

**ACTION ITEM  
BOARD OF SUPERVISORS**

**DATE** April 1, 2008

**TO** Board of Supervisors  
**FROM** Robert E. Bos, P.E.  
Director of Utilities *RB*  
**ISSUE** Reconsider Request to Waive Mandatory Sewer Connection for Williams Subdivision

**RECOMMENDATION:** Approval

**BUDGET IMPACT** \$45,500 Potential Lost Revenue

**ATTACHMENTS.** (6)

- [1] Background Report
- [2] Williams Location Map
- [3] Ordinance O05-50
- [4] Ltr dtd 11-30-07
- [5] Reso/Ord/Proc #R08-150
- [6] Reso/Ord/Proc #R08-151
- [ ] Reso/Ord/Proc #

**REVIEW** [X] County Administrator's Office *[Signature]*

[X] Legal *[Signature]*

[X] Planning *[Signature]*

- [ ] **Consent Agenda**
- [ ] **Discussion Item**
- [ ] **New Business**
- [ ] **Other Business**
- [ ] **Presentation**
- [ ] **Public Hearing**
- [X] **Unfinished Business**

**PRESENTATION BY:** Dale Allen, Assistant Director of Utilities

**ELECTION DISTRICT:** Hartwood

### **BACKGROUND REPORT**

At the December 18, 2007 Board meeting, a request for a mandatory sewer connection waiver for the Williams Subdivision, was denied. This item is for further consideration of the Board's decision, as requested by the attorney for the developer.

On December 13, 2005, the Board adopted Ordinance O05-50 (Attachment 3) which revised Section 25-71 of the County Code to require mandatory use of the public water and sewer systems inside the Urban Service Area (USA). The ordinance was effective immediately. Prior to passage of Ordinance O05-50, Section 25-71 required use of the public water and/or sewer system only if the use was cost effective, as determined by comparing the off-site construction costs to per lot criteria in the ordinance, irrespective of whether the project was inside or outside of the USA.

It soon became apparent that many residential projects that were under design or that were submitted, but not yet approved, would be impacted by Ordinance O05-50. These projects are inside the USA, but proposed for on-site wells and/or on-site wastewater disposal systems. These projects are mostly small subdivisions that are too far from existing water and/or sewer utilities to use them cost effectively. This left the developers with large investments in projects that could not be effectively completed.

In response to these issues, the Board approved Ordinance O07-44 at its November 20, 2007 meeting. This amendment to Section 25-71 of the County Code provides that the applicant for a project inside the Urban Service Area may request a waiver from the requirements to use public water and/or public sewer if the applicant demonstrates

- 1) Water and/or sewer is not presently available to the property
- 2) The cost to the developer to connect the proposed subdivision or site to existing County water and/or sewer, based on physical and geographical constraints, is unreasonably prohibitive when such cost is compared with the overall scope and size of the development project
- 3) The County has no identified plans to extend public water and/or sewer service to within a reasonable distance of the property within the next three (3) years from the date the waiver is requested
- 4) Each proposed subdivision lot contains sufficient area to support both primary and reserve areas for on-site wastewater disposal and water supply

