

INTRODUCED JAN 22 2001

AN ORDINANCE *No. 2001-25-39*  
ADOPTED FEB 12 2001

To amend and reordain Section 8-2 of the Code of the City of Richmond, 1993, to limit the uses for which Bandy Field Park, Lewis G. Larus Park, Crooked Branch Ravine Park and the James River Park System may be leased.

\_\_\_\_\_  
Patron – City Manager

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney

\_\_\_\_\_  
PUBLIC HEARING FEB 12 2001 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Section 8-2 of the Code of the City of Richmond, 1993, be amended and reordained as follows:

**Section 8-2. Authority of City Manager to lease certain real estate; terms and conditions of lease.**

(a) The City Manager is hereby authorized to lease, for and on behalf of the City, real estate owned by the City, or any part thereof, which is not devoted to and not immediately needed for public use, upon the following terms and conditions:

(1) The tenants shall pay rent to the City for the use and occupancy of each parcel at an annual rate commensurate with the fair rental value of the parcel as determined by the City Manager, which shall be due and payable monthly in advance.

(2) The tenants shall have exclusive possession of the real estate; except, that the Department of General Services shall have the right to enter thereon at any time for the

inspection thereof or for making such repairs to or alterations of any buildings or structures on the real estate, as the City Manager may deem advisable; but, the City shall not be obligated to maintain, repair or replace any buildings or structures, or any fixture, equipment or facility which may be on or used in connection with the use of the real estate or any part thereof.

(3) The tenants shall maintain the real estate in good order and state of repair, and shall make such repairs thereto as shall from time to time be required by the City Manager or an authorized representative.

(4) The tenants shall provide at their cost and expense all services required for their use and occupation of the real estate, and the City shall not be obligated to provide therefor; provided, that where a single parcel of real estate is being leased to two (2) or more tenants and such real estate has only one water, gas or electric meter or only one heating system, the City Manager is authorized to pay for the services where there is only one water, gas or electric meter or only one heating system and then to prorate the costs of the services between the tenants involved and add the net costs of the services to the fair rental value of the parcel as determined by the City Manager under Subsection (a)(1) above.

(5) The tenants shall remove all of their property from the real estate, including that attached to the freehold, upon the termination of the lease, and upon their failure, refusal or neglect to do so, the Department of General Services may remove such property therefrom at the cost and expense of the tenants, without liability to the tenants for damages that may directly or indirectly result therefrom, or may allow such property to remain thereon and fee simple title thereto shall vest in the City.

(6) The tenants shall not transfer or assign the lease nor sublet the real estate or any part thereof without the approval of the City Manager.

(7) The tenants shall surrender possession of the real estate to the City upon termination of the lease, and shall leave the premises in the same or as good condition as when entered upon, damage beyond the control of the tenants and reasonable wear and tear excepted.

(8) The tenants shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to themselves and others in person or property growing out of the making of the lease and their use and occupancy of the real estate; and, if suit shall be brought against the City, either independently or jointly with the tenants on account thereof, the tenants will defend the City in any such suit; and, in the event of a final judgment being obtained against the City, either independently or jointly with the tenants, then they will pay such judgments with all costs and hold the City harmless therefrom.

(9) The tenants shall waive the benefit of the homestead exemption laws of the State as to all obligations created under the lease and shall agree to pay all expenses incurred in collecting the same, including twenty (20) percent attorney's fees in case the same shall not be paid when due.

(10) The use and occupancy of the premises by the tenants shall be at the will of either of the parties to the lease and may be terminated by the City Manager, or an authorized representative, or by the tenants, at any time. Upon the termination of the lease by the City, the tenants shall be refunded the rent paid for the remainder of the month from the day such termination becomes effective.

(11) Whenever any building or structure which is a part of the real estate is rendered untenable by reason of force majeure, the lease, without more, shall terminate.

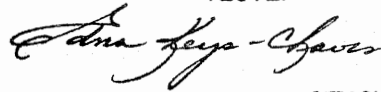
(b) Whenever such real estate is needed for public use, the City Manager shall cause such lease to be terminated and the real estate devoted to that public use for which it is needed.

(c) Notwithstanding any other provision of law to the contrary, Bandy Field Park, Lewis G. Larus Park, Crooked Branch Ravine Park and City-owned real estate that has been designated as part of the James River Park System shall not be leased for any purpose that would result in or involve any development of any part of these public park lands.

