



**PUBLIC NOTICE**  
**WILLIAMSBURG PLANNING COMMISSION**

The Williamsburg Planning Commission will hold a public hearing on August 17, 2011, 3:30 P.M. in the Council Chambers of the Stryker Building, 412 North Boundary Street, to consider the following:

**PCR #11-008:** Amendment of zoning regulations pertaining to rental of bedrooms to roomers in owner-occupied single-family detached dwellings. The three alternatives that will be considered are: (1) No change to the existing regulations; (2) Allow the rental of one bedroom to one roomer by right and the rental of bedroom(s) to two roomers with administrative approval; and (3) Allow the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator, and to three or four roomers with Board of Zoning Appeals approval. Alternative (2 and 3) creates separate sections for rental of rooms to visitors (Sec. 21-605) and rental of rooms to roomers (Sec. 21-605.1), redefines owner-occupancy, and does not allow corporate ownership for rental of rooms to roomers.

**PCR #11-015:** Request of Carlton Holdings, LLC for a special use permit to construct a commercial building and 29 condominium units at 301 Second Street and 320 Penniman Road. These properties are zoned B-2 Corridor Commercial District, and are identified as Williamsburg Tax Map No. 469-0A-00-010, 011.

Additional information is available at [www.williamsburgva.gov/Index.aspx?page=1036](http://www.williamsburgva.gov/Index.aspx?page=1036) or at the Planning Department (757) 220-6130, 401 Lafayette Street. Interested citizens are invited to attend this hearing and present their comments to the Council.

If you are disabled and need accommodation in order to participate in the public hearing, please call the Planning Department at (757) 220-6130, (TTY) 220-6108, no later than 12:00 noon, Wednesday, August 10, 2011.

*Reed T. Nester*

Reed T. Nester  
Planning Director



## CITY OF WILLIAMSBURG

### MEMORANDUM

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**DATE:** July 29, 2011

**SUBJECT: PCR #11-008**  
**Rental of bedrooms to roomers in owner-occupied single family detached dwellings**

#### **CITY COUNCIL REFERRAL**

On April 14, City Council referred the issue of rental of bedrooms to roomers to Planning Commission. City Council's discussion focused on allowing owner-occupants to rent to more than one roomer with administrative rather than Board of Zoning Appeals approval; the idea being to encourage room rentals in owner-occupied houses compared to non-owner-occupied houses rented to three individuals.

City Council listed three possible alternatives for consideration, and requested that Planning Commission look at these and others as a means to better accommodate students and others in the City's single family neighborhoods:

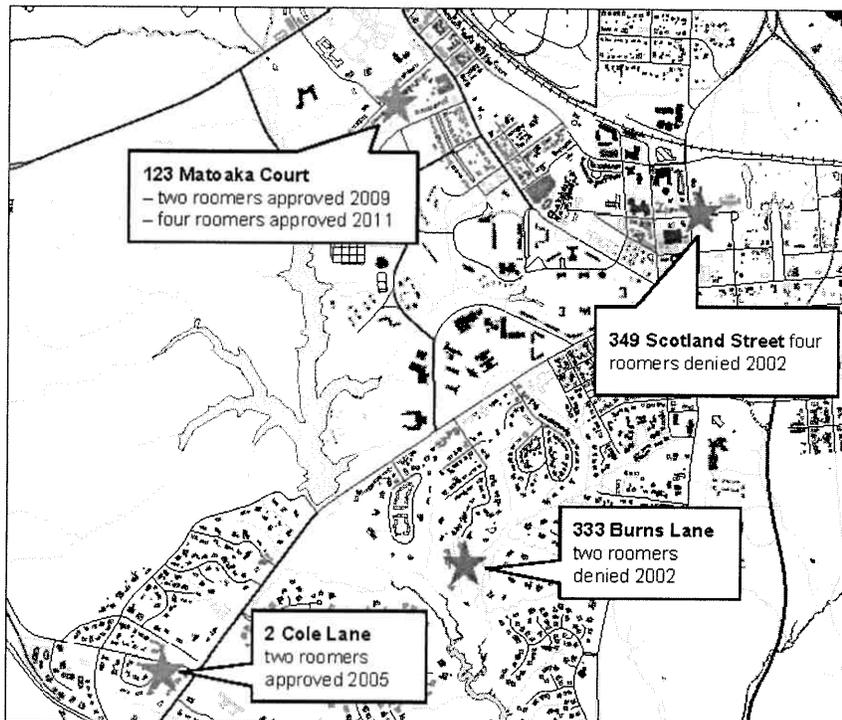
1. Allow rental of bedrooms to two roomers with administrative approval by the Zoning Administrator.
2. Allow rental of bedrooms to up to four roomers with administrative approval by the Zoning Administrator.
3. Allow rental of bedrooms to two roomers with administrative approval by the Zoning Administrator, and to three or four roomers with Board of Zoning Appeals approval.

#### **EXISTING REGULATIONS**

Currently, the Zoning Ordinance allows the rental of one bedroom to one roomer by right. Rental of bedrooms to more than one roomer is allowed if a special exception is approved by the Board of Zoning Appeals, with a maximum of two bedrooms rented to two roomers each, for a total of four roomers. Bedroom rentals are only allowed in owner-occupied single family detached dwellings. A copy of the existing regulations are attached.

The regulations for renting rooms to roomers were adopted in 1991, and to date five requests for special exceptions have been made to the Board of Zoning Appeals. Two were denied, and three were approved:

- 333 Burns Lane, two bedrooms to two roomers, denied April 2, 2002 (BZA #02-008)
- 2 Cole Lane, two bedrooms to two roomers, approved December 6, 2005 (BZA #05-021)
- 349 Scotland Street, two bedrooms to four roomers, denied September 5, 2006 (BZA #06-009)
- 123 Matoaka Court, one bedroom to two roomers, approved with conditions October 6, 2009 (BZA #09-008)
- 123 Matoaka Court, two bedrooms to four roomers, approved with conditions February 1, 2011 (BZA #11-001)



## PLANNING COMMISSION ALTERNATIVES

Planning Commission discussed City Council's referral at the April 20 regular meeting, the April 27 work session, the May 18 regular meeting and the June 15 regular meeting.

The Commission originally considered three alternatives:

1. No change to the existing regulations.
2. Allow rental of bedrooms to two roomers by right.
3. Allow rental of bedrooms to two roomers by right, to three roomers with administrative approval, and to four roomers with special exception approval by the Board of Zoning Appeals.