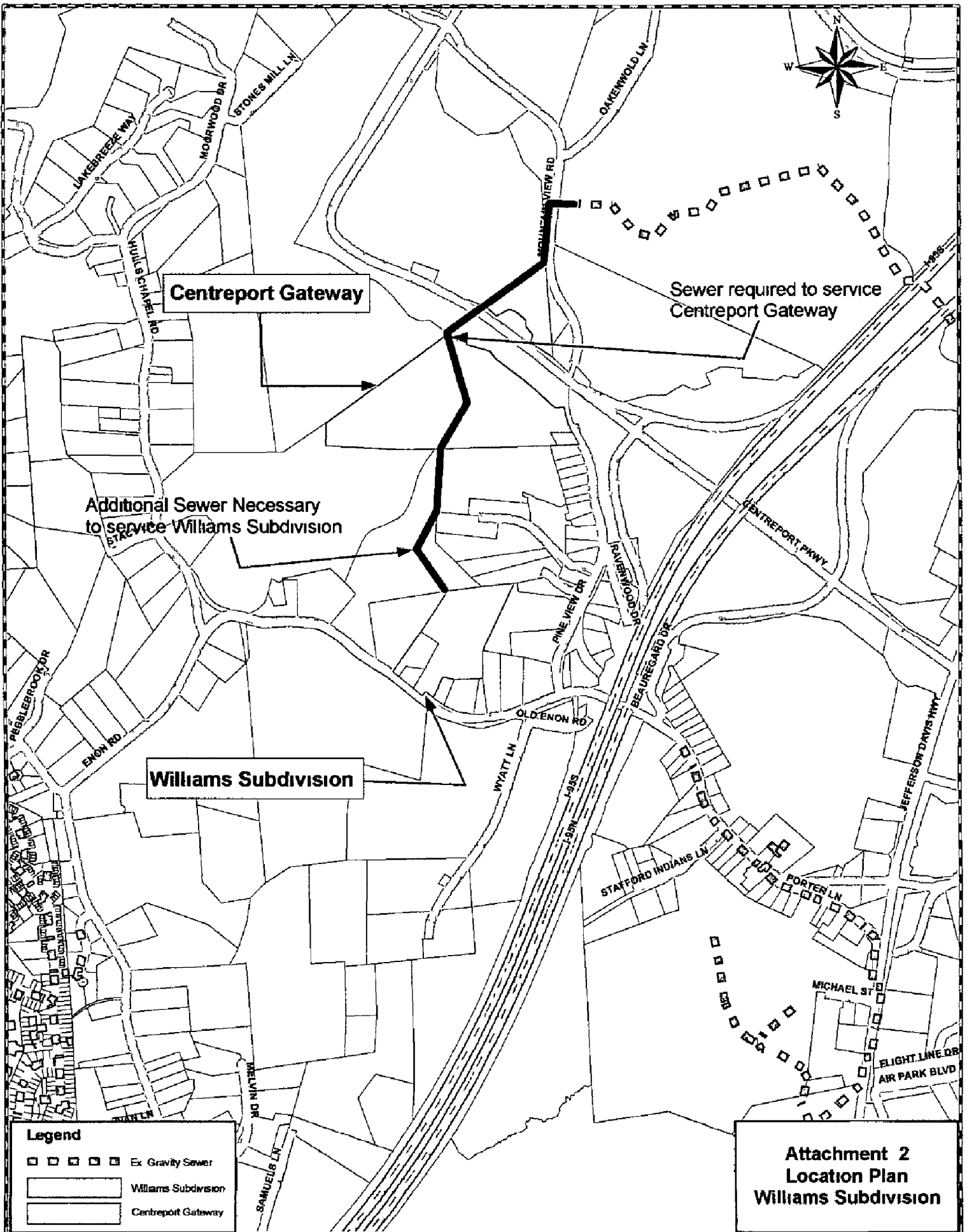
#### **The Williams Subdivision**

The owner of the proposed Williams subdivision has applied for a waiver from the requirements to utilize the public sewer system. The Williams subdivision was submitted by the applicant utilizing the public water system. No waiver from the mandatory requirement to use the public water system was requested or needed. The application is contained in Attachment 4. The project is a subdivision which would create 13 lots from two existing parcels. The application date for this project is August 4, 2006, which is before the deadline.

of May 3, 2007 established in the ordinance. The location is shown on the location map at Attachment 2. An evaluation of the criteria is as follows:

1. Availability of water and sewer. Sewer is not presently available to the site. The cost to extend public sewer the full 4,800 feet is unreasonably prohibitive. However, future development could possibly bring sewer to within 1,500 feet of the subdivision. The cost of this length and capacity of sewer would not be unreasonably prohibitive.
2. Comparative cost of extending water and sewer. A site plan is anticipated for the Centreport Gateway project. This project is illustrated on Attachment 2. If constructed, this project would bring public sewer to within 1,500 feet of the subdivision. However, the timing of the Centreport Gateway project is problematic at best. Given that the project must obtain additional access, submit and gain approvals for the site plan, and construct the facilities, it is unlikely that sewer would be constructed and in use within the next three years. The nearest existing public sewer is along Potomac Creek, approximately 4,800 feet away.
3. Plans to extend sewer service. There are no known plans to extend sewer service within the next three years. Public water exists on Enon Road.
4. Reserve areas for on-site water and sewer. The health department has approved this lot for on-site water and wastewater, including reserve drainfield areas.

