

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE SIXTH DAY OF JULY, NINETEEN HUNDRED EIGHTY-SEVEN, AT 7:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
Stewart U. Taylor, Vice-Chairman, Stonehouse District
William F. Brown, Roberts District
Perry M. DePue, Powhatan District
Thomas D. Mahone, Jamestown District

David B. Norman, County Administrator
Darlene L. Burcham, Assistant County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - June 15, 1987

Mr. Edwards asked if there were corrections or additions to the minutes.

Mr. Mahone said he had reviewed the minutes, and made a motion to approve the minutes as presented.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

C. PRESENTATION

1. Certificate of Appreciation - Gary A. Smith

Mr. Edwards read a resolution of appreciation for Mr. Gary Smith's service to the School Board.

Mr. Smith thanked the Board and stated that serving had been a privilege.

Mr. Edwards stated the Board was grateful to Mr. Smith and others who serve the County in this manner.

RESOLUTION OF APPRECIATION

GARY A. SMITH

WHEREAS, Gary A. Smith has served for the past eight years on the Williamsburg-James City County School Board, representing the Stonehouse District of James City County; and

WHEREAS, Gary brought to the School Board a caring and thoughtful educational philosophy, with much attention devoted to the needs of the children in our schools; and

WHEREAS, in his terms as Chairman and Parliamentarian, Gary was involved in guiding the School Board in its policies and processes; and

WHEREAS, Gary devoted attention and energy to curriculum improvements in the schools, most particularly in mathematics and foreign languages and in his work with the Peninsula Vocational Technical Center; and

WHEREAS, Gary has contributed time, energy and attention to the needs of the children of our community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses its appreciation and thanks to Gary A. Smith for his many contributions as a member of the Williamsburg-James City County School Board for the last eight years and would wish for him the very best in his future endeavors.

D. PUBLIC HEARINGS

1. Richmond Road - Barhamsville Road Corridor Study

Mrs. Victoria Gussman, Director of Planning, requested the Board's acceptance of the study and asked for comments on specific concepts within the study. Staff will then amend the Comprehensive Plan and work on any zoning changes necessary to implement the Plan.

Ms. Kay Robertson, Senior Planner, summarized the study as presented to the Board at the June 15, 1987 work session, stating the primary goal was to provide a strategy to enhance and maintain the long-term viability of the corridor. The Land Use Map shows industry, commercial, residential, and moderate density residential. New designations include a village concept, high density residential, planned commercial, planned industrial, and a business incentive zone.

Mr. Edwards opened the public hearing.

1. Ms. Sandra Stein, 302 Hempstead Road, Chairman of the Citizens Strategy Team, asked the Board to accept the report, and said the Team understood that the Richmond Road Corridor would build out eventually, and it had spent a great deal of time on research and study.

2. Mr. James Schuster, 8725 Barhamsville Road, said three or four homes at Anderson's Corner would need to be rezoned commercial because the residential property value will be destroyed. He asked how the owners' interest would be protected.

Mr. DePue indicated that any rezoning would have to go through a public hearing.

Mr. Taylor asked Mr. Schuster if he owned land along Barhamsville Road.

Mr. Schuster replied in the affirmative.

Mr. Brown mentioned that as the community grows and develops, residential areas, adjacent to commercial areas, will face a dilemma. If rezoned business, the market value will force out residential uses.

3. Mr. A.G. Bradshaw, of Norge, spoke in favor of the study saying that in past years, businesses built close to Williamsburg were annexed by the City, leaving a low tax base for the County. The study provides an opportunity to retain a part of the County's future tax base. Mr. Bradshaw urged the Board to give serious consideration to the study.

Mr. Edwards closed the public hearing.

Mr. DePue stated he had respect for a good process that resulted in a broad-based, diverse, and efficient document. He further stated he was comfortable with the report, and would make a motion to approve the resolution at the appropriate time, but could not agree to a blanket endorsement of all of the items at this time.

Mr. Taylor indicated that the individual property owners should have more input. Some of the homes in the area are already rezoned, and the owners should be protected. Mr. Taylor stated that property owners should be given priority when rezoning.

Mr. Mahone stated the expansion of the Primary Service Area to the interchanges is well-planned and most appropriate for the community. When the Primary Service Area is extended, water and sewer will have to be provided at great expense to the area, but now is not the time.

Mr. Brown complimented the process and the people involved. He mentioned a reservation that the semi-rural characteristic of the community could not be preserved without great difficulty, and noted that citizens are concerned with the quality of life as well as lowering taxes. Traffic could become a bottleneck on the corridor because volume is presently reaching the limit. Mr. Brown said he would support the motion.

Mr. Edwards agreed with Mr. Brown, and said he also supported the plan, which has a lot of good ideas. Mr. Edwards asked Mrs. Gussman to talk to each Board member for his thoughts regarding the goals. He said he accepted the plan, but not everything in it.

Mr. Mahone asked staff to indicate to the Board what section they were working on, and if there are problems, have a work session. He stated that the Board should have the opportunity to intervene in the process on a small section rather than trying to consider the entire study.

Mr. Edwards asked that the Board give its comments to staff during the next thirty days.

Mr. DePue made a motion to change the resolution wording from "to implement" to "consistent with" in the third paragraph and to approve the amended resolution.

Mr. Edwards stated the motion did not include commitment to the entire study.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

RESOLUTION

COMPREHENSIVE PLAN PRELIMINARY STUDY
A STRATEGY FOR DEVELOPMENT: RICHMOND ROAD-BARHAMSVILLE ROAD CORRIDOR

WHEREAS, the Planning Commission initiated a study of the Richmond Road-Barhamsville Road Corridor in April, 1986, and appointed the Citizens Strategy Team to provide balanced community input to the development strategy, and such input is contained within the study; and

WHEREAS, the Historical Commission in December, 1986, provided recommendations for Historic Resource Planning and Protection along the Richmond Road-Barhamsville Road Corridor and the recommendations are contained within the study; and

WHEREAS, the Planning Commission, following a public hearing on May 26, 1987, recommended acceptance of the above document, especially the goal statements on pages 18-38 and the land use maps for Phases I, II, and ultimate buildout.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby accept the report A Strategy for Development: Richmond Road-Barhamsville Road Corridor as a basis for preparing amendments to the Comprehensive Plan and for preparing ordinances and other programs consistent with the Plan.

2. Case No. SUP-14-87. George L. Englehart

Mr. George Englehart has submitted an application for a special use permit to operate an automobile parts and repair shop in an A-1, Limited Agricultural area.

The Planning Commission unanimously recommended denial of the permit.

Mr. Edwards opened the public hearing.

1. Ms. Barbara Cook asked on behalf of several citizens in the audience that the Board deny the special use permit in their residential area.

2. Mr. George Englehart asked the Board to consider the special use permit because he needs the repair shop for his livelihood.

3. Ms. Grayce Jones, next door neighbor of the applicant, asked the Board to support the denial.

Mr. Edwards closed the public hearing.