At their May 18 meeting, the Commission reduced these to two alternatives:

1. No change to the existing regulations.
2. Allow rental of one bedroom to one roomer by right, rental of bedroom(s) to two roomers with administrative approval, and to three or four roomers with special exception approval by the Board of Zoning Appeals.

At their June 15 meeting, the Commission modified Alternate 2, as suggested by staff, and decided to hold a public hearing on July 20 to consider these two alternatives:

1. No change to the existing regulations.
2. Allow rental of one bedroom to one roomer by right, and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator.

At their July 20 meeting, the Commission recommended Alternate 2.

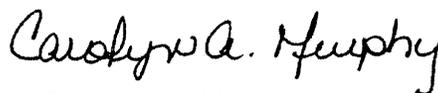
City Council has requested Planning Commission hold a second public hearing to evaluate the following three alternatives at their August meeting:

1. No change to the existing regulations.
2. Allow rental of one bedroom to one roomer by right, and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator.
3. Allow the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator, and three or four roomers with Board of Zoning Appeals approval.

Alternative (2 and 3) creates separate sections for rental of rooms to visitors (Sec. 21-605) and rental of rooms to roomers (Sec. 21-605.1), redefines owner-occupancy, and does not allow corporate ownership for rental of rooms to roomers.

#### **PLANNING COMMISSION ACTION NEEDED**

Following the public hearing, a recommendation can be made to City Council on which alternate should be approved.



Carolyn A. Murphy, AICP  
Deputy Planning Director

**EXISTING ZONING ORDINANCE REGULATIONS  
ROOM RENTALS TO ROOMERS**

**Sec. 21-605. Rental of bedrooms in single-family detached dwellings to roomers and visitors.**

(a) Intent. These regulations are established to allow the rental of bedrooms to roomers and visitors in single-family detached dwellings while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings. Rentals to roomers, being largely residential in character, are allowed throughout residential districts; rentals to visitors, being more commercial in character, are allowed only along specified major streets to avoid bringing increased traffic and congestion by nonresidents into residential districts. In addition, rentals to visitors are limited to a minority of the single-family detached dwellings on the specified streets, with greater restrictions placed on the minor corridors, in order to ensure that all of the corridors maintain their residential character.

(b) Owner-occupied single-family detached dwelling defined.

(1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:

- a. An adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her principal place of residence; or
- b. The stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.

(2) Ownership shall be established as follows:

- a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.
- b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney.  
Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the

**EXISTING ZONING ORDINANCE REGULATIONS  
ROOM RENTALS TO ROOMERS**

members of the limited liability company, regularly occupy the dwelling as their primary residence.

- c. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:
  - 1. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;
  - 2. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or
  - 3. In the case of ownership by a limited liability company, the company's continued ownership of full fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.
- d. If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [then] the current fee simple ownership shall again be established by certificate of a duly licensed attorney-at-law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605(b)(2)c. above.
- e. Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of this section 21-605(b), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.

**EXISTING ZONING ORDINANCE REGULATIONS  
ROOM RENTALS TO ROOMERS**

(c) Rental of one bedroom to one roomer. The rental of one bedroom to one roomer shall be allowed by right, subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) The furnishing of meals for compensation to such rental occupant by a member of the family is also permitted.
- (3) No additional off-street parking shall be required.
- (4) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.

(d) Rental of bedrooms to more than one roomer. The rental of bedrooms to more than one roomer shall be contingent upon approval as a special exception use by the board of zoning appeals in accordance with section 21-97(f), and subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) No more than two bedrooms in the principal dwelling may be rented to roomers.
- (3) No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).
- (4) The furnishing of meals for compensation to permitted occupants by a member of the family is also permitted.
- (5) No more than two roomers shall occupy a bedroom at the same time, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.
- (6) The following parking requirements shall apply:
  - a. One offstreet parking space shall be provided for each roomer (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.
  - b. The board of zoning appeals, when ruling on the special exception, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.
  - c. Parking shall be screened from adjoining residences and street(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special exception.
  - d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.

**EXISTING ZONING ORDINANCE REGULATIONS  
ROOM RENTALS TO ROOMERS**

- e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.
  - f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.
- (7) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
  - (8) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.
  - (9) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.

**Alternate #2**

**Allow the rental of one bedroom to one roomer by right and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator**

**ORDINANCE # 11-\_\_  
PROPOSED ORDINANCE # 11-**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE IV, SUPPLEMENTAL DISTRICT REGULATIONS,  
BY REVISING SEC. 21-605 AND ADDING SEC. 21-605.1, PERTAINING TO RENTAL  
OF BEDROOMS IN OWNER-OCCUPIED SINGLE-FAMILY DETACHED DWELLINGS  
TO TWO ROOMERS  
(PCR #11-008)**

These revisions to Chapter 21, Zoning, are intended to promote the health, safety and general welfare of the public and to carry out the purpose and intent of Chapter 21 as stated in Sec. 21-1.

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**BE IT ORDAINED** that Chapter 21, Zoning, of the Code of the City of Williamsburg, Virginia is hereby amended by revising Article IV. Supplemental District Regulations, Sec. 21-605, Rental of bedrooms in single-family dwellings to roomers and visitors; and by adding Sec. 21-605.1, Rental of bedrooms in single-family detached dwellings to roomers, to read as follows:

**Sec. 21-605. Rental of bedrooms in single-family detached dwellings to roomers and visitors.**

(a) Intent. These regulations are established to allow the rental of bedrooms to visitors in single-family detached dwellings while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings. ~~Rentals to roomers, being largely residential in character, are allowed throughout residential districts; r~~ Rentals to visitors, being more commercial in character, are allowed only along specified major streets to avoid bringing increased traffic and congestion by nonresidents into residential districts. In addition, rentals to visitors are limited to a minority of the single-family detached dwellings on the specified streets, with greater restrictions placed on the minor corridors, in order to ensure that all of the corridors maintain their residential character.

(b) Owner-occupied single-family detached dwelling defined.