§ 2. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:

TESTE:



CITY CLERK



# CITY OF RICHMOND

## INTRACITY CORRESPONDENCE

**DATE:** January 5, 2001

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THRU:** Dr. Calvin D. Jamison, Ed.D., City Manager

**FROM:** Dinesh V. Tiwari, Director *DT*  
Parks, Recreation and Community Facilities

**RE:** Conservation Easements

**ORD.NO.:** \_\_\_\_\_

**PURPOSE:** To amend and reordain Section 8-41 of the Code of the City of Richmond, 1993, concerning the sale of real estate.

**REASON:** By Resolution No. 2000-R77-83, adopted May 22, 2000, City Council directed the City Attorney to work with interested parties to prepare an ordinance that would protect the following four sites by means of conservation easements: the Bandy Field Park, the James River Park, the Crooked Branch Ravine and the Larus Property. The civic associations interested in these four (4) sites request conservation easements to preserve these sites in their current natural state. The ordinance requested is needed to respond to Resolution No. 2000-R77-83.

**RECOMMENDATION:** The City Administration recommends that City Council do the following instead of pursuing conservation easements for the four (4) sites:

1. Adopt ordinances declaring Crooked Branch Ravine and the Larus Tract as parks, thus formally placing these properties in the City's park system for the first time.
2. Amend City Code § 8-41 to prohibit the placement of properties designated as City parks on the surplus property list.
3. Adopt an ordinance restricting future leasing of the four (4) sites in question to purposes compatible with use of public parkland.

**BACKGROUND:** The City Attorney's office facilitated meetings with interested civic groups and City departments to discuss the conservation easements. In addition, the City Attorney, through Viola Baskerville, asked the Attorney General of Virginia for an

opinion on the City's authority to grant conservation easements. The Attorney General issued this opinion on November 3, 2000. Briefly, the opinion of the Attorney General states that the City of Richmond may grant conservation easements provided that the following conditions are met:

1. Pursuant to section 15.2-2100 of the Code of Virginia, three-fourths of all the members elected to City Council must vote to adopt an ordinance granting the conservation easement.
2. Pursuant to section 10.1-1009 of the Code of Virginia, the holder of the conservation easement must be a charitable corporation, charitable association, or charitable trust which has been declared exempt from taxation pursuant to 26 U.S.C.A. § 501 (c) (3) and the primary purposes or powers of which include: (a) retaining or protecting the natural or open-space values of real property; (b) assuring the availability of real property for agricultural, forestal, recreational, or open-space use; (c) protecting natural resources; (d) maintaining or enhancing air or water quality; or (e) preserving the historic, architectural or archaeological aspects of real property.
3. Pursuant to section 15.2-1800 of the Code of Virginia, City Council must hold a public hearing concerning the proposed grant of the conservation easement before granting the conservation easement.

The Attorney General also has opined that City Council may grant the conservation easement in perpetuity.

The Department of Parks, Recreation and Community Facilities, the Department of Community Development, the Department of Public Works and the Department of Public Utilities have examined this issue. The departments recommend that City Council not grant the conservation easements and offer the preceding recommendations as a viable, alternative approach to the grant of conservation easements.

The City departments that have examined the issue recommend that City Council reject the concept of granting conservation easements for the following reasons:

1. The proposed master plan already designates the four (4) sites in question as parks/natural areas. In addition, deed restrictions on the Larus Property protect it from development. The existing land and water quality regulations restrict the use and development of the James River Park and Crooked Branch Ravine properties.
2. Existing review and approval processes involving public hearings by the City Planning Commission and/or City Council provide adequate opportunities for public participation in decision making.

3. A conservation easement granted in perpetuity to a private organization will inhibit the ability of current and future City Councils to manage public lands in the manner deemed most beneficial to the citizens.
4. Restrictions contained in conservation easements may hinder future Public Works and Public Utilities improvements.
5. Legal property surveys required for conservation easements may cost as much as \$400,000 - \$450,000.
6. Use and control of public lands should remain with the public.

**COST TO CITY:** Staff time to prepare necessary O&R documents

**REVENUE TO CITY:** None.

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** January 22, 2001

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITY (IES):** Not Applicable.