Mr. DePue made a motion to deny the special use permit.

Mr. Mahone said rezoning to A-1 in a residential neighborhood would not be an appropriate land use, and he supported the denial.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

3. Case No. Z-11-87. Bobby R. Crumpler

Mr. Bobby Crumpler has applied to rezone approximately 9 acres from LB, Limited Business, and A-2, Limited Agricultural, to M-1, Limited Industrial, to allow for the sale of mobile homes.

Mr. Edwards opened the public hearing.

1. Mr. Alvin Anderson, representing the interest of Bobby Crumpler, stated the site was consistent with zoning and uses in the surrounding area, and the sale of new mobile homes would bring tax revenue to James City County. He further stated that he would like to work with the County on the proffers.

2. Mr. David Batie, 1860 Ferrell Drive, was concerned that a mobile home sales site would create traffic problems and the minimum setback requirements for the sales lot would not help the appearance. He stated that citizens are interested in maintaining the area's appeal, and this sales lot would be near the entrance to Carter's Grove.

3. Mrs. Martha Warner, 1877 Ferrell Drive, voiced concerns about property values, and mentioned that a petition has been submitted to the Planning Commission with seventy-five residents of Brookside Haven opposing the rezoning. She further stated that traffic from the delivery of mobile homes to the sales lot would create a hazard, and she also wished to preserve the beauty around Carter's Grove.

Mr. Edwards closed the public hearing.

Mr. Brown made a motion to deny the rezoning.

Mr. DePue said he supported the motion.

Mr. Taylor felt that the mobile home sales would not create any more additional traffic in the area than other businesses would.

On a roll call, the vote was AYE: Brown, Mahone, DePue, Edwards (4). NAY: Taylor (1).

4. Case No. SUP-15-87. Kevin D. Elliott

Mr. Allen Murphy, Jr., Principal Planner, stated that Mr. Kevin Elliott had submitted an application for a special use permit to allow the placement of a mobile home as a residence on approximately 3.5 acres on Ivy Hill Road.

Mr. Edwards opened and closed the public hearing.

Mr. Taylor made a motion to approve the special use permit.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-15-87. KEVIN D. ELLIOTT

WHEREAS, it is understood that all conditions for the consideration of an application for a Special Use Permit have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Special Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Kevin D. Mahone
 Real Estate Tax Map ID: (11-1)
 Parcel No.: (1-31)
 Address: Ivy Hill Road
 District: Stonehouse District
 Zoning: A-1

- Conditions:
1. This permit is valid only for the mobile home applied for. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.
 2. The mobile home must be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 3. The number of bedrooms shall not exceed three.
 4. The applicant shall limit the clearing of trees to the immediate area of the mobile home, septic tank, drainfield, utility areas and driveway. All trees within 20 feet of the front and side property lines are to remain. If trees are removed for any reason they shall be replaced with similar trees.

5. Case No. SUP-16-87. Clifton D. Johnson

Mr. Murphy stated that Mr. Clifton Johnson had submitted an application for a special use permit to allow the placement of a mobile home to be used as a residence on approximately .52 acres on Chickahominy Road.

Mr. Brown asked if the building on the property would be removed.

Mr. Murphy replied in the affirmative.

Mr. Edwards opened and closed the public hearing.

Mr. Taylor made a motion to approve the special use permit.

Mr. Mahone asked if Newport News was satisfied with the Health Department permit for the well and septic tank.

Mrs. Gussman stated that Newport News said there were no problems.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-16-87. CLIFTON D. JOHNSON

WHEREAS, it is understood that all conditions for the consideration of an application for a Special Use Permit have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Special Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Clifton D. Johnson

Real Estate Tax Map ID: (21-4)

Parcel No.: (1-22)

District: Stonehouse

Zoning: A-1

- Conditions:
1. The applicant shall submit an exact description with identification of the mobile home prior to the placement of the mobile home. This permit is valid only for the mobile home provided for in that description. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.
 2. The mobile home must be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 3. The number of bedrooms shall not exceed two.
 4. The existing single-family residence shall be removed from the property within 30 days of placement the mobile home.
 5. The applicant shall provide landscaping in accordance with the plan on file with the Planning Department. The landscaping shall be installed at the end of the first growing season following placement of the mobile home on the property, and shall be maintained in a healthy growing condition.

6. Case No. Z-10-87. John W. Shelton

Mrs. Gussman stated that Mr. John Shelton had applied to rezone approximately 1.5 acres from A-2, Limited Agricultural, to B-1, General Business, to allow for the development of a retail business.

Mr. Edwards opened the public hearing and asked what kind of business was proposed.

Mrs. Gussman indicated there were no proffers; and the application stated a retail business.

Mr. John Shelton, the applicant, said the business would be glass blowing.

Mr. Edwards stated that the rezoning would permit other uses.

1. Mr. John Shelton said he currently produces glassware at the Pottery Factory, and first started working at his property in 1975.

Mr. Taylor asked Mr. Shelton if he was requesting the rezoning to conform with the Zoning Ordinance.

Mr. Shelton said he would like his property to be consistent with the neighborhood zoning.

Mr. Edwards closed the public hearing.

Mr. Frank Morton, III, County Attorney, noted that Limited Business zoning would permit the intended activity.

Mr. Taylor made a motion to approve the resolution.

Mr. Brown noted that the Board is generally reluctant to rezone to B-1 in absence of a site plan or a stipulation which qualified the uses for the property.

Mr. Taylor said he thought the property owner should have some freedom to operate and not be limited to one category.

Mr. Mahone felt comfortable with Mr. Shelton's activity, but the B-1 zone permits other uses, which could bring significant traffic to the area.

Mr. Edwards made a motion to defer the rezoning until the next meeting.

Mr. DePue stated he supported the motion to defer and hoped Mr. Shelton would continue his business. The Board wants to protect the citizens' and public interest.

Mr. Edwards told Mr. Shelton that Mrs. Gussman would contact him, and the rezoning would be on the next agenda.

On a roll call, the vote was AYE: Brown, Mahone, DePue, Edwards (4). NAY: Taylor (1).

7. Case No. Z-12-87. Robert Hewlett

Mrs. Gussman reported that she had a letter from Mr. Dwight Dansby asking for deferral so that proffers may be made, and preliminary approval received from the Highway Department for entry to the site.

Mr. Frank Morton, III, County Attorney, advised the Board that the Court requires proffers be submitted prior to the public hearing. If the applicant wishes to submit proffers, the Board can refer the case back to the Planning Commission, and staff will advertise another public hearing.

Mr. Edwards opened the public hearing.

1. Ms. Rachel Hoggatt, 102 Sabre Drive, President of St. George's Neighborhood Association, said residents are in strong opposition to any kind of business in the area. She felt that rezoning the acreage would open the area to more development, and referred to Mr. Brown's earlier statement about keeping areas of the County semi-rural.

2. Mr. David Mullaney, 129 Ferncliffe Drive, speaking on behalf of his sister, Mrs. Nicol, stated that Route 5 had been designated a scenic bi-way to preserve the natural habitat there.