Based upon compliance with the guidelines in Section 25-71, staff recommends approval of proposed Resolution R08-150 to waive the requirement for the Williams subdivision to utilize the sewer system.



**Centreport Gateway**

Sewer required to service Centreport Gateway

Additional Sewer Necessary to service Williams Subdivision

**Williams Subdivision**

**Legend**

- □ □ □ □ Ex Gravity Sewer
- ▭ Williams Subdivision
- ▭ Centreport Gateway

**Attachment 2  
Location Plan  
Williams Subdivision**

005-50

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 13<sup>th</sup> day of December, 2005

<u>MEMBERS</u>	<u>VOTE</u>
Gary D Pash, Chairman	Yes
Gary F Snellings, Vice Chairman	Yes
Jack R Cavalier	Yes
Peter J Fields	Yes
Robert C Gibbons	Yes
Kandy A Hilliard	Yes
Mark W Osborn	Yes

On motion of Mr Fields, seconded by Ms Hilliard, which carried by a vote of 7 to 0, the following was adopted

AN ORDINANCE WHICH AMENDS AND REORDAINS CHAPTER 25, SECTION 25-71(b) OF THE STAFFORD COUNTY CODE ENTITLED "GENERAL PROVISIONS"

WHEREAS, the Board desires to amend section 25-71 of the County Code, and

WHEREAS, the Board has carefully considered the recommendation of the Utilities Commission, the Planning Commission, staff, and the testimony received at the public hearing,

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 13<sup>th</sup> day of December, 2005 that Chapter 25, Section 25-71(b) of the Stafford County Code entitled "General provisions" be and it hereby is amended and reordained as follows with all other portions remaining the same


**ARTICLE IV            CONSTRUCTION OF SANITARY SEWERS AND WATER DISTRIBUTION LINES BY OWNERS OR DEVELOPERS**

**Sec    25-71.            General provisions**

(b) The developer of any new subdivision inside the Urban Service Area as defined in the County's Comprehensive Plan intended for industrial, residential or commercial use, or any combination thereof, or an industrial site shall utilize the

public water system ~~if the developer's construction costs for the off-site water line, as determined by the administrator, do not exceed seven hundred fifty dollars (\$750.00) per household equivalent unit, or four hundred twenty-eight dollars (\$428.00) per acre when the number of household equivalent units cannot be readily determined.~~ Likewise, the developer of a project inside the Urban Service Area as defined in the County's Comprehensive Plan shall be required to utilize the public sewer system ~~if the developer's construction costs for the off-site truck or lateral sewer, as determined by the administrator, do not exceed one thousand five hundred dollars (\$1,500.00) per household equivalent unit, or eight hundred fifty-seven dollars (\$857.00) per acre when the number of household equivalent units cannot be readily determined.~~ The above dollar limits shall be reviewed annually by the administrator and shall be adjusted in accordance with the most current Engineering News Record (ENR) "construction cost" index. ~~The above dollar limits are based upon an ENR index of 3,875.~~

A Copy, teste

  
Steve Crosby  
County Administrator

SC reb



# HIRSCHLER FLEISCHER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

**Charles W Payne, Jr** Fredericksburg Office  
(540) 604 2108 cpayne@hf law com

The Edgeworth Building  
2100 East Cary Street  
Richmond, VA 23223 7078  
Telephone 804 771 9500  
Fax 804 644-0957

Fredericksburg Office  
725 Jackson Street Suite 200  
Fredericksburg VA 22401 5720  
Telephone 540-372-3515  
Fax 540 372-3941

www hf-law com

Mailing Address  
Post Office Box 500  
Richmond VA 23218-0500

## HAND DELIVERED & MAILED U S FIRST CLASS

November 30, 2007

Mr Robert E Bos, P E  
Director of Utilities  
County of Stafford  
1300 Courthouse Road  
P O Box 339  
Stafford County, Virginia 22555-0339

Re **Stacy Construction Company**  
**Request for Waiver to Section 25-71(b) of the County Code**  
**In Accordance with Resolution 007-44**  
**December 18, 2007, Board of Supervisors Meeting**

Dear Mr Boss

Please be advised that this firm represents Stacy Construction Company in regard to the above matter and its preliminary subdivision plan application for Williams Subdivision, # 2600625, which has been deferred for decision by Stafford County's ("County") planning commission until January of 2008