**CITY COUNCIL PUBLIC HEARING DATE:** February 12, 2001

**AFFECTED AGENCIES:** Department of Public Works  
Department of Public Utilities  
Department of Community Development  
Department of Parks, Recreation, and Community Facilities  
Bureau of Purchasing and Real Estate

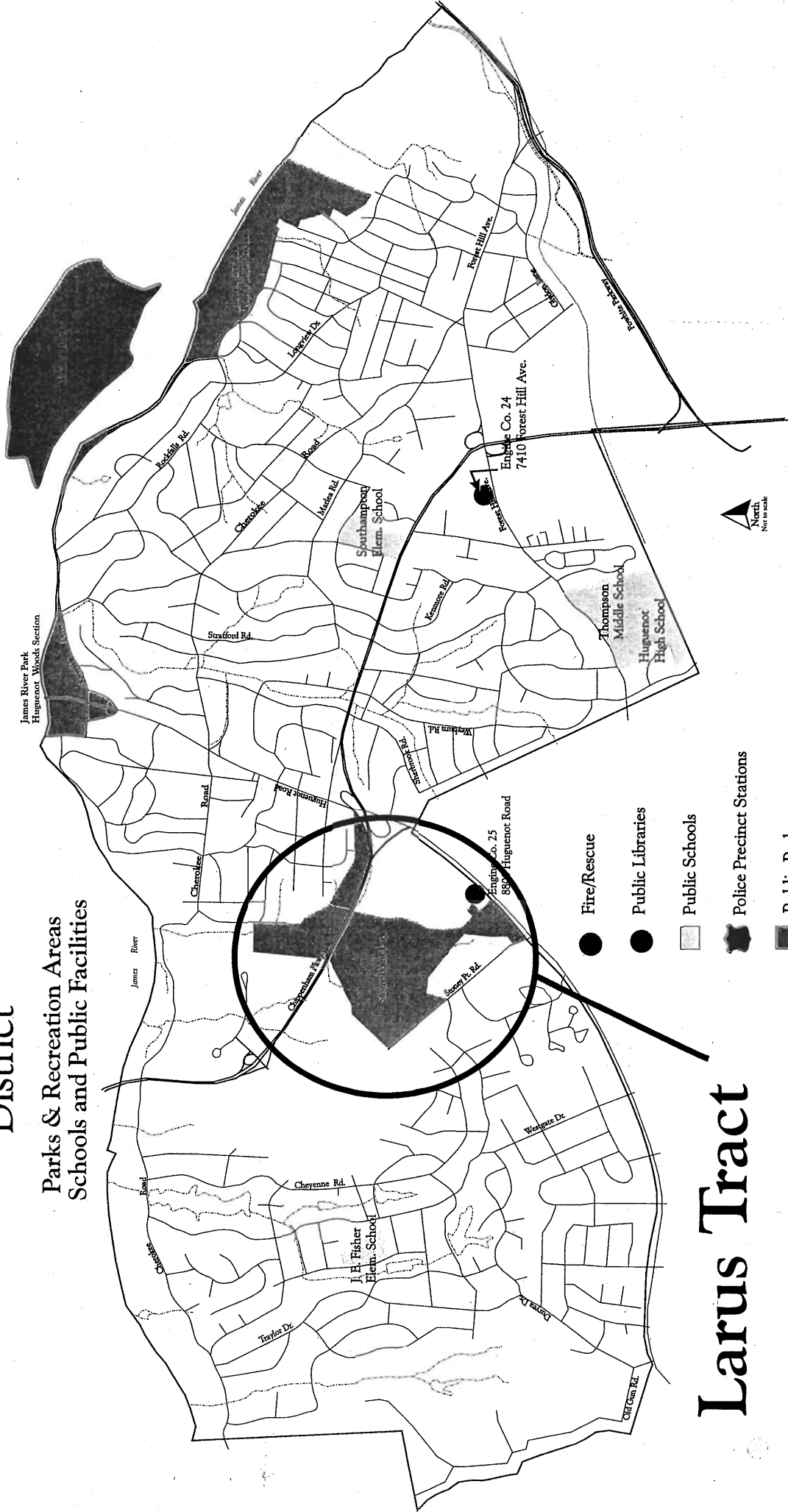
**RELATIONSHIP TO EXISTING ORD. OR RES.:** City Code § 8-41, concerning the sale of real estate; Res. No. 2000-R77-83 directing the City Attorney to work with interested groups to develop conservation easements for four City properties.