3. Ms. Susan Bruno, 106 Sabre Drive, referred to Mr. Brown's earlier statement of "upgrading the quality of the environment rather than the commercialization", and stated that the residents wish to enjoy the wildlife from the swamp.

4. Mr. Dwight Dansby, attorney representing Mr. and Mrs. Robert Hewlett, said flood information does not show that this property floods during storms. The car wash would be set back with as much green space retained as possible because a large part of the parcel is in the floodway. He wanted the Hewletts to have the opportunity to bring the access information from the Highway Department to the Board.

5. Mr. Karl Pelmeur, 101 St. George's Boulevard, said he thought the County should keep the buffer along John Tyler Highway green through the length of the highway.

6. Mr. Mike Duda, 106 Harbin Court, stated his concern about the water drainage from a car wash and the increased traffic along the two-lane highway.

Mr. Edwards closed the public hearing.

Mr. DePue made a motion to deny the rezoning as proffers would not change his mind about rezoning this area. He stated the County has been extremely careful and protective of the John Tyler Highway area.

Mr. Taylor said he felt small businesses serve residents of the County so they do not go to other jurisdictions for services. The Board should consider business property and not have just a bedroom community.

Mr. Brown stated support for Mr. DePue's motion because proffers could not change the outcome because the location is not appropriate for this type of land use.

Mr. Mahone said he supported the motion and that spending a great deal of time and money presenting proffers, landscape plans, etc., was not in the best interest of the applicant. He noted that upcoming changes in the sewer and water policy will require recycling of water by car washes, and those improvements would be costly.

On a roll call, the vote was AYE: Brown, Mahone, DePue, Edwards (4). NAY: Taylor (1).

Mr. Edwards recessed the Board at 9:02 p.m. and reconvened at 9:20 p.m.

8. Case No. Z-36-86. Warhill Tract

Mrs. Gussman stated that the application to rezone approximately 616 acres from A-2, Limited Agricultural, to R-4, Residential Planned Community; M-1, Limited Industrial; and B-1, General Business, was continued from the May 4, 1987 meeting. The Virginia Department of Transportation update indicates the proffered road improvements are acceptable for traffic generated by Phase I of the development. One hundred ten units shall access Longhill Road, and 315 units shall access Centerville Road. VDOT cautioned that roadways constructed over dams can be accepted provided the dams are certified safe and meet Federal regulations.

Mrs. Gussman further stated that the applicant's attorney has a copy of an option between a church and the applicant that provides the right-of-way to accomplish improvements to Centerville Road. The Planning Commission unanimously recommended approval, and staff also recommends approval of this application.

Mr. DePue asked if staff was satisfied that the option was a legal document.

Mr. Morton said he had not seen the option and was relying on the statement of the applicant's attorney.

Mr. DePue asked if the proffers referred to the option.

Mr. Morton replied in the negative.

Mr. Edwards reopened the public hearing.

1. Mr. J.F. Phillips, Jr., attorney representing Virginia International Finance and Development, Inc., stated that the application was continued in May so that Mr. Jack Edwards and Mr. Perry DePue could meet and work out concerns with the developers. The applicant now has a positive recommendation from the Planning Commission, staff and the Department of Transportation. Changes include withdrawal of a part of the A-2 acreage because of the Route 199 configuration, and a reduction of the square footage for industrial and commercial development.

2. Mr. Sam Hazelwood of Toano said it was time to do something with the property and that the citizens of the upper County would like to have a shopping center.

3. Mr. John Flichko said he would appreciate the Board's support of this application.

Mr. Brown asked Mr. Phillips to explain the statement of assurances in the lower left hand corner of the plan.

Mr. Phillips said the Zoning Ordinance requires all things listed as approved and on record when the plat is recorded.

Mr. Brown asked if the statement meant the roads would be maintained.

Mr. Phillips said the developer would construct and maintain roads while the project is being built--not just Phase I, but also subsequent phases. The proffers require the developer to stay in the project and pay budgeted amounts until 70% build out and every public improvement is in place.

Mr. Brown asked if the maintenance would then be the responsibility of the homeowners' association.

Mr. Phillips replied in the affirmative, after the build out of the project.

Mr. Brown inquired as to how much commercially zoned land is included in Phase I with the 425 residential units.

Mr. Phillips said there was only one phase, and a further rezoning application would be necessary before going forward with additional industrial and commercial development.

Mr. Brown clarified that approval would be for 425 residential units and 510,000 square feet of commercial and industrial, and said he would support the proposal. He questioned whether development without any off-site improvements is the highest and best land use. Voting approval of the application does not end the problems that unfortunately will arise during staff reviews of the plans.

Mr. Brown continued that the ten acres of land set aside for the County would not be a good parcel for any County uses and indicated that the area south of Longhill Road would be more useful to the County, and asked if it would be possible to switch parcels.

Mr. Edwards stated his concerns about private roads maintenance by owners who might be unwilling to pay.

Mr. Phillips said very little maintenance would be required for fifteen years. There will be a large escrow fund, contributed to each year and invested, and developer is required to make full contribution. If owners do not meet the budgeted amount, the developer must provide the difference.

Mr. Edwards said earlier proffers suggested that right-of-way would be reserved for ten years, and questioned why it has been changed to five years.

Mr. Phillips said five years creates an inducement for the Highway Department to continue acquisition efforts.

Mr. Edwards asked about environmental protection improvements.

Mr. Phillips said the overall drainage plan conforms with the recommendations of the Upper Powhatan Creek Watershed drainage plan that the County has prepared.

Mr. Edwards asked if the applicant would be willing to provide funds for an environmental inspector to check the area.

Mr. Phillips said he expected his applicant's reply would be in the negative and noted that buffer areas have to be provided as part of the site plan.

Mr. DePue questioned the Richmond Road/Loop Road being included on Page 15 of the agreement.

Mr. Morton said the application was not affected by this inclusion.

Mr. Edwards closed the public hearing.

Mr. Taylor made a motion to approve the application as presented.

Mr. Brown asked if there was Board reaction to the switching of the pieces of property. The rush is for the B-1 zoning, and the switching of parcels would affect the M-1 zoning.

Mr. Morton said the switching of parcels would entail a Master Plan amendment and would involve changing the proffers.

Mr. Brown said this could be done by the next Board meeting.

Mr. DePue said the parcel exchange was an extremely attractive prospect, but the Board does not want to run the risk of abusing the process. The County needs to designate the Richmond Road/Centerville Road intersection as commercial, and he felt the land for the shopping center should be rezoned B-1.

Mr. DePue further stated he had concerns about the A-2 area and the withdrawal of acreage was a major improvement. He was grateful to the developer for being sensitive to the concerns of traffic access for 695 units on Longhill Road. The Board is acting in the public interest and will take action on Phase II and III subject to traffic studies.