As you may be aware, the purpose for the above deferral was to determine whether the County Board of Supervisors ("Board") would provide a waiver to Section 25-71 (b) requiring projects within the Urban Service Area to utilize County water and sewer On November 20, 2007, the Board voted 5-2 to authorize a waiver process pursuant to Resolution 007-44

The purpose of this correspondence is to request a waiver to Section 25-71 (b) to allow my client to develop thirteen (13) by-right residential lots without the requirement of connecting to public sewer My client is able to connect to public water, and thus we are not requesting a waiver to this requirement We further request that you place this application on the December 18, 2007, Board of Supervisor's agenda for final determination

Please note that time is of the essence in regard to this waiver request As stated above, the planning commission has deferred its review of our application for close to a year, expiring



November 30, 2007  
Page 2

## HIRSCHLER FLEISCHER

this coming January 2008. In addition, any further delay will certainly have an irreversible adverse economic impact on my client.

Please feel free to contact me with any questions and/or if you require additional information. Your immediate attention to this matter is appreciated.

Respectfully,



Charles W. Payne, Jr.

cc Stacy Construction Company  
Steve Crosby, County Administrator  
Joe Howard, County Attorney  
Jeff Harvey, Planning Director

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 1st day of April, 2008

MEMBERS

VOTE

George H Schwartz, Chairman  
M S "Joe" Brito, Vice Chairman  
Harry E Crisp II  
Mark Dudenhefer  
Paul V Milde III  
Cord A Sterling  
Robert "Bob" Woodson

On motion of , seconded by , which carried by a vote of , the following was adopted

A RESOLUTION TO WAIVE MANDATORY WATER AND SEWER CONNECTIONS FOR THE WILLIAMS SUBDIVISION

WHEREAS, Section 25-71 of the County Code requires that subdivisions inside the Urban Service Area utilize the public water and sewer systems, and

WHEREAS, the Williams subdivision is inside the Urban Service Area, and

WHEREAS, Section 25-71 of the County Code provides a waiver process for applications submitted prior to May 3, 2007, and

WHEREAS, the owner of the Williams subdivision submitted his application prior to May 3, 2007 and has requested a waiver from the mandatory water and sewer requirements, and

WHEREAS, the Board has denied a request for a mandatory sewer connection waiver at a meeting on December 18, 2007 for the Williams Subdivision, and

WHEREAS, the Board has been requested to further consider its decision, and

WHEREAS, the Williams subdivision meets the guidelines for a waiver contained in Section 25-71 of the County Code,

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 1<sup>st</sup> day of April, 2008, that the Board be and it hereby does waive the requirements to utilize the public sewer systems for the Williams subdivision

SC REB cdg

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 1st day of April, 2008

MEMBERS

George H. Schwartz, Chairman  
M. S. "Joe" Brito, Vice Chairman  
Harry E. Crisp II  
Mark Dudenhefer  
Paul V. Milde III  
Cord A. Sterling  
Robert "Bob" Woodson

VOTE

On motion of , seconded by , which carried by a vote of , the following was adopted

**A RESOLUTION TO DENY A WAIVER FROM MANDATORY WATER AND SEWER REQUIREMENTS FOR THE WILLIAMS SUBDIVISION**

WHEREAS, Section 25-71 of the County Code requires that subdivisions inside the Urban Service Area utilize the public water and sewer systems, and

WHEREAS, the Williams subdivision is inside the Urban Service Area, and

WHEREAS, Section 25-71 of the County Code provide a waiver process for applications submitted prior to May 3, 2007, and

WHEREAS, the owner of the Williams subdivision submitted his application prior to May 3, 2007 and has requested a waiver from the mandatory water and sewer requirements, and

WHEREAS, the Board has denied a request for a mandatory sewer connection waiver at a meeting on December 18, 2007 for the Williams Subdivision, and

WHEREAS, the Board has been requested to further consider its decision, and

WHEREAS, the County desires to maximize the use of the public water and sewer systems with the Urban Service Area,

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 1<sup>st</sup> day of April, 2008, that the Board be and it hereby does deny the applicant's request to waive the requirements to utilize the public sewer systems for the Williams subdivision

SC REB cdg