**ATTACHMENTS:** Two (2) copies of O&R request to Law Dept.  
Six (6) copies of O&R request for City Manager's Office  
One (1) copy each to affected agencies







**STAFF:** Raymond S. Sutton  
Executive Staff Assistant  
Parks, Recreation and Community Facilities  
646-5749

# Huguenot Planning District

## Parks & Recreation Areas Schools and Public Facilities



# Larus Tract

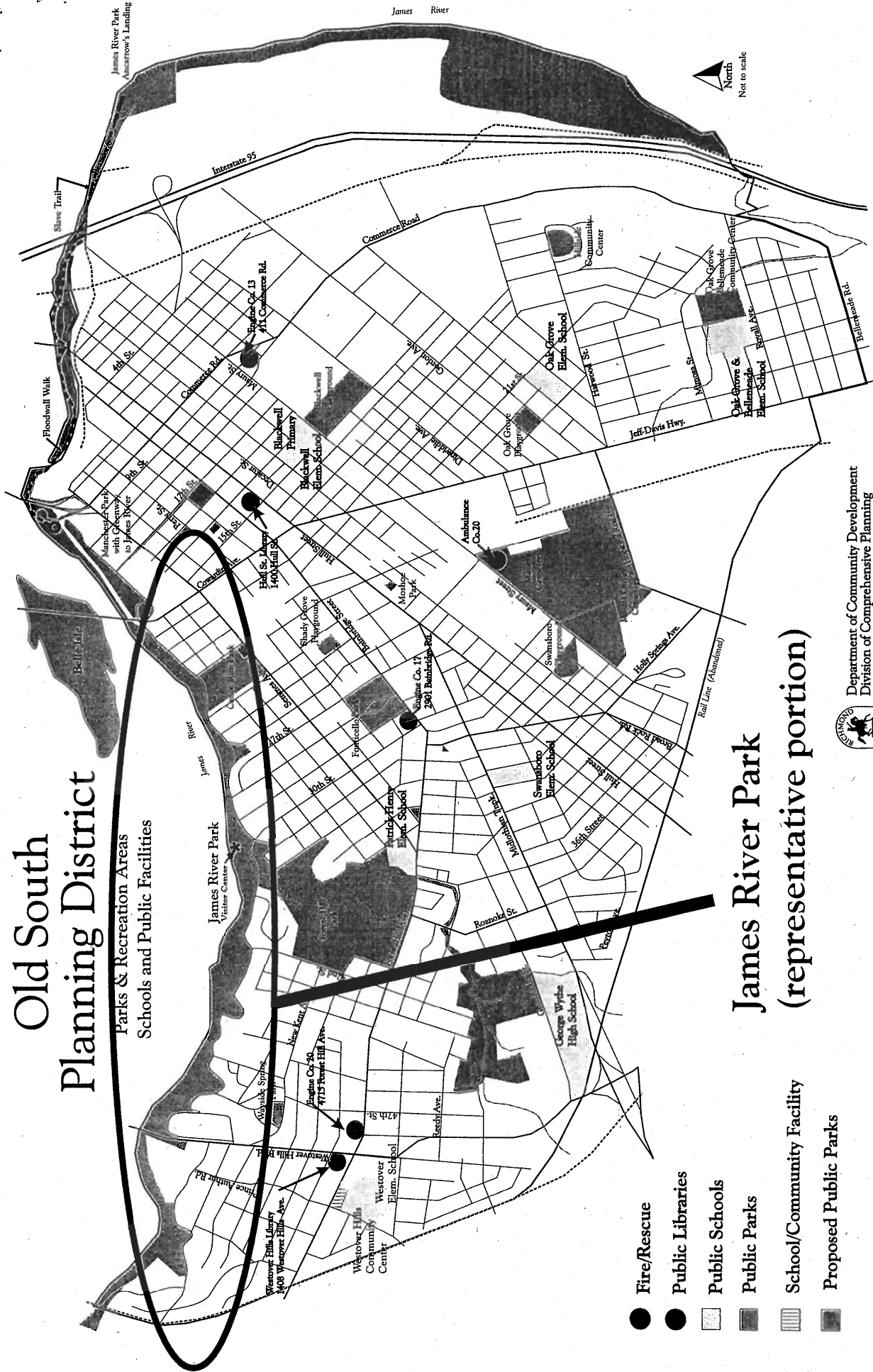
-  Fire/Rescue
-  Public Libraries
-  Public Schools
-  Police Precinct Stations
-  Public Parks
-  Proposed Public Parks