He concluded that the applicant's attorneys had been very responsive to concerns, he gave compliments to the Board, to Mr. Edwards for working on the committee, and to staff, particularly Frank Morton and Victoria Gussman, for their input. He stated he would support the resolution.

Mr. Mahone noted his appreciation of everyone's efforts. The A- area was initially a major concern, and he felt more comfortable with the Highway Department statement.

Mr. Edwards made a motion to defer the proposal.

Mr. DePue said he thought the Board should vote on the proposal, but would appreciate the applicant's cooperation in working with the Board on the exchange of land parcels.

Mr. Phillips said the applicant would consider the proposed exchange, but the rezoning was needed immediately and he was requesting a vote at this meeting.

Mr. Brown said he could vote to approve the B-1 and proceed to rezone the other property later. He asked the remainder be deferred for appropriate paperwork.

Mr. DePue stated he felt the Board was not acting in good faith by deferring the application.

Mr. Edwards disagreed with Mr. DePue, and said it was incorrect to say the Board was at fault that the plan had not been approved.

Mr. Edwards asked for a roll call on the motion to defer.

On a roll call, the vote was AYE: Edwards (1). NAY: Brown, Taylor, Mahone, DePue (4).

Mr. Edwards made a motion to approve the resolution. He expressed concern that citizens assume that proposals come in an acceptable form to the Board, but they do not. Questions arise in a legal, economic, and historic context which makes it difficult for the Board to do what it would like to do or would want to do.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. Z-36-86. WARHILL

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on Zoning Case No. Z-36-86 for rezoning 484 acres from A-2, Limited Agricultural, to R-4, Residential Planned Community, with proffers; 38 acres from A-2 to B-1, General Business, with proffers; and 94 acres from A-2 to M-1, Limited Industrial, with proffers, on property identified as Parcel (1-57) on James City County Real Estate Tax Map No. (32-2); and

WHEREAS, the Planning Commission has unanimously recommended approval of Zoning Case No. Z-36-86 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-36-86 as described herein and accepts the voluntary proffers signed by the property owner.

E. CONSENT CALENDAR

Mr. Edwards asked if any Board member wished to remove any items from the Consent Calendar.

Mr. Mahone asked that Item #4 be removed.

Mr. Edwards made a motion to approve the Consent Calendar with the exception of Item #4.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

RESOLUTION

DEDICATION OF STREETS IN RIVERVIEW PLANTATION SUBDIVISION

WHEREAS, the developer of Riverview Plantation, Section 3, has requested the Board of Supervisors to include certain streets in the State Secondary Highway System; and

WHEREAS, the Board of Supervisors desires certain streets in Riverview Plantation, Section 3, to be included in the State Secondary Highway System, provided these streets meet with the requirements of the Virginia Department of Transportation, and providing that any alterations, corrections, or other matters that might be found desirable by the Virginia Department of Transportation are made within a ninety (90) day period from the date that the Virginia Department of Transportation makes its final inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following streets in Riverview Plantation Subdivision, Section 3, Stonehouse Election District, James City County, in the State Secondary Highway System:

- 1. Plantation Drive, 50-foot right-of-way
 - From: State Route 606
 - To: State Route 749
 - Distance: 2,635 feet (0.50 miles)

The rights-of-way of 50 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

Riverview Plantation, Section 3, recorded in Plat Book 20, Page 37, dated March 8, 1963.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

RESOLUTION

DEDICATION OF STREETS IN ST. GEORGE'S HUNDRED

WHEREAS, the developer of St. George's Hundred, Sections II and IV, has requested the Board of Supervisors to include certain streets in the State Secondary Highway System; and

WHEREAS, the Board of Supervisors desires certain streets in St. George's Hundred, Sections II and IV, to be included in the State Secondary Highway System, provided these streets meet with the requirements of the Virginia Department of Transportation, and providing that any alterations, corrections, or other matters that might be found desirable by the Virginia Department of Transportation are made within a ninety (90) day period from the date that the Virginia Department of Transportation makes its final inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following streets in the St. George's Hundred Subdivision, Sections II and IV, Berkeley Election District, James City County, in the State Secondary Highway System:

1. Castle Lane, 60-foot right-of-way
From: State Route 1442
To: End of Cul-de-sac
Distance: 336 feet (0.07 mi.)

The rights-of-way of 60 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

St. George's Hundred, Section II, recorded in Plat Book 32, Page 89, dated October 6, 1975; and St. George's Hundred, Section IV, recorded in Plat Book 40, Page 50, dated March 8, 1985.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

RESOLUTION

DEDICATION OF STREETS IN WESTRAY DOWNS SUBDIVISION

WHEREAS, the developer of Westray Downs, Sections I, IIA and IIB, has requested the Board of Supervisors to include certain streets in the State Secondary Highway System; and

WHEREAS, the Board of Supervisors desires certain streets in Westray Downs, Sections I, IIA, and IIB, to be included in the State Secondary Highway System, provided these streets meet with the requirements of the Virginia Department of Transportation, and providing that any alterations, corrections, or other matters that might be found desirable by the Virginia Department of Transportation are made within a ninety (90) day period from the date that the Virginia Department of Transportation makes its final inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following streets in the Westray Downs, Sections I, IIA, and IIB, Jamestown Election District, James City County, in the State Secondary Highway System:

1. Newcastle Drive - right-of-way varies from 80 feet to 50 feet
From: State Route 5
To: Intersection of Bristol Circle
Distance: 211 feet (0.04 miles)
2. Bristol Circle - 50-foot right-of-way
From: Newcastle Drive
To: Intersection of Evesham Court
Distance: 2,564 feet (0.49 miles)
3. Durham Court - 50-foot right-of-way
From: Bristol Circle
To: End of Cul-de-sac
Distance: 292 feet (0.05 miles)
4. Evesham Court - 50-foot right-of-way
From: Bristol Circle
To: End of Cul-de-sac
Distance: 201 feet (0.04 miles)

The rights-of-way of 50 to 80 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

Westray Downs, Section I, recorded in Plat Book 43, Page 53, dated August 29, 1986; Westray Downs, Section IIA, recorded in Plat Book 43, Page 54, dated August 29, 1986; and Westray Downs, Section IIB, recorded in Plat Book 43, Page B1, dated October 3, 1986.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

R E S O L U T I O N

ARCHAEOLOGICAL STUDIES APPROVAL

WHEREAS, the review of archaeological studies is technical in nature and is currently being performed by the Planning Department or the Historical Commission as a part of the development plan review.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the Director of Planning or her designee the responsibility for review and approval of archaeological studies where County approval is required.

R E S O L U T I O N

APPROPRIATION - SCHOOL BUDGET

WHEREAS, the Board of Supervisors of James City County has been advised that monies identified and budgeted by the Williamsburg-James City County School Board must be appropriated before they can be expended; and

WHEREAS, the School Board has adopted an amended budget for the fiscal year ending June 30, 1988 that reflects both the City and County local appropriations; and

WHEREAS, in accordance with the school contract, the School Board has the responsibility to make such expenditures as it deems in the best interest of the School system.

