizen comments, and though he had concerns about the CCC buffer, he felt it was needed not to protect the site from the road but to protect the people in the community. He stated that with better plantings in the VDOT right-of-way, the buffer would be adequate unless there was an expansion of Route 199 in the future.

Mr. Harrison thanked the applicant for listening to the guidance of staff, community members, and the Board, and stated his concern that there was not a baseline water quality study done prior to any development. He commented that continuing development was affecting water supply, traffic, and the environment. He expressed concern over increasing impervious cover percentages and stated he could not support the application for these reasons.

Mr. Icenhour stated the New Town project had been approved by a previous Board, but New Town Associates agreed to refer back to the Board for each section. He stated that given that the Board had already given approval on the overall plan, this Board was not looking at whether or not to move forward with the development, but how to progress. He stated that many of his concerns have turned into positive aspects of the application including integration of affordable housing, application of the new cash proffer policy for schools to this section, willingness to change the variance for a 50-foot buffer, and moving development outside the RPA. He stated he was pleased with water quality monitoring and testing, increases in LID acreage, but he felt the impervious cover was too high, and created too much of an impact on schools and traffic. He stated that the CCC buffer on the original Master Plan until June 2006 was 150-feet but was constrained due to the pogonia preserve and other environmental aspects. He stated his appreciation for decreasing the number of houses in the development and the willingness to work with citizen groups, resulting in his support for the application.

Mr. McGlennon stated there was a concern about the increased residential development in the County, and asking taxpayers to carry a burden, which created stress on the schools and environmental concerns. He stated that every proposal needs strict scrutiny, and as Mr. Icenhour pointed out, that in the past decade the development was approved by individual sections to improve teach site as it was ready for development creating an assumption of approval unless the application had serious flaws. He stated there had been significant changes and credited the Concerned Citizens group, the Friends of the Powhatan Creek Watershed, the Historic Route 5 Association, and the Planning Commission, as Ms. Shereen Hughes had made the suggestion for inclusion of additional LID acreage. Mr. McGlennon stated the application had significantly improved from the original proposal that went before the Planning Commission, which was permitted to have almost 600 homes, and was now down to about 330. He indicated concern for the CCC buffer ambiguity, as it was not clear that it is a requirement for a Mixed Use rezoning. He said he felt that further enhancements including plantings in the VDOT right-of-way and garages built to buffer the road will help mitigate those impacts. Mr. McGlennon said he was pleased with the ability to monitor water quality and endangered species being provided at high levels and felt that mitigates most of the major concerns. He stated his support for the application.

On a roll call vote, the vote was AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: Harrison (1).

RESOLUTION

CASE NO. Z-5-06/MP-7-06 NEW TOWN SECTIONS 7 AND 8

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, adjoining property owners were notified, and a hearing was scheduled on Case No. Z-5-06/MP-7-06, with Master Plan, for a rezoning of 108.1 acres from R-8, Rural Residential, with proffers, to MU, Mixed Use, with proffers; and

WHEREAS, the applicant has proposed to construct up to 400 residential units and up to 62,300 square feet of nonresidential development; and

WHEREAS, the property is designated Mixed Use on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located to the north of the intersection of Monticello Avenue and State Route 199 on property more specifically identified as Parcel Nos. (1-51) and (1-56) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, on November 6, 2006, the Planning Commission of James City County, following a public hearing, recommended approval of the application by a vote of 4-3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. Z-5-06/MP-7-06 as described herein and accept the voluntary proffers.

2. **Case No. Z-7-06. New Town Sections 3 and 6 Proffer Amendment**

Ms. Leanne Reidenbach, Planner, stated Mr. Tim Trant has applied on behalf of New Town Associates to amend a 2004 proffer which requires a minimum of two lanes departing Ironbound Road on Watford Lane.

Traffic studies determined that only one lane on Watford Lane departing Ironbound Road was consistent with the proposed plans for widening Ironbound Road and still met appropriate levels of service. Staff stated the proposed change would not adversely affect traffic capacity at the Watford Lane/Ironbound Road intersection.