(1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:

a. A family, as defined in section 21-2 of the zoning ordinance, in which at least one adult member of which is the sole fee simple owner or who owns at least a 50 percent undivided interest in such dwelling and the lot upon which it is located

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- and regularly occupies said dwelling as its primary place of residence; or
- b. One adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her primary place of residence; or
  - c. One adult individual, along with the family of that individual, who regularly occupies said dwelling as his or her primary place of residence and who is also the creator, trustee, or primary beneficiary of a Revocable Trust or Irrevocable Trust in which the dwelling is held, provided that such trust must be created or existing for estate planning purposes or another similar purpose and not for the acquisition or holding of real estate assets as part of any commercial enterprise.
  - d. The stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.
- (2) Ownership shall be established as follows:
- a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.
  - b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney.  
Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the members of the limited liability company, regularly occupy the dwelling as their primary residence.
  - c. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:

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1. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;
  2. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or
  3. In the case of ownership by a limited liability company, the company's continued ownership of full fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.
- d. If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [then] the current fee simple ownership shall again be established by certificate of a duly licensed attorney-at-law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605(b)(2)c. above.
- e. Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of this section 21-605(b), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.
- ~~(b) — Owner-occupied single-family detached dwelling defined.~~
- ~~(1) — For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:~~
- ~~a. — An adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it~~

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Allow the rental of one bedroom to one roomer by right and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator

- ~~is located and regularly occupies said dwelling as his or her principal place of residence; or~~
- ~~b. The stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.~~
- ~~(2) Ownership shall be established as follows:~~
- ~~a. Record ownership of fee simple title shall be certified by an attorney at law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.~~
- ~~b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney.  
Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the members of the limited liability company, regularly occupy the dwelling as their primary residence.~~
- ~~c. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:~~
- ~~1. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;~~
  - ~~2. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or~~
  - ~~3. In the case of ownership by a limited liability company, the company's continued ownership of full~~

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~~fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.~~

- ~~d. If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [then] the current fee simple ownership shall again be established by certificate of a duly licensed attorney-at-law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605(b)(2)c. above.~~
- ~~e. Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of this section 21-605(b), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.~~

~~(c) Rental of one bedroom to one roomer. The rental of one bedroom to one roomer shall be allowed by right, subject to the following:~~

- ~~(1) Rentals shall be limited to owner-occupied single-family detached dwellings.~~
- ~~(2) The furnishing of meals for compensation to such rental occupant by a member of the family is also permitted.~~
- ~~(3) No additional off-street parking shall be required.~~
- ~~(4) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.~~

~~(d) Rental of bedrooms to more than one roomer. The rental of bedrooms to more than one roomer shall be contingent upon approval as a special exception use by the board of zoning appeals in accordance with section 21-97(f), and subject to the following:~~

- ~~(1) Rentals shall be limited to owner-occupied single-family detached dwellings.~~
- ~~(2) No more than two bedrooms in the principal dwelling may be rented to roomers.~~

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- ~~(3) — No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).~~
- ~~(4) — The furnishing of meals for compensation to permitted occupants by a member of the family is also permitted.~~
- ~~(5) — No more than two roomers shall occupy a bedroom at the same time, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.~~
- ~~(6) — The following parking requirements shall apply:
  - ~~a. — One offstreet parking space shall be provided for each roomer (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.~~
  - ~~b. — The board of zoning appeals, when ruling on the special exception, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.~~
  - ~~c. — Parking shall be screened from adjoining residences and street(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special exception.~~
  - ~~d. — Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.~~
  - ~~e. — Parking spaces and driveways (for both the single family detached dwelling and the proposed bedroom rentals) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.~~
  - ~~f. — Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.~~~~

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### Allow the rental of one bedroom to one roomer by right and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator

- ~~(7) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.~~
- ~~(8) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.~~
- ~~(9) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.~~

~~(c)~~ *(e) Rental of bedrooms to visitors.* The rental of bedrooms to one or more visitors shall be contingent upon approval as either a special exception use by the board of zoning appeals in accordance with section 21-97(f), or as a special use permit by the city council in accordance with article II, division 2, and subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) No more than four bedrooms in the principal dwelling may be rented to visitors with a special exception approved by the board of zoning appeals. With a special use permit approved by the city council, no more than six bedrooms may be rented to visitors in the principal dwelling, with a minimum lot size of one acre (43,560 square feet).
- (3) No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).
- (4) The only meal that may be provided is breakfast, and it shall only be served to visitors renting bedrooms in the dwelling. Breakfast shall be furnished only by a member of the immediate family residing on the premises.
- (5) No more than two visitors shall occupy a bedroom at the same time, except for any child under 16 years of age, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.
- (6) Rental of bedrooms to visitors shall be permitted only in single-family detached dwellings located on lots contiguous to the major streets or portions thereof listed below, and only if the single-family detached dwelling and its front door faces the major street. The number of single-family detached dwellings allowed to rent bedrooms to visitors is limited to a percentage of the single-family detached dwellings in the city existing on each street or portion of street listed below, as of February 8, 1996, that meet the above listed requirements, as follows: 45 percent for the portion

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### **Allow the rental of one bedroom to one roomer by right and the rental of bedroom(s) to two roomers with administrative approval by the Zoning Administrator**

of Richmond Road between Brooks Street and Virginia Avenue; 45 percent for all of Jamestown Road; and ten percent for all other streets or portions of streets listed below. The major streets and the number of single-family detached dwellings allowed to rent bedrooms to visitors are:

- a. Capitol Landing Road from Lafayette Street to Queen's Creek -- four single-family detached dwellings are allowed to rent bedrooms to visitors.
  - b. Henry Street between Lafayette Street and Mimosa Drive -- two single-family detached dwellings are allowed to rent bedrooms to visitors.
  - c. Jamestown Road -- 15 single-family detached dwellings are allowed to rent bedrooms to visitors.
  - d. Lafayette Street -- three single-family detached dwellings are allowed to rent bedrooms to visitors.
  - e. Page Street -- one single-family detached dwelling is allowed to rent bedrooms to visitors.
  - f. Richmond Road between Brooks Street and Virginia Avenue -- ten single-family detached dwellings are allowed to rent bedrooms to visitors.
- (7) Vehicular access shall be permitted only from the streets listed above, or from a side street intersecting with a listed street. When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit vehicular access from a side street intersecting with a listed street.
- (8) The following parking requirements shall apply:
- a. One offstreet parking space shall be provided for each bedroom rented to visitors (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.
  - b. The board of zoning appeals, when ruling on the special exception, and the city council when ruling on the special use permit, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board or the council may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.
  - c. Parking shall be screened from adjoining residences and adjacent streets(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special use permit, or by city council when ruling on the special use permit.
  - d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.