NOW, THEREFORE, BE IT RESOLVED that the operating budget, with the exception of Cafeteria and the Eastern State Hospital operations, of the Williamsburg-James City County School Board for the fiscal year ending June 30, 1988, as amended by the School Board to accommodate the local County and City appropriations, be appropriated as follows:

OPERATING BUDGET

Revenues:

Local Contributions:

County	\$9,036,791	
City	<u>3,168,502</u>	\$12,205,293

Revenue from the State		7,078,970
Sales Tax for Education		2,209,782
Revenue from the Federal Government		498,010
Other Joint Revenue		176,130
Other Revenue		<u>32,080</u>

Total Revenues \$22,200,265

Expenditures:

Joint School Expenditures	\$22,168,185
Other Expenditures	<u>32,080</u>

Total Expenditures \$22,200,265

BE IT FURTHER RESOLVED that the Chairman and Clerk be authorized and directed to request that the City Council of the City of Williamsburg adopt a similar resolution for the 1988 fiscal year.

RESOLUTIONSTATE LITERARY FUND LOAN

WHEREAS, the Board of Supervisors of James City County has previously agreed to provide funding for the Rawls Byrd School addition through the use of a Literary Fund loan in the amount of \$579,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of James City County, Virginia, hereby authorizes its Chairman to execute the bond documents in order to close on the loan.

4. Phase II - Governor's Commission on Transportation in the 21st Century

Mrs. Gussman briefly explained the resolution saying it would give the regions the authority to impose a gasoline tax in a specific amount or a particular type of tax.

Mr. DePue mentioned that high growth areas would be able to secure revenues to enhance or contribute to their transportation needs.

Mr. Mahone said he found no interest in his district for this resolution, and he could not support it.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was AYE: DePue, Edwards (2). NAY: Brown, Taylor, Mahone (3).

F. **BOARD CONSIDERATIONS**

1. Case No. CP-3-87. Neck-0-Land Road Area Plan

Mr. Larry Bizette, Planner, reported that this case had been deferred at the June 1, 1987 meeting, and staff recommends adoption of the resolution, Attachment A.

Mr. Brown indicated that he could justify the Planning Commission version of the one-acre lot size, and made a motion to approve the Planning Commission resolution, Attachment B.

Mr. Mahone said a great deal of effort had gone into the entire document, which will help planning and growth in the future. He questioned the staff's recommendation as to lot size and density, which could create problems. Staff recommendation D stated that if improvements are forthcoming, the minimum residential lot size considered suitable could be set at one-acre, and he supported that statement.

Mr. Edwards said that new growth was supported by the study of the area and if some other improvements occur, the one-acre lot size would be sensible.

Mr. Brown withdrew his motion.

Mr. Edwards made a motion to approve the staff resolution.

On a roll call, the vote was AYE: Mahone, DePue, Edwards (3). NAY: Brown, Taylor (2).

RESOLUTION

COMPREHENSIVE PLAN AMENDMENT
CASE NO. CP-3-87. NECK-O-LAND ROAD AREA PLAN

WHEREAS, in accord with Section 15.1-453 and Section 15.1-431 of the Code of Virginia, a public hearing was scheduled and held on April 28, 1987 for Case No. CP-3-87 for amending the Land Use Element of the Comprehensive Plan of James City County by adopting the Neck-O-Land Road Area Plan and its accompanying land use map; and

WHEREAS, the Planning Commission, following its public hearing, recommended approval of Case No. CP-3-87, with amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby amend the Comprehensive Plan of James City County to include the Neck-O-Land Road Area Plan and its accompanying land use map as recommended by the Planning Staff on June 15, 1987.

2. Case No. Z-6-87. Zoning Ordinance Amendment

Mr. Frank Morton, III, County Attorney, reported that he had met with Mr. Brown, they had discussed alternatives, and he was presenting the amendment for the Board's approval.

Mr. Brown stated that enforcement of this section would be determined by the Courts.

Mr. Morton indicated that if a violation occurs, a stop work order is issued.

Mr. Edwards added that if a stop work order is challenged, then the issue would go to Court.

Mr. Brown mentioned seeking a review process before work actually stopped.

Mr. Morton said the wording clarifies the issue for the Court.

Mr. Brown made a motion to approve the Ordinance.

On a roll call, the vote was AYE: Brown, Mahone, DePue, Edwards (4). NAY: Taylor (1).

G. PUBLIC COMMENT

There was no public comment.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, requested there be an executive session for land acquisition and personnel matters.

Mrs. Burcham mentioned that Mr. Paul Small had been present at the last Board meeting reporting on the Longhill Connector Road. She indicated that Mr. Frank Hall of the Highway Department was prepared to meet with the County on the Connector Road and had requested an official vote by the Board requesting the Highway Department assume responsibility for construction of the project. Mrs. Burcham requested a vote so the minutes would reflect the Board's decision on the Longhill Connector Road.

Mr. DePue made a motion to request the Virginia Department of Transportation construct the Longhill Connector Road.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

Mrs. Burcham asked the Board's permission to place an advertisement for the disposition of land for the Farmers Market when the legal documents are available.

Mr. Edwards concurred with no objections from the other Board members.

Mr. Brown mentioned the article in the reading file about the State law raising School Board members' salaries from \$1,200 to \$2,000, with an additional \$500 for the Chairman. He requested staff prepare the necessary resolution to effect the increase in FY 88 and consult with the City.

Mr. Taylor reported that the grant for the Chickahominy Road area had been approved. The community will be greatly improved, and the Highway Department will not have to replace wells in front of the homes.

Mrs. Burcham replied that the grant was an excellent example of several activities coming together in the County. She stated that this is the fourth grant in eight years that the County has obtained to deal with severe housing problems.

Mr. DePue complimented the staff on this accomplishment.

Mr. Brown complimented Mr. Tony Conyers and Mr. Rick Hanson, who should receive the credit after four or five years of effort. The areas needing help are greatly benefited by the grant.

Mr. DePue asked the Board members to read the minutes of the Williamsburg Regional Commission on Growth. He commended their efforts and wished them good luck.

Mr. Mahone indicated the Board was very fortunate to have an extremely good staff to do all the background work and bring the results together. The Williamsburg Regional Commission on Growth has a very limited staff, but is making progress and trying to take a position on a number of different subjects.

Mr. Mahone asked about the progress of the Court Services Unit lease.

Mrs. Burcham reported that the City of Williamsburg wants to negotiate the current 50/50 share to a different sharing arrangement for the Court Services Unit. Mr. Edwards will be discussing this matter with the City. Various options include usage equating to a one-third/two thirds financing arrangement, and population which would split the share about 75/25. Mrs. Burcham concluded that the lease required approval of both jurisdictions and was hopeful the lease could be brought back to the Board at its next meeting.

Mr. Edwards made a motion to recess for the James City Service Authority Board of Directors meeting and then the executive session for land acquisition and personnel matters pursuant to Section 2.1-344(a)(1)(2) of the Code of Virginia, as amended.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

The Board recessed at 10:52 p.m.