At its meeting on January 10, 2007, the Planning Commission voted 7-0 to approve the application.

Staff recommended approval of the application.

Mr. Harrison asked what dialogue had occurred in regards to impacts on the Ironbound Square revitalization efforts.

Ms. Reidenbach stated that based on traffic studies on New Town, the additional lane would not be needed even with the pending Ironbound Square development.

Mr. McGlennon asked if there was discussion with the Ironbound Square Homeowners Association or with the homeowners on the other side of Ironbound Road regarding the proffer amendment.

Ms. Reidenbach stated there had not been any discussion.

Mr. McGlennon asked if notice was sent to them as adjacent property owners.

Ms. Reidenbach stated notice had been sent but there were no concerns received by the Planning office.

Mr. Wanner stated there would be a traffic signal on that intersection at the appropriate time.

Mr. McGlennon stated Watford Lane was a two-lane road that would align on the other side of Ironbound Road.

Ms. Reidenbach stated that the two lanes would align and the third lane on the other side would be a dedicated right-hand turn lane.

Mr. Bradshaw commented that there would be two lanes out of Watford Lane but only one lane into Watford Lane.

Mr. Goodson asked for confirmation that the straight traffic and right-turn traffic would be sharing the same lane.

Ms. Reidenbach stated this was correct.

Mr. Goodson stated he did not imagine there would be a great deal of impact on traffic in this area.

Ms. Reidenbach stated this was correct.

Mr. McGlennon clarified that there was adequate notification to adjacent property owners.

1. Mr. Tim Trant on behalf of New Town Associates was present to answer questions.

Mr. Icenhour asked Mr. Trant to re-state the benefits to the public in making the requested proffer amendments.

Mr. Trant stated the proffer amendment application could be contributed to a reduction of impervious surface area, and the driving force was the design of the Watford Lane interchange based on most recent traffic study showing Watford Lane required only three lanes departing Ironbound Road. Mr. Trant stated this matched up with VDOT's design and improvements in the area, and it seemed only necessary to include three lanes at that interchange based on traffic.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. Z-07-06. NEW TOWN SECTIONS 3 AND 6 PROFFER 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 were notified, and a hearing was scheduled for Case No. Z-07-06 for amending the proffers for approximately 65.4 acres from MU, Mixed Use with proffers, to MU, Mixed Use with amended proffers; and

WHEREAS, the site can be further identified as Parcel No. 1-157 on James City County Real Estate Tax Map No. 39-1; and

WHEREAS, the Planning Commission of James City County, following its public hearing on January 10, 2007, recommended approval of Case No. Z-07-06, by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case No. Z-07-06 as described herein and accepts the amended proffers.

3. **Case No. SUP-33-06. Johnny Timbers Tree Service**

Mr. Matthew Smolnik, Planner, stated Mr. John Hull, on behalf of Johnny Timbers Tree Service, has applied for a special use permit (SUP) to allow for a contractor's warehouse and office at 2201 Jolly Pond Road, further identified as James City County Real Estate Tax Map/Parcel No. (29-4)(1-9), consisting of 5.01 acres zoned A-1, General Agricultural. Mr. Smolnik stated the property was currently being used to store equipment and material associated with the Johnny Timbers Tree Service, Inc., which was currently operating without the required SUP in the A-1, General Agricultural, zoning district. Mr. Smolnik stated the brochure for the business described the services offered by Mr. Hull's business, which included commercial and residential tree removal, pruning, and stump grinding. Mr. Smolnik stated the applicant owned and stored equipment on the property. The applicant has indicated the hours of normal operation were from 7 a.m. to 5 p.m. with a total of four employees. He stated the employees of the business meet at the property in the morning and leave the site with the appropriate equipment for the day. Mr. Smolnik said that the applicant has indicated that wood by-products such as valuable timber and mulch have been stored on the property. He said log trucks come on-site, load the logs, and then deliver them to the lumber mill, and the mulch was ground off-site at job sites and stored on-site until it was needed. Mr. Smolnik stated an SUP condition had been drafted to eliminate the storing of this and similar type material on-site.