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- e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception or special use permit, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.
    - 1. As part of a request for a special use permit for the rental of more than four bedrooms [which requires a minimum lot size of one acre (43,560 square feet)], city council may allow parking spaces and driveways to occupy up to 15 percent of the total lot area. This shall supersede the restrictions stated in section 21-705.1(b).
  - f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.
- (9) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
  - (10) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.
  - (11) It shall be a violation of this section to advertise for rent to visitors any bedroom exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.
  - (12) The board of zoning appeals shall not make a final decision on a proposal to rent bedrooms to visitors until it has received a recommendation from the planning commission's site plan review committee on the minor site plan.
  - (13) Bedrooms presently rented to roomers shall not be rented to visitors unless all requirements of this section 21-605 are met, which includes approval as a special exception use by the board of zoning appeals.
  - (14) The owner-occupant of the single-family dwelling renting bedrooms to visitors shall keep records of all bedrooms rented, which shall be submitted to the zoning administrator for the previous quarter on April 20, July 20, October 20 and January 20 of each year, and at any other time

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upon the request of the zoning administrator. The records shall be submitted on a form provided by the zoning administrator, and shall include each bedroom rented, the date rented, the number of persons occupying the bedroom, the number of motor vehicles parked on the premises by the occupant(s) of the bedroom, and the names of all persons residing in the dwelling for the reporting period. The owner-occupant shall certify by affidavit at the bottom of each page that the records are true and correct and represent all bedrooms rented and the occupants thereof for the stated time period.

- (15) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall expire 180 days from the date of the approval unless the applicant has obtained a certificate of occupancy and a business license for the rental of rooms to visitors.
- (16) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall remain valid only as long as there are at least 100 bedroom rental nights each calendar year. If there are less than 100 bedroom rental nights in a calendar year, the special exception approval shall expire. If less than a full calendar year remains following the approval of the special exception by the board of zoning appeals or a special use permit approved by the city council, the required bedroom rental nights shall be prorated based upon the portion of the calendar year remaining. A bedroom rental night is defined as the rental of an individual bedroom for one night. These restrictions shall not apply to the rental of bedrooms to visitors that were approved by the board of zoning appeals prior to February 8, 1996, or which were determined by the zoning administrator to have been legally nonconforming as of February 8, 1996.
- (17) Any special exception or special use permit granted to a single-family detached dwelling and lot pursuant to this section shall become null and void if within any 48-month period a court of competent jurisdiction has issued two injunctions arising out of violations of such special exception or special use permit, or of any provision of this section 21-605, to the same record owner of such dwelling and lot or to one or more of the same individuals identified in the zoning administrator's records as regularly occupying the subject dwelling as their residence. The special exception or special use permit shall, however, not become null and void until all appeal periods have run regarding such injunctions.

#### Sec. 21-605.1. Rental of bedrooms in single-family detached dwellings to roomers.

(a) Intent. These regulations are established to allow the rental of bedrooms to roomers in single-family detached dwellings while at the same time preserving the

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residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings that serve as the primary residence of the owner. The intent of this section being incompatible with business purposes, residential property owned by business entities do not qualify for this use, notwithstanding occupancy of the property by one or more members of the business entity. Rentals to roomers, being largely residential in character, are allowed throughout residential districts.

(b) Owner-occupied single-family detached dwelling defined.

(1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:

a. A family, as defined in section 21-2 of the zoning ordinance, in which at least one adult member is the sole fee simple owner or who owns at least a 50 percent undivided interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her primary place of residence; or

b. One adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her primary place of residence; or

c. One adult individual, along with the family of that individual, who regularly occupies said dwelling as his or her primary place of residence and who is also the creator, trustee, or primary beneficiary of a Revocable Trust or Irrevocable Trust in which the dwelling is held, provided that such trust must be created or existing for estate planning purposes or another similar purpose and not for the acquisition or holding of real estate assets as part of any commercial enterprise.

(2) For purposes of this section, fee simple interest of the dwelling may not be held by any corporation, limited liability company, partnership, including but not limited to profession, general or limited partnerships, or by any other form of business entity recognized under the laws of the Commonwealth of Virginia.

(c) Rental of one bedroom to one roomer. The rental of one bedroom to one roomer shall be allowed by right, subject to the following:

(1) Rentals shall be limited to owner-occupied single-family detached dwellings.

(2) The furnishing of meals for compensation to such rental occupants by a member of the family is also permitted.

(3) No additional off-street parking shall be required.

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(4) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.

(d) Rental of bedrooms to two roomers. The rental of bedrooms to two roomers shall be contingent upon administrative approval by the zoning administrator or his/her designee, and subject to the following:

(1) Rentals shall be limited to owner-occupied single-family detached dwellings, and ownership shall be established as follows:

a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.

b. On the first business day of each January following the issuance of the administrative approval, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;

(2) The furnishing of meals for compensation to such rental occupants by a member of the family is also permitted.

(3) No more than two roomers shall occupy a bedroom at the same time.

(4) The following parking requirements shall apply:

a. One parking space shall be provided for each bedroom rented, plus two parking spaces for the single-family detached dwelling. Parking spaces may be off-street in accordance with Article V, Parking, or located along the frontage of the adjoining public street and contiguous to the lot. The minimum length of a parking space located on an adjoining public street shall be 18 feet, and shall not include curb cuts for driveways.

b. Parking spaces and driveways shall meet the requirements of section 21-705.1, Special regulations for single-family detached dwellings.

(5) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.

(6) The application shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a plot

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plan showing the location of the existing parking and the parking to be provided and the lot coverage of the driveways and parking areas.

(7) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.

(e) Applicability to other provisions of the zoning ordinance. Nothing in this section shall be construed as permitting occupancy by roomers as authorized herein in addition to occupants authorized by other provisions of the zoning ordinance, except that a family as defined in section 21-2 of the zoning ordinance may rent to roomers as provided herein notwithstanding the number of family members also residing at the property. In no event shall one or more roomers as authorized by this section be permitted to occupy a property in addition to the three unrelated individuals allowed by right in residential zoning districts, which number shall include the property owner, or in addition to four unrelated individuals, including the property owner, as provided by section 21-619. Roomers authorized by this section will count as unrelated individuals for purposes of determining the maximum residential occupancy permitted by the zoning ordinance.

This ordinance shall become effective on the tenth day following its passage.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

\_\_\_\_\_  
Donna Scott, City Council Clerk

[PC\PCR\2011\11-008OD1-ALT2 PC 08-17-11]

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Rental of two bedrooms to two roomers with administrative approval and three or four roomers with special exception approval by the Board of Zoning Appeals

ORDINANCE # 11-\_\_  
PROPOSED ORDINANCE # 11-\_\_

AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE IV, SUPPLEMENTAL DISTRICT REGULATIONS,  
BY REVISING SEC. 21-605 AND ADDING SEC. 21-605.1, PERTAINING TO RENTAL  
OF BEDROOMS IN OWNER-OCCUPIED SINGLE-FAMILY DETACHED DWELLINGS  
TO ROOMERS  
(PCR #11-008)

These revisions to Chapter 21, Zoning, are intended to promote the health, safety and general welfare of the public and to carry out the purpose and intent of Chapter 21 as stated in Sec. 21-1.