The Board reconvened into open session at 11:25 p.m.

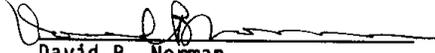
Mr. Edwards made a motion to appoint to vacancies on the Historical Commission - Robert Bush, term expiring September 1, 1991; the Industrial Development Authority - Jon A. Nystrom, term expiring July 1, 1991; the Cable Television Advisory Committee - Dorothy B. Allen, term expiring July 1, 1991; the Thomas Nelson Community College Local Board - Elise L. Emanuel, term expiring July 1, 1991; the Peninsula Alcohol Safety Action Program Policy Board - Dwight Dansby, term expiring July 1, 1990; and reappointments to Social Services Board - Anthony Conyers, term expiring July 1, 1991; the Transportation Safety Committee - Robert Key, term expiring July 25, 1991; and the Williamsburg Regional Library Board - Judith N. Knudson, term expiring July 1, 1991, and to reappoint to the Historical Commission - Carole Shoemaker, Hugh DeSamper, Michael McGiffert, Kevin Kelly, and Stewart Taylor, terms expiring August 31, 1991.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

Mr. Brown made a motion to adjourn.

On a roll call, the vote was AYE: Brown, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

The Board adjourned at 11:28 p.m.


David B. Norman
Clerk to the Board

mls
0298w

WHEREAS, COUNTY has requested a comprehensive traffic study for Phases II and III before making a final decision regarding the acceptability of the degree of residential development proposed by APPLICANT for Phases II and III; and,

WHEREAS, APPLICANT has employed Gorove/Slade Associates, Inc. to conduct the comprehensive Phase II and III traffic studies requested by COUNTY; and,

WHEREAS, it is expected that several months will pass before completion of such traffic studies and review and approval of same by COUNTY and by the Virginia Department of Transportation; and,

WHEREAS, APPLICANT in order to avoid delay of Phase I development pending completion and approval of the additional comprehensive traffic studies makes these proffers limiting its development rights to those specified herein for Phase I until and unless based upon the additional comprehensive traffic studies COUNTY shall subsequently approve all or part of the further development proposed for Phases II and III. In so doing APPLICANT wishes to induce COUNTY to grant the rezoning requested by APPLICANT so as to allow immediate development of Phase I while production, analysis and approval of the additional comprehensive traffic studies requested by COUNTY are under way;

NOW, THEREFORE, pursuant to Article I of Chapter 20 of the Code of the County of James City, Virginia, APPLICANT hereby proffers the following conditions to be effective upon granting of the rezonings requested by APPLICANT.

Development of the R-4 portion of the Warhill Tract shall proceed in three stages hereinafter referred to as Phase I, Phase II and Phase III. Development in areas zoned M-1 and B-1 shall be limited to Phase I improvements with additional development being contingent upon subsequent applications for further rezoning and/or proffer amendments.

I. Phase I.

Phase I shall commence with grant of the requested rezonings and as to R-4 development shall continue until such time as Phase II as approved by COUNTY under Article III of these proffers shall become effective. As to M-1 and B-1 development, Phase I shall continue until completion of all commercial, office and industrial construction allowed under these proffers.

During Phase I, construction of improvements shall be limited to:

- (i) Not more than 60,000 sq. ft. of office space, and
- (ii) Not more than 150,000 sq. ft. of retail commercial space consisting of a neighborhood shopping center, and
- (iii) Not more than 300,000 sq. ft. of M-1 uses but expressly excluding retail commercial uses and office uses other than the 60,000 square feet of offices allowed under (i) above. The limitation on office and commercial retail uses shall not preclude inclusion of accessory office space reasonably necessary for the conduct of the particular light industrial activity for which the premises housing such office space is to be used, nor shall it preclude the inclusion of retail space as an accessory to any permitted M-1 primary use. Total accessory retail space shall, however, not exceed 30,000 square feet unless actual traffic studies performed under subsection B. 4 of this Section I shall establish to COUNTY'S satisfaction that such space will not create an unacceptable traffic impact upon the highways and intersections studied.
- (iv) Not more than 425 dwelling units. 110 of which shall be served solely by access to Longhill Road and the remainder of which shall be served by access to Route 614.

(Units accessed by Longhill Road shall consist of 40 townhouses and 70 single family dwellings. Units accessed by Route 614 shall consist of 100 condominiums, 20 townhouses and 195 single family dwellings), and
- (v) Not more than 212 acres of golf course with club house and other support facilities.

The general locations of the indicated Phase I developments are shown on Exhibit A attached hereto.

Construction of the above listed improvements is subject to timely construction of the following road improvements:

B. Phase I Road Improvements.

During Phase I, APPLICANT agrees to make the following road improvements at the times hereinafter stated in connection with developing the property: (APPLICANT shall provide all design and engineering work necessary to such road improvements and the resulting plans and specifications shall meet the then generally prevailing requirements of COUNTY and the Virginia Department of Transportation for comparable roads.) All roads in the M-1/B-1 zones shall be public

a. In connection with the initial construction of commercial or industrial buildings and before issuance of occupancy permits for same, APPLICANT agrees to improve with two paved traffic lanes constructed to Virginia Department of Transportation specifications and to offer for dedication the portion of the road labelled "Loop Road" leading from State Route 614 in a southerly direction to the intersection with Warhill Trail (the road which intersects the Loop Road and leads southwest to the land lying southwest of the Virginia Power right-of-way).

APPLICANT recognizes that COUNTY, upon submission of the site plan for development of a shopping center on the Warhill tract may require that the intersection of the Loop Road with State Route 614 be configured differently than as shown on the Master Plan. (Such reconfiguration may involve connection of the Loop Road to U. S. Route 60 at the present location of State Route 614 and connection of State Route 614 to the Loop Road with a "T" intersection). If COUNTY in connection with such site plan approval shall require the reconfiguration of the Loop Road in the area shown on the plan as "Area reserved from development until exact location of road can be determined" then APPLICANT agrees to reconfigure the road as requested by COUNTY and to construct same to the depth indicated above in accordance with the reconfigured plan as part of the shopping center construction. After shopping center site plan approval APPLICANT may develop any portion of the reserved area not needed for reconfiguration.

b. In addition to constructing the portion of the Loop Road described in #1 above, unless reconfiguration plans make it unnecessary, APPLICANT shall, in connection with the initial construction of commercial or industrial buildings, provide necessary right-of-way and widen State Route 614 to four traffic lanes beginning at the intersection of the Loop Road with State Route 614 and proceeding northwesterly to the intersection of State Route 614 with U. S. Route 60. In addition, APPLICANT shall then construct an eastbound right-turn lane on State Route 614 serving the Loop Road entrance into APPLICANT'S property, which lane shall be 200 feet in length with a 200-foot taper and a westbound left-turn lane on State Route 614 at the loop entrance, which lane shall be 250 feet long with a 200-foot taper. Should applicable Virginia Department of Transportation design criteria require different dimensions, then such criteria shall apply. The Route 614 improvements here proffered shall be completed in not more than

365 days from issuance of the building permit for the first of the aforesaid buildings unless prevented by war, strikes, acts of God or other events beyond the reasonable control of APPLICANT. If such improvements are not complete within 365 days as described above, COUNTY shall withhold further building and occupancy permits until completion.