The applicant has been cited by James City County as a nonconforming use following noise complaints from neighboring property owners. The applicant has also been cited by the Fire Marshal's Office for illegal open burning. The applicant has applied for an SUP to bring the current use into conformance with the Zoning Ordinance. Staff has contacted neighbors of the property and discussed in detail the current operations of this business. Staff believes the proposed SUP conditions should sufficiently mitigate the impacts of the business on surrounding residential dwellings.

At its meeting on January 10, 2007, the Planning Commission voted 7-0 to approve the application.

Staff recommended approval of the application subject to conditions provided.

Mr. Icenhour stated he had received a letter from Ms. Rachel Cole regarding the application stating there was storage of materials on the property. Mr. Icenhour asked how the SUP conditions restrict the operation regarding noise and burn complaints.

Mr. Smolnik stated the conditions limited the hours of operation, prohibited stores of wood or wood by-products, and prohibited material back on-site from off-site work.

Mr. Icenhour stated this would become a contractor's warehouse where vehicles and equipment were kept.

Mr. Smolnik stated this was correct.

Mr. McGlennon opened the public hearing.

1. Mr. John Hull, 717 Autumn Trace, stated that he, as the owner/operator, was willing to abide by the conditions. He stated the open burning citation was a result of burning downed trees to clean up the property. Mr. Hull stated the main operations do not run machinery on the property, and he had spoken with adjacent property owners about his application and operation of the business.

Mr. McGlennon asked for confirmation that the conditions were understood and agreeable.

Mr. Hull confirmed that the conditions in the special use permit were acceptable.

Mr. McGlennon asked if Mr. Hull understood that violation would result in revocation of the SUP and the ability to operate the business.

Mr. Hull stated he understood.

2. Ms. Shereen Hughes, Planning Commissioner, stated that it was traditional in the area where the parcel was located to have a residence and have a contractor's warehouse on a property, and that Mr. Hull indicated at the Planning Commission meeting that there would be a residence developed on the property. She stated that before the dam went out there were businesses and homes with construction vehicles using Jolly Pond Road and stated concerns about traffic. Ms. Hughes recommended notifying VDOT and the James City County Police regarding vehicles going too fast on this road as it was not a wide road and there would be large vehicles using it.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Harrison made a motion to approve the resolution.

Mr. McGlennon stated that he appreciated Ms. Hughes's comments because due to the size of the parcel, having a home on the land along with the contractor's warehouse was very practical.

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

RESOLUTION

CASE NO. SUP-33-06. JOHNNY TIMBERS TREE SERVICE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit (SUP) process; and

WHEREAS, Mr. John W. Hull has applied for an SUP to allow a contractors warehouse and office; and

WHEREAS, the property is currently zoned A-1, General Agriculture, and is designated Rural Lands on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 2201 Jolly Pond Road on property more specifically identified as Parcel No. (1-9) on the James City County Real Estate Tax Map No. (29-4); and

WHEREAS, on January 10, 2007, following a public hearing, the Planning Commission recommended approval of the application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve the issuance of SUP-33-06 as described herein with the following conditions:

1. This SUP shall be valid for the operation of Johnny Timbers Tree Service, Inc. (Business) and accessory uses thereto as shown on the Master Plan titled "2201 Jolly Pond Master Plan" date stamped December 20, 2006. Development of the site shall be generally in accordance with the above-referenced Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Should new exterior site or building lighting be installed for the operation of the business, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher, shall extend outside the property lines.
3. Hours of operation including, and subject to the provisions of Condition No. 6, the operation of power tools, machinery, truck deliveries, and pickups, shall be limited to 7 a.m. to 5 p.m., Monday through Friday.
4. Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 16 square feet in size and not to exceed six feet in height from grade.
5. Only one entrance shall be allowed onto Jolly Pond Road (Route 611) as shown on the Master Plan.
6. There shall be no tree stumps, trunks, limbs, tree roots, chipped wood, mulch, sawdust, or other wood by-products stored, placed, or processed on the property.
7. A landscaping plan shall be approved by the Planning Director or his designee to

effectively screen the storage of mechanical equipment from Jolly Pond Road. This buffer shall be installed or bonded in a manner satisfactory to the County Attorney within six months of the approval date of this SUP by the Board of Supervisors. The owner shall provide enhanced landscaping so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance.