\*\*\*\*\*

**BE IT ORDAINED** that Chapter 21, Zoning, of the Code of the City of Williamsburg, Virginia is hereby amended by revising Article IV. Supplemental District Regulations, Sec. 21-605, Rental of bedrooms in single-family dwellings to roomers and visitors; and by adding Sec. 21-605.1, Rental of bedrooms in single-family detached dwellings to roomers, to read as follows:

**Sec. 21-605. Rental of bedrooms in single-family detached dwellings to roomers and visitors.**

(a) Intent. These regulations are established to allow the rental of bedrooms to visitors in single-family detached dwellings while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings. ~~Rentals to roomers, being largely residential in character, are allowed throughout residential districts; r~~ Rentals to visitors, being more commercial in character, are allowed only along specified major streets to avoid bringing increased traffic and congestion by nonresidents into residential districts. In addition, rentals to visitors are limited to a minority of the single-family detached dwellings on the specified streets, with greater restrictions placed on the minor corridors, in order to ensure that all of the corridors maintain their residential character.

(b) Owner-occupied single-family detached dwelling defined.

(1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:

a. A family, as defined in section 21-2 of the zoning ordinance, in which at least one adult member of which is the sole fee simple owner or who owns at least a 50 percent undivided interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as its primary place of residence; or

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- b. One adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her primary place of residence; or
- c. One adult individual, along with the family of that individual, who regularly occupies said dwelling as his or her primary place of residence and who is also the creator, trustee, or primary beneficiary of a Revocable Trust or Irrevocable Trust in which the dwelling is held, provided that such trust must be created or existing for estate planning purposes or another similar purpose and not for the acquisition or holding of real estate assets as part of any commercial enterprise.
- d. The stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.

### (2) Ownership shall be established as follows:

- a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.
- b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney.  
Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the members of the limited liability company, regularly occupy the dwelling as their primary residence.
- c. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:
  - 1. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's

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- title certification furnished in connection with the permit application;
2. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or
  3. In the case of ownership by a limited liability company, the company's continued ownership of full fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.
- d. If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [then] the current fee simple ownership shall again be established by certificate of a duly licensed attorney-at-law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605(b)(2)c. above.
  - e. Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of this section 21-605(b), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.
- ~~(b) — Owner-occupied single family detached dwelling defined.~~
- ~~(1) — For the purpose of this section, a single family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:~~
    - ~~a. — An adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her principal place of residence; or~~
    - ~~b. — The stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the~~

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~~Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.~~

~~(2) Ownership shall be established as follows:~~

~~a. Record ownership of fee simple title shall be certified by an attorney at law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.~~

~~b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney.~~

~~Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the members of the limited liability company, regularly occupy the dwelling as their primary residence.~~

~~c. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:~~

~~1. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;~~

~~2. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or~~

~~3. In the case of ownership by a limited liability company, the company's continued ownership of full fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.~~

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- ~~d. — If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [then] the current fee simple ownership shall again be established by certificate of a duly licensed attorney at law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605(b)(2)c. above.~~
- ~~e. — Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of this section 21-605(b), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.~~

~~(c) — Rental of one bedroom to one roomer. The rental of one bedroom to one roomer shall be allowed by right, subject to the following:~~

- ~~(1) — Rentals shall be limited to owner-occupied single family detached dwellings.~~
- ~~(2) — The furnishing of meals for compensation to such rental occupant by a member of the family is also permitted.~~
- ~~(3) — No additional off-street parking shall be required.~~
- ~~(4) — Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.~~

~~(d) — Rental of bedrooms to more than one roomer. The rental of bedrooms to more than one roomer shall be contingent upon approval as a special exception use by the board of zoning appeals in accordance with section 21-97(f), and subject to the following:~~

- ~~(1) — Rentals shall be limited to owner-occupied single family detached dwellings.~~
- ~~(2) — No more than two bedrooms in the principal dwelling may be rented to roomers.~~
- ~~(3) — No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).~~
- ~~(4) — The furnishing of meals for compensation to permitted occupants by a member of the family is also permitted.~~
- ~~(5) — No more than two roomers shall occupy a bedroom at the same time, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.~~

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- ~~(6) The following parking requirements shall apply:~~
- ~~a. One offstreet parking space shall be provided for each roomer (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.~~
  - ~~b. The board of zoning appeals, when ruling on the special exception, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.~~
  - ~~c. Parking shall be screened from adjoining residences and street(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special exception.~~
  - ~~d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.~~
  - ~~e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.~~
  - ~~f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.~~
- ~~(7) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.~~
- ~~(8) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.~~
- ~~(9) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized~~

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~~herein or which are determined by the zoning administrator to be legally nonconforming.~~

(c) ~~(e)~~ *Rental of bedrooms to visitors.* The rental of bedrooms to one or more visitors shall be contingent upon approval as either a special exception use by the board of zoning appeals in accordance with section 21-97(f), or as a special use permit by the city council in accordance with article II, division 2, and subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) No more than four bedrooms in the principal dwelling may be rented to visitors with a special exception approved by the board of zoning appeals. With a special use permit approved by the city council, no more than six bedrooms may be rented to visitors in the principal dwelling, with a minimum lot size of one acre (43,560 square feet).
- (3) No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).
- (4) The only meal that may be provided is breakfast, and it shall only be served to visitors renting bedrooms in the dwelling. Breakfast shall be furnished only by a member of the immediate family residing on the premises.
- (5) No more than two visitors shall occupy a bedroom at the same time, except for any child under 16 years of age, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.
- (6) Rental of bedrooms to visitors shall be permitted only in single-family detached dwellings located on lots contiguous to the major streets or portions thereof listed below, and only if the single-family detached dwelling and its front door faces the major street. The number of single-family detached dwellings allowed to rent bedrooms to visitors is limited to a percentage of the single-family detached dwellings in the city existing on each street or portion of street listed below, as of February 8, 1996, that meet the above listed requirements, as follows: 45 percent for the portion of Richmond Road between Brooks Street and Virginia Avenue; 45 percent for all of Jamestown Road; and ten percent for all other streets or portions of streets listed below. The major streets and the number of single-family detached dwellings allowed to rent bedrooms to visitors are:
  - a. Capitol Landing Road from Lafayette Street to Queen's Creek -- four single-family detached dwellings are allowed to rent bedrooms to visitors.
  - b. Henry Street between Lafayette Street and Mimosa Drive -- two single-family detached dwellings are allowed to rent bedrooms to visitors.
  - c. Jamestown Road -- 15 single-family detached dwellings are allowed to rent bedrooms to visitors.