APPLICANT shall install a traffic signal at the intersection of the Loop Road and State Route 614 at such time as the traffic counts performed under the provisions of #4 of this Section B indicate a need based on applicable criteria contained in the uniform traffic control device regulations of the Virginia Department of Transportation. Such signal shall meet design criteria prescribed by the Virginia Department of Transportation for comparable intersections.

c. At such time as traffic count information provided as required by #4 of this Section B shows the need therefor, but in no event later than issuance of an occupancy permit for commencement of any business upon the property, APPLICANT shall modify the State Route 614/U. S. Route 60 intersection so as to:

- (i) Provide for two left-turn lanes on eastbound State Route 614 allowing for dual left turns on to northbound U. S. Route 60. One lane shall be an exclusive left-turn lane and the other shall be a left/through lane. Each lane shall be 200 feet in length and shall be served by a 200-foot taper. Should applicable Virginia Department of Transportation design criteria require different dimensions, then such criteria shall apply.
- (ii) Provide one exclusive right-turn lane on eastbound State Route 614 serving southbound U. S. Route 60. Said lane shall be 200 feet in length and shall be served by a 200-foot taper. Should applicable Virginia Department of Transportation design criteria require different dimensions, then such criteria shall apply.
- (iii) Provide such modifications of traffic signal timing and phasing as shall be warranted as determined by the Virginia Department of Transportation.

2. Loop Road and Warhill Trail Access to R-4 Areas.

a. Before commencing sale of lots, townhouses or condominiums in the portion of the R-4 area accessed by Route 614, APPLICANT shall improve with two paved traffic lanes meeting Virginia Department of Transportation specifications and offer for dedication

the portions of Warhill Trail and the Loop Road which provide access from State Route 614 to the residential portions of the Warhill Tract. The portion of Warhill Trail to be offered for dedication intersects with the Loop Road described in #1 a. above and leads southwesterly to the westerly side of the Virginia Power right of way which it crosses.

3. Longhill Road and Warhill Trail.

a. At such time as traffic count information provided as required in #4 of this Section B shows the need therefor based on applicable criteria contained in the uniform traffic control device regulations of the Virginia Department of Transportation, APPLICANT shall install a traffic signal at the intersection of Longhill Road and Warhill Trail. Such signal shall meet design criteria prescribed by the Virginia Department of Transportation for comparable intersections.

b. Warhill Trail shall be a four-lane divided roadway extending northerly from its intersection with Longhill Road to the intersection of Warhill Trail with the first intersecting street after which it may be a two lane road.

4. Traffic Counts and Level of Service Analysis.

During July of the year following any year in which an occupancy permit is issued for Phase I residential, commercial, office or industrial improvements, or at such other time as requested by COUNTY in connection with any site plan submission for Phase I commercial, office or industrial improvements, APPLICANT shall cause Gorove/Slade Associates, Inc. or some other traffic analyst acceptable to COUNTY to conduct traffic counts at the following intersections and on the road links connecting such intersections as well as on the section of Longhill Road beginning at its intersection with Warhill Trail and extending easterly to its intersection with its proposed intersection with Route 199 and the portion of Route 60 lying between Route 614 and 658 and between Route 614 and 646:

- a. Route 60/Route 614
- b. Route 60/199
- c. Route 614/Loop Road
- d. Longhill Road/Warhill Trail.

such study shall include a level of service analysis and shall be used by COUNTY to determine whether the additional road improvements described in the last paragraph of B 1 b, traffic signal at 614/Loop Road intersection; B 1 c (i), two left-turn lanes on 614, (ii), right turn lane on 614 and (iii), (traffic signal modifications); and B 3 b, traffic signal at Loughill Road/Warhill Trail intersection, are warranted. In any event, each of such improvements shall be in place or under construction before any Phase II development begins unless other road improvements dictated by such Phase II and III comprehensive traffic impact study as shall hereafter be approved by COUNTY shall make a particular improvement unnecessary and such other road improvements are in place or under construction. "Under construction" shall mean that a legally binding construction contract has been let for accomplishment of the construction in question and that the work is substantially under way.

II. Other Matters.

A. 199 Right of Way.

For a period of sixty (60) months following grant of the requested rezoning, APPLICANT shall not proceed with development of any kind within the area designated as "proposed Route 199" on the Master Plan, except for extension across, under and through thereof of such utility lines as are necessary to development of APPLICANT'S other land. APPLICANT shall consult with COUNTY and the Virginia Department of Transportation before installing such utilities or road segment in order to make such installation compatible with 199 engineering. If prior to the end of the sixty (60) month period acquisition of right-of-way across the Warhill Tract for Route 199 has been completed APPLICANT may proceed with development in any portion of the reserved area which is not acquired.

B. Drainage and Water and Sewer Plans.

APPLICANT shall, in connection with construction of improvements from time to time, construct such portions of the drainage and water and sewer improvements shown on the "Master Utility Plan" dated December 17, 1986 prepared by Rickmond Engineering, Inc. as COUNTY shall then require to serve the proposed improvements and to protect adjacent properties from erosion and siltation.

APPLICANT shall further reserve from development those areas shown on COUNTY'S "Drainage Study of Upper Powhatan Creek Water Sheds" dated 2/19/87, prepared by Camp, Dresser & McKee as are designated on

APPLICANT'S Master Plan and shall permit construction thereon of such sedimentation basins and other facilities as are called for in said Drainage Study. APPLICANT reserves the right to submit substitute designs of a more aesthetic nature which, if deemed by COUNTY to be equally effective for the intended purpose and of equal feasibility, shall be constructed in lieu of the facilities shown in said study. Such substitution shall, however, be subject to a mutually satisfactory resolution of the payment of any excess construction costs involved.

C. Archaeological Studies.

Upon grant of the requested rezoning APPLICANT shall cause an archaeological study acceptable to COUNTY to be prepared for the Warhill tract exclusive of the R-4 area for which a 58 lot subdivision has been previously approved and the B-1 area lying adjacent to State Route 614 upon which an archeological study has already been conducted. An acceptable study shall include reconnaissance, systematic surface collection and shovel test pits as reasonably required and site identification and examination as appropriate. The total cost to APPLICANT for such study including studies already performed on Warhill by Maar Associates, Inc. shall not exceed \$23,250.17.

Should all study funds here committed be insufficient to fund an archaeological study on the entire Warhill tract (exclusive of the 58 lot area mentioned in the preceding paragraph) then APPLICANT shall consult with COUNTY in determining the portions to be excluded. Thereafter, APPLICANT shall give COUNTY written notice of intent to submit a site or subdivision plan in any area not studied, whereupon notice in which to conduct initial archaeological reconnaissance in the proposed area or areas. If such reconnaissance reveals sites which COUNTY wishes to study in greater detail, then COUNTY shall so notify APPLICANT in writing whereupon COUNTY shall have sixty (60) days from the date of such notice in which to conduct further studies.