8. With the exception of a drive aisle and supplemental plantings, the area depicted as "Proposed Green Space" as shown on the Master Plan shall remain in a natural undisturbed state unless otherwise approved by the Planning Director.
9. The applicant shall receive full approval from the Health Department for septic tank and drainfield capacity prior to final site plan approval.
10. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. HW-1-07. Warhill Sports Complex: Recreation Facilities (PPEA #2)

Mr. Bradshaw stated that James City County is the landowner and could pose a conflict of interests, however, he felt the Board could consider the application fairly.

Ms. Ellen Cook, Planner, stated Mr. Andy Curtis has applied on behalf of James City County for a height waiver to allow for the construction of eighteen 70-foot-tall light poles to illuminate new recreation fields at the Warhill Sports Complex Site.

Staff found that due to an established wooded buffer surrounding the area, distance from the property lines, and the light fixtures proposed, there would be a negligible impact on the surrounding properties from the light poles.

Staff recommended approval of the application.

Mr. Goodson stated the higher the pole the less light spillage resulted because the light was directed downward, so the higher poles created less of an impact.

Mr. McGlennon stated the light fixture specified used a particular technology creating less light spillage.

Mr. Icenhour stated he went out to look at the lights at the stadium and drove around to surrounding neighborhoods, including the Villages at Westminster. He concluded that the higher poles and technology decreased what could have been a problem with light spillage.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Bradshaw made a motion to approve the resolution as amended.

Mr. McGlennon noted that the concentration of light is more energy efficient and will save in cost of lighting.

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

NAY: (0).

RESOLUTION

CASE NO. HW-1-07. WARHILL SPORTS COMPLEX: RECREATION FACILITIES

WHEREAS, Mr. Andy Curtis, on behalf of James City County, has applied for a height limitation waiver to allow for the construction of eighteen 70-foot-tall light poles; and

WHEREAS, the Recreation Facilities will be illuminated with Musco Light Structure Green outdoor sports lighting or other lighting of substantially equivalent or superior off-site spill light control characteristics; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case HW-1-07; and

WHEREAS, the light poles will be located on property zoned R-8, Rural Residential, and is further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (32-1); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-354 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of structures in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-1-07.

2. **Declaration of Restrictive Covenants for Conservation and Open Space - Jamestown Campground and Yacht Basin**

Ms. Tammy Rosario, Senior Planner, stated on November 28, 2006, the Board of Supervisors adopted a resolution authorizing the County Administrator to execute all documents necessary for the acquisition of the Jamestown Campground and Yacht Basin, a total of 202 acres ("Property"), and expend up to \$9,550,000 for the Property. Ms. Rosario said staff has successfully satisfied nearly all special award conditions for two of the grants which included a \$1.88 million Coastal and Estuarine Land Conservation Program (CELCP) grant from the National Oceanic and Atmospheric Administration (NOAA) and a \$750,000 grant from Virginia Land Conservation Foundation (VLCF). As a final requirement for grant reimbursement, both Agencies require a covenant on the Property, which dedicates specific portions of the Property as either a conservation area or an open-space area. Staff has prepared a Declaration of Restrictive Covenants for Conservation and Open Space for both the CELCP and VLCF grants, which, once recorded, will fulfill the conditions of each grant. Ms. Rosario stated the CELP grant area consisted of 99 acres of the campground and yacht basin, which was designated to be used for activities consistent with conservation purposes including resource protection, restoration and enhancement, passive recreational activities, and research and educational activities. She stated the VLCF grant area was slightly larger, covering 112 acres, and the VLCF Covenant dedicated the property as open-space land under the Open-Space Land Act of 1966 for the purposes of natural area protection, open spaces and parks, and historic area preservation. Ms. Rosario clarified that in instances where the two grant areas overlap, the more restrictive conditions of the two programs will apply. Staff recommended approval of the resolution authorizing the County Administrator to sign and execute these covenants.

