



**PUBLIC NOTICE  
WILLIAMSBURG PLANNING COMMISSION**

The Williamsburg Planning Commission will hold a public hearing on Wednesday, November 16, 2016, 3:30 P.M. in the Council Chambers of the Stryker Center, 412 North Boundary Street, to consider the following:

**PCR #16-012:** Amends the City Code by adding a new Section 21-899 to Article X Nonconforming Uses to waive certain rezoning and special use permit filing fees; and amends section 21-44 and 21-61 on who may request issuance of special use permits and zoning amendments so as to reference the exception created by the addition of new City Code Section 21-899.

**PCR #16-014:** Request of Spence Witten to rezone approximately 53.5 acres at 1018, 1020, 1030 and 1038 Capitol Landing Road from RS-1 Single Family Dwelling District to Limited Business Mixed-Use District LB-3 conditional with a proffered master plan.

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

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, November 9, 2016.

A handwritten signature in black ink that reads "Carolyn A. Murphy". The signature is written in a cursive style and is contained within a thin black rectangular border.

Carolyn A. Murphy  
Planning and Codes Compliance Director



**CITY OF WILLIAMSBURG**  
MEMORANDUM

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**TO: Planning Commission**

**DATE: October 13, 2016**

**SUBJECT: PCR#16-012**  
**Zoning Text Revisions based on General Assembly Actions**

At its 2016 Session, the Virginia General Assembly enacted House Bill 367 that amends Virginia's zoning laws regarding nonconforming uses in two respects:

1. Amends Virginia Code Section 15.2-2307 C so that subject to stated conditions, the holder of a city business license for operation of a business in the City in a location not properly zoned for such use can apply for a rezoning or issuance of a special use permit which if granted will remove the nonconformity. Note that while the Bill does not mandate that local governing body grant the requested relief, contrary to long standing Virginia law and the Williamsburg Code, it allows the business license holder, even if not an owner of the affected property, to file the application without concurrence of the property owner. In order to address this aberration, at least in part, the Proposed Ordinance requires that the non-owner applicant accompany the filing of its request with a written concurrence of the property owner, or in absence of such concurrence, that the zoning administrator mail notice of the request to the property owner.

To qualify, an applicant must meet the following conditions:

- (i) A business license was issued by the city for each year of operation of the nonconforming use.
  - (ii) The holder of such business license has operated continuously in the same location for at least 15 consecutive years.
  - (iii) The holder of such business license must have paid all local taxes related to such use.
2. Provides that the business licensee's request for rezoning or special use permit issuance shall be exempt from filing fees that would otherwise be payable.
    - A. Adds new Section 21-899 to Chapter 21, Article X to add the provisions outlined in paragraph 1 above to the City's zoning laws.

- B. Amends City Code Sections 21-44 and 21-61 that respectively specify who may request issuance of special use permits and zoning amendments so as to reference the exception created by the addition of new City Code Section 21-899.

**PLANNING COMMISSION PUBLIC HEARING**

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 16.



Christina Shelton  
City Attorney

**ORDINANCE #16-  
PROPOSED ORDINANCE #16-**

**AN ORDINANCE TO AMEND ARTICLE X OF CHAPTER 21 OF THE  
WILLIAMSBURG CODE BY THE ADDITION OF NEW SECTION 21-899  
WAIVING FEES FOR FILING REZONING AND SPECIAL USE PERMIT  
REQUESTS RELATIVE TO CERTAIN NONCONFORMING USES; AND  
ALSO TO AMEND SECTION 21-44 (a) OF ARTICLE II, DIVISION 2 AND  
SECTION 21-61 (a) OF SAID CHAPTER 21 ACCORDINGLY  
PCR#16-012**

**WHEREAS**, the Virginia General Assembly at its 2016 Session enacted House Bill 367 that amended Section 15.2-2307 C of the Code of Virginia thereby giving certain holders of business licenses the right to request rezoning and special use permits and also requiring waiver of rezoning and special use permit filing fees by Virginia localities and their affiliated agencies relative to certain nonconforming uses; and

**WHEREAS**, it is necessary to amend various provisions of Chapter 21 of the Williamsburg Code in order to implement such mandate;

**NOW, THEREFORE, BE IT ORDAINED**, that Article X of Chapter 21 of the Williamsburg Code is hereby amended by adding a new Section 21-899 thereto as follows:

**ARTICLE X. NONCONFORMING USES**

**Sec. 21-899. Waiver of certain rezoning and special use permit filing fees.**

If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the city for such use for each year of operation of the nonconforming use and (ii) the holder of such business license has operated continuously in the same location for at least 15 consecutive years and has paid all city taxes related to such use, the city shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the city or any agency affiliated with the city for fees associated with such filing. If the applicant is not the owner of the affected property, the application shall include the property owner's written concurrence with the request, or in absence of such written concurrence, the zoning administrator or the administrator's designee shall forthwith send a copy of the application to the property owner by first class mail at the mailing address shown on the city's real property tax records.