D. Buffer Zones.

APPLICANT shall at all times maintain free from development all areas designated as "buffer zones" on the Master Plan to which these Proffers refer, including those shown in the B-1 and M-1 areas. Existing trees and vegetation within such zones shall remain "as is" except that APPLICANT shall have the right to install and construct

over, under and across such zones, such new roads, drainage structures, storm water management facilities, utilities and entrance signs as may be necessary to development of the Warhill Tract and as are approved by the Subdivision Review Committee of COUNTY'S Planning Commission.

E. Sever Phasing.

If development of the Warhill Tract shall require public sewer connections exceeding the 1,422 prepaid connections now owned by APPLICANT, then development requiring such additional connections shall not proceed until such additional connections are acquired by APPLICANT.

III. Phase II and III Approval.

APPLICANT has employed Gorove/Slade Associates, Inc. to perform a comprehensive traffic impact study to determine the feasibility of the Phase II and Phase III development described hereinbelow. Such study, as more particularly described herein, shall be delivered to COUNTY as soon as reasonably possible, completion being expected within six to eight weeks following the date of these Proffers. No approval shall be given to any portion of Phases II or III until the comprehensive traffic impact study has been delivered to and approved by COUNTY. After approval of such study Phase II and III development may proceed in the R-4 area but shall be subject to the time schedules and limitations set forth herein.

A. Phase II.

Phase II as proposed is as follows: For a period beginning at the end of Phase I and extending sixty (60) months thereafter, subject, however, to the traffic study requirements set out in paragraph C of this Section III and accomplishment of the road improvements there called for, no more than an additional 350 dwelling units may be constructed in the area zoned R-4 so that at the end of Phase II a total of 775 dwelling units together with golf course and club house may exist in the area zoned R-4.

B. Phase III.

Phase III as proposed is as follows: Beginning at the end of Phase II, and subject to traffic study requirements set out in paragraph C of this Section III and accomplishment of the road improvements there contained, 193 additional dwelling units may be constructed in the area zoned R-4 so that upon completion of all R-4 improvements, a total 968 dwelling units together with golf course and club house shall have been constructed in the R-4 zone.

C. Traffic Study requirements.

No building permit shall be applied for or issued for any Phase II or III building construction until COUNTY'S approval of the comprehensive traffic impact study prepared by Gorova/Slade Associates, Inc. or some other traffic analyst acceptable to COUNTY. The study shall show projected additional traffic generated by Phase II and III development of Warhill and the effect of such additional traffic as well as additional projected off site traffic on the following intersections and on the highways connecting same as well as on the section of Longhill Road beginning at its intersection with Warhill Trail and extending easterly to its intersection with Old Towne Road:

- a. Route 60/Centerville Road
- b. Route 60/Loop Road
- c. Route 60/199
- d. Route 614/Loop Road
- e. Longhill Road/Warhill Trail

Such study shall include a level of service analysis and shall also include recommended additional road improvements and/or reductions in density as are necessary to provide at least a Level of Service D at such intersections and road links as well as on any new intersections and road links which may be recommended by the study.

No Phase II or III improvements may be constructed until the aforesaid comprehensive traffic impact study has been approved by COUNTY'S Board of Supervisors or their designated agent. Such approval shall not be unreasonably withheld.

Upon COUNTY'S approval of the comprehensive traffic study APPLICANT shall incorporate the study's recommendations in the remaining R-4 development of the Warhill Tract. The timing of accomplishment of such recommendations shall be established by an implementation schedule approved by COUNTY'S Board of Supervisors or their designated agent. Upon approval, APPLICANT may, beginning with the time periods above stipulated for Phase II and III, proceed with the remaining development allowed during such Phase, subject, however, to the implementation schedule and accomplishment of the road improvements there called for. If, however, at any time during Phase II or III the traffic generation rates and distributions solely from Warhill are determined by COUNTY'S

Board of Supervisors or their designated agent as the result of a current independent traffic analysis of the above-described intersections and road links to be materially greater than the total site generated traffic and distributions projected for such Phase by the previously approved comprehensive traffic impact study, and if APPLICANT is unwilling or unable to provide additional road improvements reasonably sufficient to provide a Level of Service D on such intersections and road links, the Planning Commission may reduce the permissible densities for such Phase and any subsequent Phase to the extent that not less than a Level of Service D is provided on said intersections and road links; provided, however, that such reduction shall not prohibit the improvement of subdivided lots or buildings sites already sold to third parties..

D. Other Requirements.

All other matters set out in Section II of these Proffers shall apply to Phases II and III.

IV. Private Roads.

A. Where Private Roads Allowed.

Private Roads shall be allowed only in the area zoned R-4. No private road shall be constructed until engineering plans and specifications for such road have been submitted to and approved by COUNTY as conforming to applicable Virginia Department of Transportation requirements for an equivalent public road.

B. Engineer's Certification.

All private road construction shall be overseen by a Professional Engineer authorized to practice in Virginia which engineer shall be chosen and compensated by APPLICANT. The engineer shall certify to COUNTY that based on on-site inspections, such engineer finds the road improvements to be constructed and properly located as shown on the approved construction plans and specifications.

Certificates shall be made in writing upon completion of the following stages:

1. Staking out of right of way.
2. Clearing and erosion control.
3. Drainage system improvements.
4. Road base installation.
5. Paving.

The professional engineer shall upon completion of all of the above improvements, deliver to COUNTY his final written certification that said facilities were constructed in accordance with the plans and specifications approved by COUNTY. Such plans shall be certified by the professional engineer to meet Virginia Department of Transportation standards at the time they are submitted to County.

This agreement shall be binding upon and inure to the benefit of COUNTY and APPLICANT and their respective successors and assigns.

WITNESS the following signatures:

VIRGINIA INTERNATIONAL FINANCE
AND DEVELOPMENT, INC.

BY: Walter J. Scruggs
President

STATE OF VIRGINIA

CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 30 day of June, 1987 by WALTER J. SCRUGGS, President of VIRGINIA INTERNATIONAL FINANCE AND DEVELOPMENT, INC.

Gene B. Sears

Notary Public

My commission expires: August 29, 1990

ADOPTED

JUL 6 1987

ORDINANCE NO. 31A-103

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE II. SITE PLAN, SECTION 20-51. COMPLIANCE WITH SITE PLAN REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by adding Section 20-51. Compliance with site plan required.

ARTICLE II. SITE PLAN

Section 20-51. Compliance with site plan required.

It shall be a violation of this chapter to construct, develop, erect, alter or change in any way any structure or land except in accordance with the approved final site plan.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

SUPERVISOR	VOTE
BROWN	AYE
TAYLOR	NAY
MAHONE	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 6th day of July, 1987.

0185U