Mr. McGlennon stated there were amended covenants that had been distributed prior to the meeting. Mr. McGlennon opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked what “to promote revenue alternatives to property taxes” meant.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. McGlennon responded to Mr. Oyer’s comments stating that due to the receipt of grant monies and as a result of accepting the covenants, the property acquisition would not require County resources in the amount of the grants.

Mr. Harrison made a motion to approve the resolution.

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

RESOLUTION

DECLARATION OF RESTRICTIVE COVENANTS FOR CONSERVATION AND OPEN SPACE

JAMESTOWN CAMPGROUND AND YACHT BASIN

WHEREAS, on December 20, 2006, the County acquired the Jamestown Campground and Yacht Basin, a total of 202 acres and comprised of the following County Tax Map Nos.: (46-4)(1-8), (46-4)(1-9), (46-4)(1-10), (46-4)(1-13), (46-4)(1-14), (46-4)(1-15), (46-4)(1-12), (46-3)(1-5), (46-3)(1-6), (46-3)(1-9), (46-3)(1-13), and (46-3)(1-14) (Property); and

WHEREAS, the County has received grant reimbursements for the acquisition of the Property from the Virginia Land Conservation Foundation (VLCF), and the Coastal and Estuarine Land Conservation Program (CELCP), a part of the National Oceanic and Atmospheric Administration (NOAA); and

WHEREAS, as a condition of the VLCF and CELCP/NOAA grants, portions of the Property must be designated as either a conservation area or an open-space area; and

WHEREAS, the County desires to place Restrictive Covenants on portions of the Property, which will designate 90 acres of the Property as a conservation area and 105 acres of the Property as an open-space area; and

WHEREAS, the Restrictive Covenants will apply to the following parcels of the Property: County Tax Map Nos. (46-3)(1-5), (46-3)(1-9), (46-3)(1-13), (46-3)(1-14), (46-4)(1-13), (46-4)(1-14), and (46-4)(1-15); and

WHEREAS, the Board of Supervisors is of the opinion the County should place the Restrictive Covenants on the Property to preserve portions of the Property as conservation and open-space areas in order to fulfill the conditions of the VLCF and CELCP/NOAA grants.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the Restrictive Covenants and any other documents necessary to preserve portions of the Property as conservation and open-space areas.

3. Ordinance Amendment to Chapter 15, Offenses - Miscellaneous, Section 15-25.1, Designation of Police to Enforce Trespass Violations

Mr. Adam Kinsman, Assistant County Attorney, stated that a previous ordinance allowed private property owners to allocate the James City County Police Department as legally responsible for property to enforce trespassing violations. Mr. Kinsman stated the ordinance required that before an individual was arrested for trespassing, he or she be issued a written "notice of trespass." Since when this ordinance was initially drafted, staff envisioned that the common trespass violation would be a small, isolated incident involving one or two people, making issuance of a written notice relatively simple. He indicated that recent events at New Town and other places in the County have consisted of larger groups rather than single trespassers, and in a group format, the issuance of trespassing citations was cumbersome. He stated the purpose of the ordinance amendment was to eliminate the written requirement of the trespassing citation, with which staff felt comfortable, and adding the Sheriff's Department as a permissible party for the power of attorney designation as the department often provide backup to the Police Department. Mr. Kinsman stated Sheriff Deeds was agreeable to this and a number of businesses and organizations were already utilizing the ordinance. He stated there was an eminent addition of various apartment complexes and businesses, as well as the Homeowners Association in New Town that may also use the limited power of attorney, so staff may revise the ordinance further at a later time as the ordinance is used. Staff recommended adoption of the ordinance.

Mr. Harrison asked if, with the revision and addition of Sheriff's Department, there was a need to include additional manpower for groups, such as Fire Marshals.