**ARTICLE II. ADMINISTRATION  
DIVISION 2. SPECIAL USE PERMITS\***

**And be it FURTHER ORDAINED** that Section 21-44 (a) of Article II, Division 2 of Chapter 21 of the City Code is hereby amended to read:

**Sec. 21-44. Special use permit application requirements.**

(a) Except as otherwise provided by Sec. 21-899 of the Williamsburg Code, an application for a special use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the zoning administrator, and shall be accompanied by the filing fee listed on the fee schedule adopted by city council.

**ARTICLE II. ADMINISTRATION  
DIVISION 3. AMENDMENTS**

**And be it FURTHER ORDAINED** that Section 21-61 (a) of Article II of Chapter 21 of the City Code is hereby amended to read:

**Sec. 21-61. Initiation.**

(a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the city council may by ordinance amend, supplement or change the regulations, district boundaries or classifications of property. Any such amendment may be initiated:

- (1) By resolution of the city council;
- (2) By motion of the planning commission; or
- (3) Except as otherwise provided by Sec. 21-899 of the Williamsburg Code, by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed amendment, submitted to the zoning administrator.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted:

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_

Clerk



**CITY OF WILLIAMSBURG**  
MEMORANDUM

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**TO: Planning Commission**

**DATE: October 13, 2016**

**SUBJECT: PCR #16-014**

**Request of Spence Witten to rezone approximately 53.5 acres at 1018, 1020, 1030 and 1038 Capitol Landing Road from RS-1 Single Family Dwelling District to Limited Business Mixed-Use District LB-3 with proffers and a master plan.**

Spence Witten is proposing to rezone approximately 53.5 acres at 1018, 1020, 1030 and 1038 Capitol Landing Road from RS-1 Single Family Dwelling District to Limited Business Mixed-Use District LB-3 in accordance with a proposed master plan and proffers. The applicant proposes to preserve the three existing houses on the property known as the Beeches, the Duck House and the Little House and use them as a 10 room inn for transient rental to visitors. The Beeches will contain four bedrooms, the Little House will contain three bedrooms and the Duck House will contain three bedrooms for a total of 10 rental bedrooms in the three dwellings rented to visitors. The plan includes amenities such as a pool, event barn, picnic shelters, gazebo and kayak launch to create an attractive event destination and venue for inn visitors. The applicant's statement is attached.

**COMPREHENSIVE PLAN**

The 2013 Comprehensive Plan designates these parcels as Low Density Single Family Detached and Mixed Use with the balance of the properties shown as Sensitive Environmental Areas and Chesapeake Bay Preservation Areas.

*The Duck House is located in the Low Density Single Family Detached area which addresses the lowest intensity of residential development – large lot single family detached residential uses with densities of up to 3 dwelling units/net acre.*

*The Beeches and the Little House are located in the Mixed-Use and Sensitive Environmental Area and Chesapeake Preservation Areas. Mixed Use is implemented by the revised LB-3 Limited Business Mixed-Use District for area between Penniman Road and the CSX Railroad, and for the area around the Beeches at 1030 Capitol Landing Road, both located in the Northeast Triangle Planning Area. The District will allow a range of uses including single family and duplex dwellings, banks, bake shops, hotels and timeshares, museums and art galleries, offices, restaurants and retail stores. Special use permits will be required for permitted residential uses (townhouses and multifamily dwellings) and for buildings with a floor area exceeding 10,000 square feet. Residential density is 14 dwelling units/net acre. The existing zoning for these areas should remain in place until an acceptable development is presented for rezoning to a*

*revised LB-3 zoning district. The Sensitive Environmental Areas is a category that designates lands that have physiographic characteristics critical to the ecological stability and water quality of the region. The protection of these areas is one of the primary goals of the Comprehensive Plan and any development within these areas should be allowed only under strict performance standards and permitting procedures. The Sensitive Environmental Areas include Resource Protection Areas (RPA's) and Resource Management Areas (RMA's).*

Land to the north and east are located in York County with the land to the north designated Economic Opportunity with land to the east designated Medium-Density Residential. Land to the south and west are located in the City with land to the south (Brandywyne) designated as Medium Density Single Family Detached Residential and land to the west designated Low Density Single Family Detached Residential.

## **ZONING**

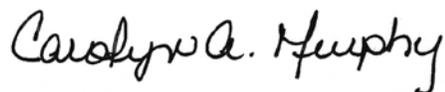
The property to the north located in York County is zoned Economic Opportunity with the property to the east in York County zoned Medium Density Single Family Residential. The land to the south and west are located in the City and are zoned Planned Development Residential District PDR (Brandywyne) with land to the west zoned Single Family Dwelling District RS-1.