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- d. Lafayette Street -- three single-family detached dwellings are allowed to rent bedrooms to visitors.
  - e. Page Street -- one single-family detached dwelling is allowed to rent bedrooms to visitors.
  - f. Richmond Road between Brooks Street and Virginia Avenue -- ten single-family detached dwellings are allowed to rent bedrooms to visitors.
- (7) Vehicular access shall be permitted only from the streets listed above, or from a side street intersecting with a listed street. When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit vehicular access from a side street intersecting with a listed street.
- (8) The following parking requirements shall apply:
- a. One offstreet parking space shall be provided for each bedroom rented to visitors (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.
  - b. The board of zoning appeals, when ruling on the special exception, and the city council when ruling on the special use permit, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board or the council may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.
  - c. Parking shall be screened from adjoining residences and adjacent streets(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special use permit, or by city council when ruling on the special use permit.
  - d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
  - e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception or special use permit, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.
    1. As part of a request for a special use permit for the rental of more than four bedrooms [which requires a minimum lot size

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of one acre (43,560 square feet)], city council may allow parking spaces and driveways to occupy up to 15 percent of the total lot area. This shall supersede the restrictions stated in section 21-705.1(b).

- f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.
- (9) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
- (10) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.
- (11) It shall be a violation of this section to advertise for rent to visitors any bedroom exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.
- (12) The board of zoning appeals shall not make a final decision on a proposal to rent bedrooms to visitors until it has received a recommendation from the planning commission's site plan review committee on the minor site plan.
- (13) Bedrooms presently rented to roomers shall not be rented to visitors unless all requirements of this section 21-605 are met, which includes approval as a special exception use by the board of zoning appeals.
- (14) The owner-occupant of the single-family dwelling renting bedrooms to visitors shall keep records of all bedrooms rented, which shall be submitted to the zoning administrator for the previous quarter on April 20, July 20, October 20 and January 20 of each year, and at any other time upon the request of the zoning administrator. The records shall be submitted on a form provided by the zoning administrator, and shall include each bedroom rented, the date rented, the number of persons occupying the bedroom, the number of motor vehicles parked on the premises by the occupant(s) of the bedroom, and the names of all persons residing in the dwelling for the reporting period. The owner-occupant shall certify by affidavit at the bottom of each page that the records are true and correct and represent all bedrooms rented and the occupants thereof for the stated time period.
- (15) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall expire 180 days from the date of the approval unless the applicant has obtained a certificate of occupancy and a business license for the rental of rooms to visitors.
- (16) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall remain valid only as long as there are at least 100 bedroom rental nights each calendar year. If there

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are less than 100 bedroom rental nights in a calendar year, the special exception approval shall expire. If less than a full calendar year remains following the approval of the special exception by the board of zoning appeals or a special use permit approved by the city council, the required bedroom rental nights shall be prorated based upon the portion of the calendar year remaining. A bedroom rental night is defined as the rental of an individual bedroom for one night. These restrictions shall not to apply to the rental of bedrooms to visitors that were approved by the board of zoning appeals prior to February 8, 1996, or which were determined by the zoning administrator to have been legally nonconforming as of February 8, 1996.

- (17) Any special exception or special use permit granted to a single-family detached dwelling and lot pursuant to this section shall become null and void if within any 48-month period a court of competent jurisdiction has issued two injunctions arising out of violations of such special exception or special use permit, or of any provision of this section 21-605, to the same record owner of such dwelling and lot or to one or more of the same individuals identified in the zoning administrator's records as regularly occupying the subject dwelling as their residence. The special exception or special use permit shall, however, not become null and void until all appeal periods have run regarding such injunctions.

#### Sec. 21-605.1. Rental of bedrooms in single-family detached dwellings to roomers.

(a) Intent. These regulations are established to allow the rental of bedrooms to roomers in single-family detached dwellings while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings that serve as the primary residence of the owner. The intent of this section being incompatible with business purposes, residential property owned by business entities do not qualify for this use, notwithstanding occupancy of the property by one or more members of the business entity. Rentals to roomers, being largely residential in character, are allowed throughout residential districts.

(b) Owner-occupied single-family detached dwelling defined.

(1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:

- a. A family, as defined in section 21-2 of the zoning ordinance, in which at least one adult member is the sole fee simple owner or who owns at least a 50 percent undivided interest in such dwelling and the lot upon which it is located and

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- regularly occupies said dwelling as his or her primary place of residence; or
  - b. One adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her primary place of residence; or
  - c. One adult individual, along with the family of that individual, who regularly occupies said dwelling as his or her primary place of residence and who is also the creator, trustee, or primary beneficiary of a Revocable Trust or Irrevocable Trust in which the dwelling is held, provided that such trust must be created or existing for estate planning purposes or another similar purpose and not for the acquisition or holding of real estate assets as part of any commercial enterprise.
- (2) For purposes of this section, fee simple interest of the dwelling may not be held by any corporation, limited liability company, partnership, including but not limited to profession, general or limited partnerships, or by any other form of business entity recognized under the laws of the Commonwealth of Virginia.

(c) *Rental of bedrooms to two roomers.* The rental of bedrooms to two roomers shall be contingent upon administrative approval by the zoning administrator or his/her designee, and subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings, and ownership shall be established as follows:
  - a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.
  - b. On the first business day of each January following the issuance of the administrative approval, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;
- (2) The furnishing of meals for compensation to such rental occupants by a member of the family is also permitted.
- (3) No more than two roomers shall occupy a bedroom at the same time.
- (4) The following parking requirements shall apply:

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- a. One parking space shall be provided for each bedroom rental, plus two parking spaces for the single-family detached dwelling. Parking spaces may be off-street in accordance with Article V, Parking, or located along the frontage of the adjoining public street and contiguous to the lot. The minimum length of a parking space located on an adjoining public street shall be 18 feet, and shall not include curb cuts for driveways.
- b. Parking spaces and driveways shall meet the requirements of Sec. 21-705.1, Special regulations for single-family detached dwellings.
- (5) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
- (6) The application shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a plot plan showing the location of the existing parking and the parking to be provided and the lot coverage of the driveways and parking areas.
- (7) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.