Mr. Kinsman stated there were various mutual aid agreements already in place and the power of attorney was very limited to trespassing. He stated that between the Sheriff's Department the Police Department as well as mutual aid for crowd control, he did not see the need to add additional aid in the ordinance; however, that issue could be readdressed in the future.

Mr. McGlennon asked Chief Emmett Harmon to address the effectiveness of the ordinance.

Chief Harmon stated there had not yet been an arrest under this ordinance as it was very new and still being refined. He stated the ordinance could be an effective tool, especially in New Town which has become a gathering place, to keep the area safe for everyone.

Mr. McGlennon opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if there was a minimum number or constraint to the people to which it would apply.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Bradshaw stated there was no limit to the trespassing violation.

Mr. Harrison made a motion to approve the ordinance amendment.

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

7. Case No. ZO-02-06. Subdivision Ordinance Revision

Mr. Adam Kinsman, Assistant County Attorney, stated that on November 23, 2003, the County's Chesapeake Bay Preservation Ordinance (the "CBPO") was comprehensively revised to bring it into compliance with State regulations and as part of the revision, many of the original CBPO sections were renumbered. Staff recently discovered that a section of the County's Subdivision Ordinance incorrectly refers to a section of the CBPO that no longer exists. Mr. Kinsman stated that Section 19-29 of the County's

Subdivision Ordinance set forth the submittal requirements for a final subdivision plan and that Subsection (g) requires that property containing wetlands and/or resource protection areas include a statement on the final plat indicating that these areas will remain undisturbed “except for those activities permitted by section 23-9(c)(1) of the James City County Code.” Mr. Kinsman stated on November 23, 2003, Section 23-9(c)(1) was revised and recodified as Section 23-7(c)(1); consequently, the above-quoted reference to the old section of the CBPO must also be revised. Staff recommended adoption of the ordinance amendment.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Icenhour made a motion to approve the ordinance.

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

H. BOARD CONSIDERATION

1. Initiation of the Rezoning of Five Parcels within the Ironbound Square Revitalization Area

Mr. Rick Hanson, Office of Housing and Community Development, stated that five years ago there was an initiative to revitalize and redevelop Ironbound Square to improve conditions with new housing. He stated the adoption of this project allowed the County to receive Community Development Block Grant funds for housing improvements for all of Ironbound Square. He stated in 2002 residents and stakeholders created a redevelopment concept plan and in 2005 six acres in the northern block were rezoned based on the concept plan to MU (Mixed Use) zoning. Mr. Hanson stated the rezoned property was designed for a 67-unit senior housing facility, five single-family lots, and an upgraded neighborhood park. He stated of the 29 parcels to be rezoned to MU, 24 owners of parcels signed the rezoning application. Mr. Hanson stated that five lot owners had not signed the application which would ensure only single-family homes would be allowed in the residential area on Carriage Road, and allow for improvements to the Ironbound Square community. He recommended adoption of the resolution to authorize a Board initiated rezoning of the five parcels from R-2 to MU.

Mr. Harrison made a motion to adopt the resolution.

Mr. Harrison thanked Mr. Hanson for his efforts in bringing this project into fruition.

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

RESOLUTION

INITIATION OF THE REZONING OF FIVE PARCELS WITHIN THE IRONBOUND SQUARE

REVITALIZATION AREA

WHEREAS, on February 26, 2002, the Board of Supervisors adopted the Ironbound Square Redevelopment Plan (the “Redevelopment Plan”), which enabled the Division of Housing and Community Development (“HCD”) to implement the Ironbound Square Residential Revitalization Program (the “Revitalization Program”); and

WHEREAS, in furtherance of the Revitalization Program, HCD has submitted an application to rezone a number of parcels within the Ironbound Square redevelopment area from R-2, General Residential, to MU, Mixed Use (the “HCD Rezoning Application”); and

WHEREAS, because HCD was unable to obtain signatures from the owners of five parcels within the Ironbound Square redevelopment area, these five parcels were omitted from the HCD Rezoning Application; and