# Old South Planning District

Parks & Recreation Areas  
Schools and Public Facilities



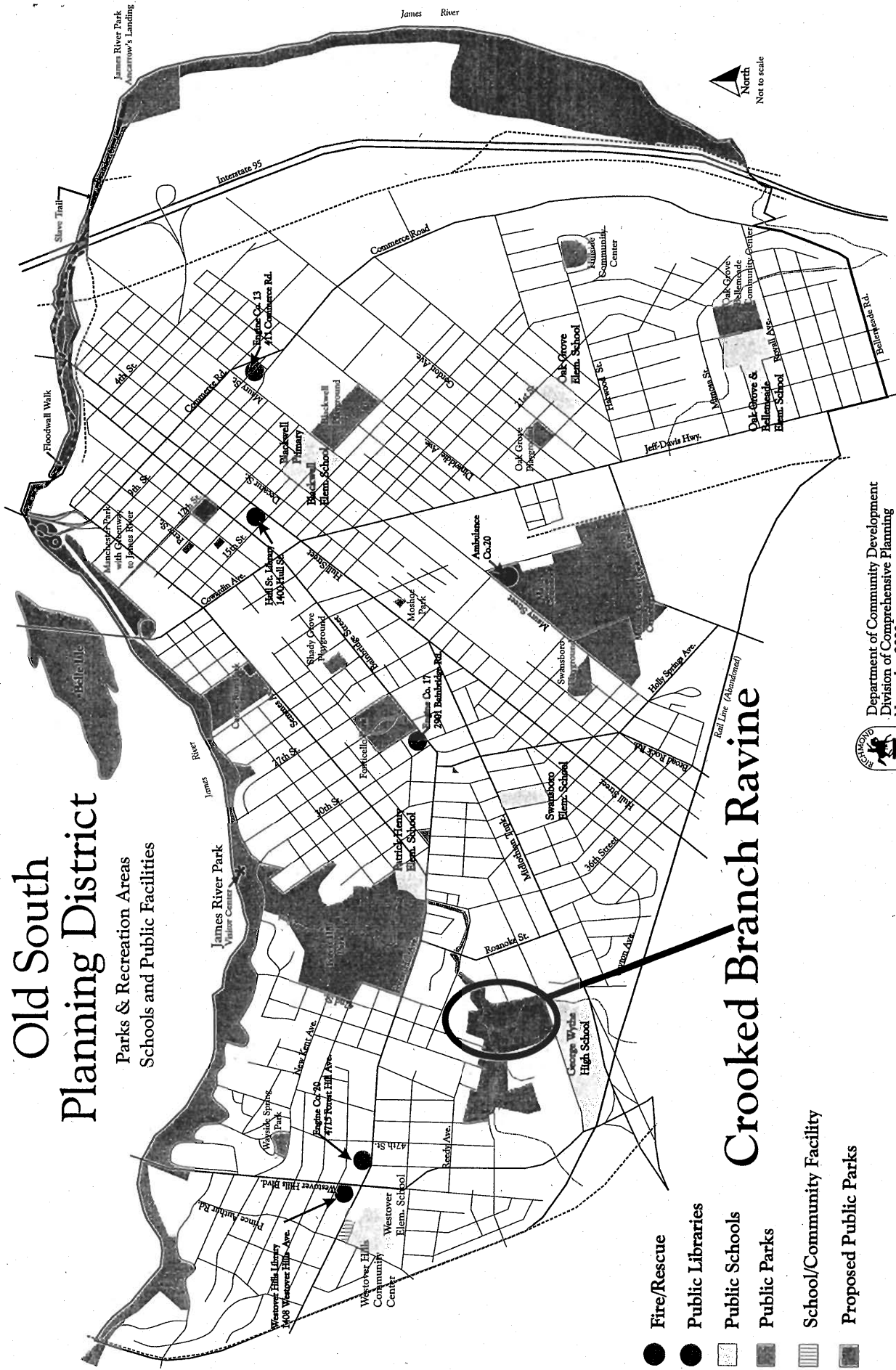
- Fire/Rescue
- Public Libraries
- Public Schools
- Public Parks
- School/Community Facility
- Proposed Public Parks

## James River Park (representative portion)

  
 Department of Community Development  
 Division of Comprehensive Planning  
 November 2000

# Old South Planning District

Parks & Recreation Areas  
Schools and Public Facilities



# Crooked Branch Ravine

- Fire/Rescue
- Public Libraries
- Public Schools
- Public Parks
- ▨ School/Community Facility
- Proposed Public Parks



