(d) *Rental of bedrooms to three or four roomers.* The rental of bedrooms to three or four roomers shall be contingent upon approval as a special exception use by the board of zoning appeals in accordance with section 21-97(f), and subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings, and ownership shall be established as follows:
  - a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.
  - b. On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;

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- (2) The furnishing of meals for compensation to such rental occupants by a member of the family is also permitted.
  - (3) No more than two roomers shall occupy a bedroom at the same time.
  - (4) The following parking requirements shall apply:
    - a. One parking space shall be provided for each bedroom rental, plus two parking spaces for the single-family detached dwelling. Parking spaces may be off-street in accordance with Article V, Parking, or located along the frontage of the adjoining public street and contiguous to the lot. The minimum length of a parking space located on an adjoining public street shall be 18 feet, and shall not include curb cuts for driveways.
    - b. The board of zoning appeals, when ruling on the special exception, shall consider the location of the offstreet parking and its impact on adjoining residences and the adjacent street(s). When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit the location of offstreet parking in front yards and/or the street side yards for corner lots.
    - c. Parking spaces and driveways shall meet the requirements of Sec. 21-705.1, Special regulations for single-family detached dwellings.
  - (5) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
  - (6) The application for the special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a plot plan showing the location of the existing parking and the parking to be provided, the location of the proposed screening and landscaping, and the lot coverage of the driveways and parking areas.
  - (7) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.
- (e) Applicability to other provisions of the zoning ordinance. Nothing in this section shall be construed as permitting occupancy by roomers as authorized herein in addition to occupants authorized by other provisions of the zoning ordinance, except that a family as defined in section 21-2 of the zoning ordinance may rent to roomers as provided herein notwithstanding the number of family members also residing at the property. In no event shall one or more roomers as authorized by this section be permitted to occupy a property in addition to the three unrelated

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individuals allowed by right in residential zoning districts, which number shall include the property owner, or in addition to four unrelated individuals, including the property owner, as provided by section 21-619. Roomers authorized by this section will count as unrelated individuals for purposes of determining the maximum residential occupancy permitted by the zoning ordinance.

This ordinance shall become effective on the tenth day following its passage.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

\_\_\_\_\_  
Donna Scott, City Council Clerk



# CITY OF WILLIAMSBURG

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## MEMORANDUM

**DATE:** July 29, 2011

**SUBJECT:** PCR #11-015

**Request of Carlton Holdings, LLC for a special use permit to construct a commercial building and 29 condominium units at 301 Second Street and 320 Penniman Road.**

Carlton Holdings, LLC is requesting a special use permit for a mixed use development consisting of the construction of a one-story 13,250 square foot commercial building and 29 condominium units at 301 Second Street and 320 Penniman Road. The existing 7,200 square foot building currently occupied by The Velvet Shoestring will remain. The Zoning Ordinance requires a total of 90 parking spaces for the anticipated commercial uses and 92 spaces are shown. The condominiums require 66 spaces and 68 are provided.

### **COMPREHENSIVE PLAN**

The Comprehensive Plan designates this area as Corridor Commercial. This land use category designates land on the City's heavily traveled entrance corridors for commercial and service uses primarily oriented to the automobile. This category applies to local shopping areas, as well as to existing and future hotels, restaurants and other tourism retail uses. It also includes the automobile-oriented commercial uses along Second Street. Substantial sections of Richmond Road, Capitol Landing Road, York Street and Second Street are currently developed in this land use pattern, which is also intended for the small portion of Mooretown Road that is located within the City Limits. To ensure high quality development, the more intensive commercial uses should require special use permits. Corridor Commercial land use is intended to promote the City's economic development policy for its limited, remaining high-visibility commercial sites.

Residential should be allowed in Corridor Commercial areas but only as multifamily combined with non-residential uses in a mixed-use format. This will ensure that valuable commercial land is not completely used for residential purposes. Residential uses should require a special use permit to ensure compatibility with commercial uses.

### **ZONING**

These properties are located in the Corridor Business District B-2. The Corridor Business District allows a variety of commercial uses such as retail sales establishments with a gross floor area less than 50,000 square feet, offices, hotels and motels, restaurants and multifamily dwellings, provided that not more than 50 percent of the gross floor area on any lot may be devoted to multifamily use. With a special use

permit, 67 percent of the gross floor area may be devoted to multifamily use on any lot. The density allowed in this district is 14 dwelling units per net acre.

The Statement of Intent for the Corridor Business District reads:

*This district is established to provide locations on heavily traveled collector and arterial highways for those commercial and service uses primarily oriented to the automobile. This district is applied along those streets primarily used to access local shopping areas, and providing locations for existing and future hotels, restaurants and other tourism retail uses.*

The special use permit section of the Zoning Ordinance (Sec. 21-43) establishes the following criteria for special use permits:

- (a) *The proposed use shall be:*
  - (1) *In harmony with the adopted comprehensive plan;*
  - (2) *In harmony with the intent and purpose of the zoning district in which the use is proposed to be located;*
  - (3) *In harmony with the character of adjacent properties and the surrounding neighborhoods, and with existing and proposed development.*
- (b) *The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.*
- (c) *The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.*
- (d) *The proposed use shall be designed, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.*

Additional reasonable standards as deemed necessary to protect the public interest and welfare may be imposed, including: more restrictive sign standards; additional open space, landscaping or screening requirements; additional yard requirements; special lighting requirements; limitation on hours of operation; and additional offstreet parking and loading requirements.

The Planning Director or Planning Commission may require the following additional information:

- (1) A traffic impact analysis, showing the effect of traffic generated by this project on surrounding streets and neighborhoods.
- (2) A public utility analysis, showing the effect of this project on public water, sewer and/or storm drainage facilities.

- (3) A fiscal impact analysis. The Planning Director or the Planning Commission may request the City Council to provide funds for the preparation of this study by the City.

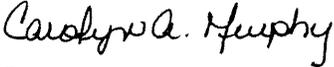
A traffic impact analysis will be needed for this project. The public utility analysis and fiscal impact analysis are not needed.