The statement of intent for the LB-3 District reads:

*This district is established to allow high quality mixed-use development in the Northeast Triangle Planning Area in areas designated as mixed use land use by the Comprehensive Plan. Suitable mixed-use developments could include the following components: residential uses (including senior and/or student housing); commercial and office uses; hotels and time shares, museums, art galleries and live/work space for artist and artisans. Because of the strategic and sensitive location of the Historic Triangle Planning Area, a rezoning to LB-3 should not be approved until an acceptable master plan has been submitted for the property.*

## **PUBLIC HEARING DATE**

A public hearing is scheduled for the regular Planning Commission meeting on November 16.



Carolyn A. Murphy, AICP  
Planning and Codes Compliance Director

The Applicant is applying to rezone the Property from its existing RS-1, Single Family Dwelling District, zoning to the LB-3, Limited Business Residential District, zoning district.

The City's 2013 Comprehensive Plan designates the area around the Beeches and the other houses on the property as Mixed Use with the balance of the Property shown as sensitive Environmental and Chesapeake Bay Preservation Areas. The Comprehensive Plan states "The land used designation for The Beeches, 1030 Capitol Landing Road, should be changed from *Low Density Single Family Detached Residential* to *Mixed Use* land use. This historic house, eligible for individual listing on the National Register of Historic Places, should be preserved and incorporated into a redevelopment of the property that preserves the house and utilizes the beautiful environmental character of the land surrounding the house." In accordance with the recommendations of the 2013 Comprehensive Plan, the applicant seeks to rezone the Property from its existing RS-1, Single Family Dwelling District, zoning to the LB-3, Limited Business Residential District, zoning district and has submitted a proposed Master Plan for the use of the Property. The applicant proposes to preserve the three existing houses on the Property, known as the Beeches, the Duck House and the Little House, and use them as an inn for transient rental to visitors and to create an attractive event destination and venue. The plan includes amenities such as a pool, event barn, picnic shelters, gazebo, kayak launch, kennel and petting zoo, while preserving the environmentally sensitive areas of the Property. The applicant submits that it is an attractive redevelopment of the Property that will preserve the historic houses on the Property, help attract and house visitors and bring events, such as weddings, to Williamsburg generating business and tax revenue for the City, all in accordance with the recommendations of the 2013 Comprehensive Plan.





PROFFERS

THESE PROFFERS are made this \_\_\_ day of \_\_\_\_\_, 2016 by MARGARET MAHONE WITTEN and THOMAS D. MAHONE, TRUSTEE OF THE THOMAS D. MAHONE LIVING TRUST DATED MARCH 10, 2006, AS AMENDED (collectively and together with their successors and assigns, the "Owner") to be indexed as Grantors in the City of Williamsburg land records and the CITY OF WILLIAMSBURG, a Virginia municipal corporation, ("City") to be indexed as Grantee in the City of Williamsburg land records.

RECITALS

A. Owner is the owner of those tracts or parcels of land located in the City of Williamsburg, Virginia, consisting of Tax Map #378-02-00-A, #379-0A-00-003, 378-02-00-B and 378-0A-00-003 with addresses of 1018, 1020, 1030, and 1038 Capitol Landing Road, Williamsburg, Virginia (the "Property"). The Property contains a total of approximately 53.51 acres and is now zoned RS-1.

B. Owner has applied to rezone the Property from RS-1 to LB-3, with proffers, and in connection therewith has submitted a Master Plan for the Property entitled "The Beeches at Capitol Landing" made by DJG Inc. and dated \_\_\_\_\_, 2016 (the "Master Plan").

F. Owner desires to offer to the City certain conditions on the development of the Property not generally applicable to land zoned LB-3.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and Article II, Division 4 of the City Zoning Ordinance, Owner agrees that it or its successors in title, as the case may be, shall meet and comply with all of the following conditions in developing the

Property. If the requested rezoning is not granted by the City, these Proffers shall be null and void.

CONDITIONS

1. Use and Development. The Property shall be developed and used substantially as shown on the Master Plan, with only minor changes thereto approved by the City Planning Director. Permitted uses on the Property shall be hotel/motel with 10 or less bedrooms, an event barn with kitchen and bathrooms, picnic shelters, private kennels, utility sheds, swimming pool, private kayak launch, gazebo and pedestrian pathways, parking areas and driveways. No other uses permitted by Section 21-256.2 or 21-256.3 of the City Zoning Ordinance shall be permitted on the Property.

WITNESS the following signatures.

\_\_\_\_\_  
Margaret Mahone Witten

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Margaret Mahone Witten.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_

\_\_\_\_\_  
Thomas D. Mahone, Trustee of  
the Thomas D. Mahone Living  
Trust dated March 10, 2006, as  
amended

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016, by Thomas D. Mahone, Trustee of the Thomas D. Mahone Living  
Trust dated March 10, 2006, as amended.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_

The City of Williamsburg joins herein to and does hereby confirm its acceptance of these proffers as part of the rezoning of the subject Property from RS-1 to LB-3.

CITY OF WILLIAMSBURG, VIRGINIA

By: \_\_\_\_\_

Title:

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, \_\_\_\_\_ of The City of Williamsburg, Virginia, on its behalf.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

Registration No.: \_\_\_\_\_