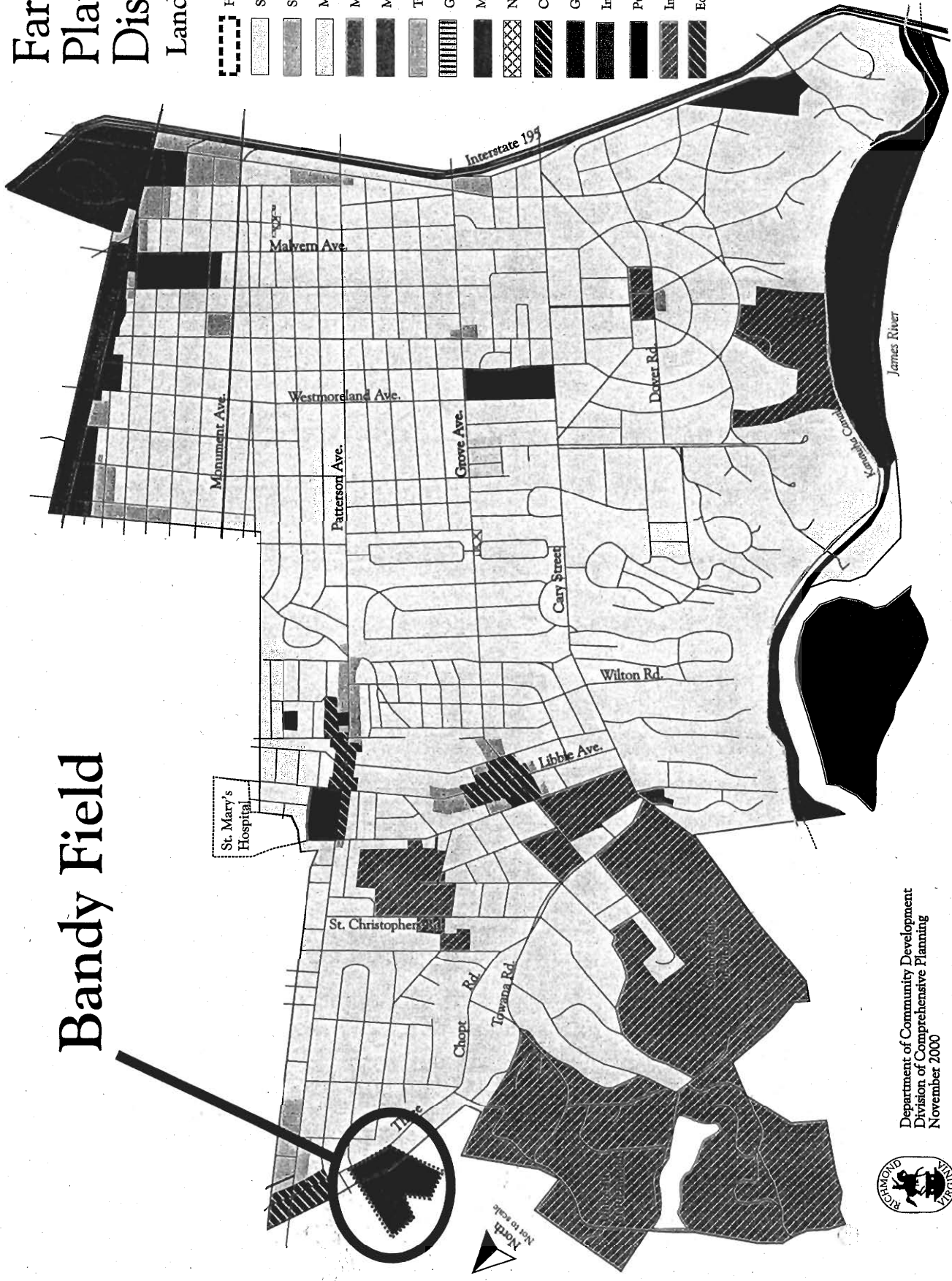
Department of Community Development  
Division of Comprehensive Planning  
November 2000



# Far West Planning District Land Use Plan

## Bandy Field

-  Housing Opportunity Area
-  Single Family (low density)
-  Single-Family (medium density)
-  Multi-Family (medium density)
-  Multi-Family (high density)
-  Multi-Family (very high density)
-  Transitional Office
-  General Office
-  Mixed Use
-  Neighborhood Commercial
-  Community Commercial
-  General Commercial
-  Industrial
-  Public & Open Space
-  Institutional
-  Economic Opportunity Area



Department of Community Development  
Division of Comprehensive Planning  
November 2000