### **ARCHITECTURAL REVIEW**

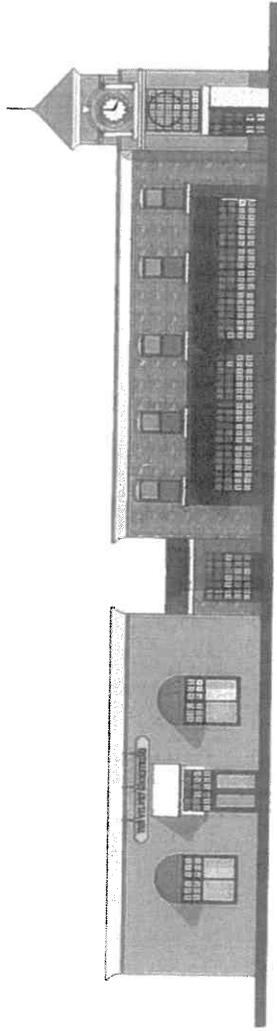
These properties are located in the Corridor Protection District, and are subject to Architectural Review Board review as a part of the special use permit process, and for the final building designs (ARB#11-040).

### **PUBLIC HEARING DATE**

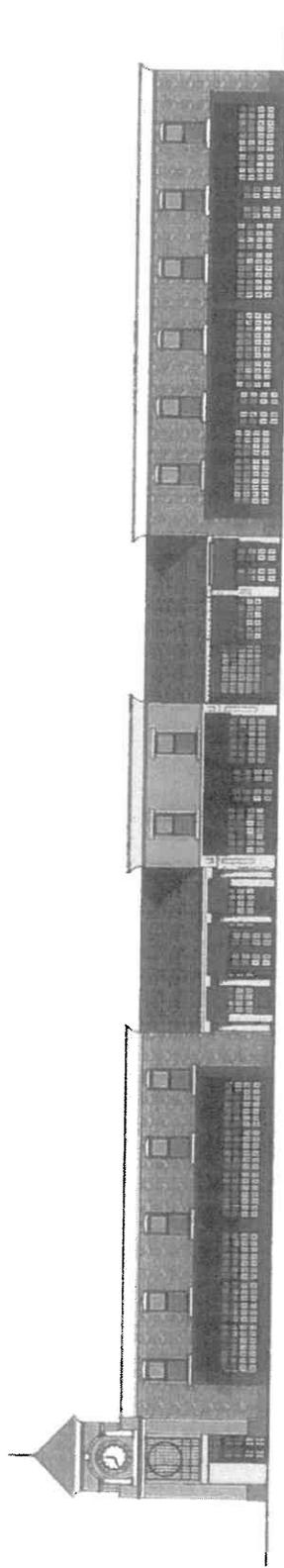
A public hearing on this request is scheduled for the August 17 meeting.

  
Carolyn A. Murphy, AICP  
Deputy Planning Director





COMMERCIAL/RETAIL ELEVATION-SECOND STREET



COMMERCIAL/RETAIL ELEVATION-PARKING LOT



COMMERCIAL/RETAIL ELEVATION-PARKING LOT(ALTERNATE)

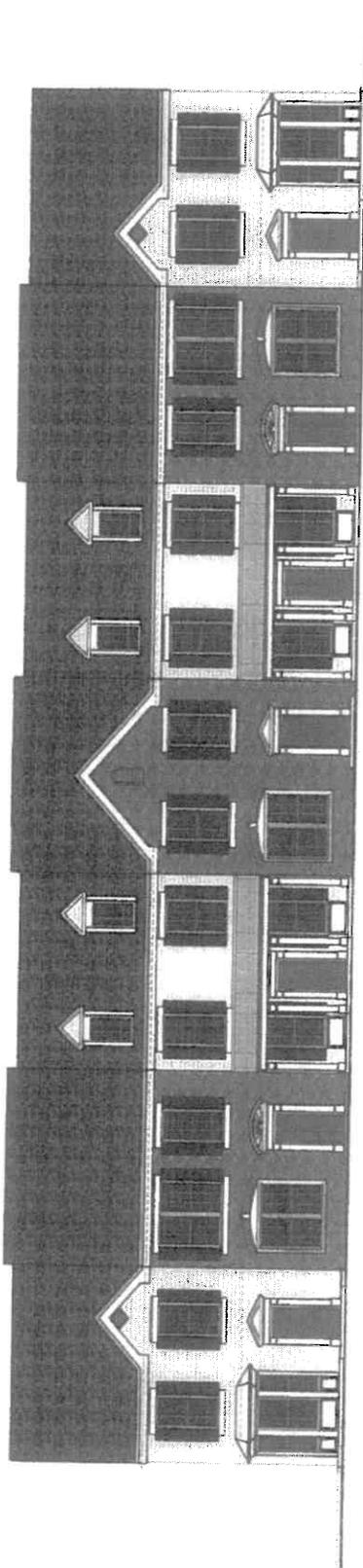


## Second Street/Penniman Property

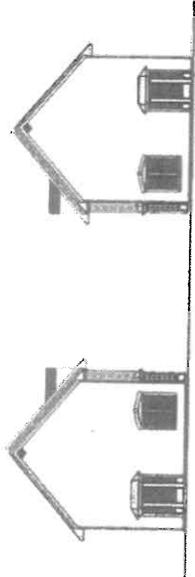
301 SECOND STREET WILLIAMSBURG VIRGINIA

210 First Marine Drive  
Newport News Virginia 23606

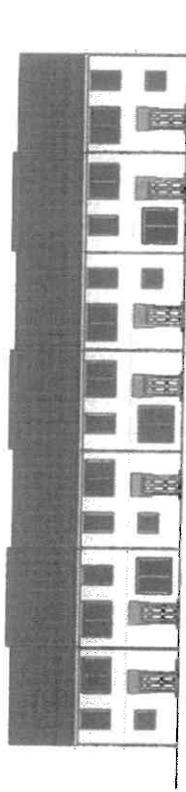




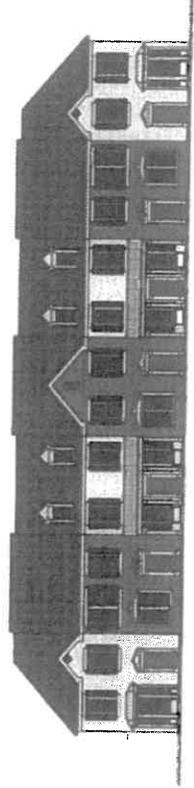
TYPICAL RESIDENTIAL FRONT ELEVATION



TYPICAL RESIDENTIAL END ELEVATIONS



TYPICAL RESIDENTIAL REAR ELEVATION



TYPICAL RESIDENTIAL ELEVATION(ALTERNATE)



100 Park House Drive  
Newport News, Virginia 23604



**Second Street/Penniman Property**  
301 SECOND STREET WILLIAMSBURG VIRGINIA