WHEREAS, these five parcels are included in the Redevelopment Plan and allowing them to retain their current R-2 zoning designation while rezoning all of the surrounding parcels to MU will complicate implementation of the Redevelopment Plan and is inconsistent with sound planning principles.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City, Virginia, that the rezoning of the following five parcels from their current R-2, General Residential, zoning designation to MU, Mixed Use, shall be initiated and shall be considered concurrently with the HCD Rezoning Application:

- a. 4344 Ironbound Road, James City County Real Estate Tax Map No. 3910100094
- b. 4346 Ironbound Road, James City County Real Estate Tax Map No. 3910100093
- c. 4348 Ironbound Road, James City County Real Estate Tax Map No. 3910100092
- d. 4354 Ironbound Road, James City County Real Estate Tax Map No. 3910100090B
- e. 4356 Ironbound Road, James City County Real Estate Tax Map No. 3910100089

Mr. Wanner stated that Mr. Harrison is an active member of the Ironbound Square Redevelopment Team.

Mr. McGlennon stated this was a very exciting project for the community, especially for an existing neighborhood that was so close to a newly developing area. He stated this is proof that the County can take care of those citizens who have been residents for a long time and may have limited means.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on citizen input on New Town application; York County providing emergency generators in all schools to be used as emergency shelters as well as four mobile generators; York County providing maintenance for schools; and the conservation easement benefits in the State Tax Code.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated the County continued to monitor General Assembly activities, and the Hampton Roads Mayors and Chairs met last Friday and endorsed a letter regarding transportation bills. He stated the letter discussed solutions offered by the region. Mr. Wanner recommended that the Board, when it completed its business, recess to 9 a.m. on Friday, February 16, 2007, for a joint meeting with the Williamsburg-James City County School Board and the Williamsburg City Council. Mr. Wanner said that when the Board adjourns from that meeting, it should adjourn to 4 p.m. on Tuesday, February 23, 2007, for a Work Session including an information technology briefing and an education briefing from NAACP regarding pre-Kindergarten education.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison highlighted the County's upcoming diversity program.

Mr. Wanner indicated the Black History program would be on February 22, 2007, at 9 a.m. at Legacy Hall and further mentioned that the dedication of the structures at Freedom Park would take place on February 27, 2007, at 2 p.m.

Mr. McGlennon stated the County was involved in the State of the Black Union, which provided national television coverage for the County and the area.

Mr. Icenhour stated he was working with Mr. Larry Foster to meet with those who live on Jolly Pond Road in order to discuss road closure and dam issues at D. J. Montague Elementary School on Wednesday, February 21 at 7 p.m. He stated the meeting would likely take place in the Library, and further information would go out to citizens by phone calls and flyers to encourage participation in the discussion.

Mr. Harrison stated there would be a meeting concerning youth issues on February 16, 2007, from 1-3 p.m. in the Human Services Building, which would be attended by representatives from the Board, the Schools, and the faith community.

Mr. McGlennon stated that is one of the issues being addressed at the upcoming joint meeting with the School Board and Williamsburg City Council.

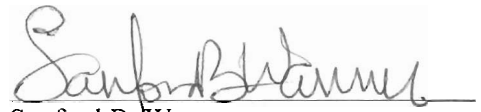
Mr. Bradshaw stated the Commissioner's Office at VDOT permitted the restoration of billboards, even though billboards were not permitted in James City County. Mr. Bradshaw explained that the State allowed restoration of the billboards granted the cost was not more than 50 percent of the cost to replace the sign. Mr. Bradshaw stated that he found out that there was a ruling that two damaged billboards in the County could not be restored due to the efforts of the Code Compliance and County Attorney staff.

L. RECESS

Mr. Harrison made a motion to recess.

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

At 9:03 p.m., Mr. McGlennon recessed the Board until 9 a.m. on February 16, 2007, for a joint meeting with the Williamsburg-James City County School Board and Williamsburg City Council at Rawls Byrd Elementary School.

A handwritten signature in black ink, appearing to read "Sanford B. Wanner", written over a horizontal line.

Sanford B. Wanner
Clerk to the Board

021307bos.min