

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE FIFTH DAY OF OCTOBER, NINETEEN HUNDRED EIGHTY-SEVEN, AT 7:00 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 - September 14, 1987

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

Mr. Mahone 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. PROCLAMATION

1. Recycling Awareness Month, October 1987

Mr. Edwards read the proclamation, and presented the document to Ms. Katherine Hawkins, Chairperson of the James City County Clean County Commission. Ms. Hawkins remarked that the County has some very good recycling programs planned in the elementary schools. Mr. Edwards expressed the Board's appreciation for all the efforts of the Commission.

R E S O L U T I O N

RECYCLING AWARENESS MONTH

WHEREAS, recycling saves resources, energy and land, prevents litter by eliminating materials from the litter streams and prolongs the useful life of many materials; and

WHEREAS, recycling is a community-minded effort to ease the growing problems of solid waste management.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate the month of October 1987 as:

RECYCLING AWARENESS MONTH

and encourages citizens of James City County to participate in James City County Clean County Commission's recycling campaign this month, and to continue recycling efforts for this month and for all times thereafter.

## D. PRESENTATIONS

1. Virginia Municipal League Achievement Award - Communications

Mr. Edwards presented plaques to Callie Albergotti, Phyllis Cody, Kathy Oller, and Veronica Nowak for their accomplishments on behalf of the Communications Department, and congratulated them for winning the first Virginia Municipal League Achievement Award in Communications, which was presented to Mrs. Nowak at the Virginia Municipal League Conference in Alexandria on September 29, 1987.

2. Commendation - James City County Police Department

Mr. Edwards read the commendation, and presented the document to Police Chief Robert Key. Mr. Edwards acknowledged the community support that was given during a very difficult time.

Chief Key noted that the situation was a departmental effort, and with the support of the community, 100 persons contributed to its successful outcome.

C O M M E N D A T I O NJAMES CITY COUNTY POLICE DEPARTMENT

WHEREAS, the Police Department was recently involved in a potentially explosive hostage situation in James City County; and

WHEREAS, the Police Department conducted itself during the incident in an exemplary manner under difficult circumstances; and

WHEREAS, the Police Department displayed considerable restraint and valor in dealing with a potentially dangerous individual; and

WHEREAS, after many long hours, the Police Department resolved the situation peacefully and without injury; and

WHEREAS, the Uniform Division, Investigations Division, Emergency Response Team, and administrative support personnel demonstrated real teamwork through their support of one another under stressful conditions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, commends the Police Department for its outstanding service to the community.

3. Beautification Planting Project

Mr. Edwards read the resolution, and presented the document to Ms. Katherine Hawkins of the Beautification Planting Project Committee.

Ms. Hawkins distributed a list of contributions from area businesses and garden clubs totaling \$1,050 for the beautification planting project.

Ms. Hawkins stated that the Virginia Department of Transportation has agreed to maintain the plantings at the exit sites and to give suggestions for hardy plants that would survive with little maintenance. She thanked the Board for its support.

Mr. Brown made a motion to approve the resolution.

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 NBEAUTIFICATION PLANTING PROJECT

WHEREAS, the James City County Board of Supervisors recognizes the need to enhance and preserve the natural beauty enjoyed within the boundaries of James City County; and

WHEREAS, the County has set aside funds through the Environmental Protection account for such purpose; and

WHEREAS, community support has been impressive, both in planning and donations for this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the use of \$5,000 from the Environmental Protection Fund for this project and appropriates \$1,000 in donations.

Mr. Edwards made a motion to convene into executive session for a legal matter pursuant to Section 2.1-344(a)(6) of the Code of Virginia 1950, as amended, at 7:13 p.m.

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

Mr. Edwards reconvened the Board into open session at 7:19 p.m.

E. PUBLIC HEARINGS

1. Case No. MP-2-87. Ford's Colony Master Plan Amendment

Ms. Monica Lindeman, Interim Planning Director, stated that Mr. Brian Ford has applied on behalf of Realtec, Inc., to amend the approved master plan of Ford's Colony by the addition of 248 acres to the overall project, with 159 acres zoned R-2, Limited Residential, and 59 acres zoned A-2, Limited Agricultural. The total number of units remains the same, but overall density decreases from 1.5 units per acre to 1.35 units per acre.

Ms. Lindeman noted that the proffers are identical to those approved in March 1987 with the exception of the provision of a public service area and access to that site. The master plan amendment does not provide for greenbelts on News Road or Longhill Road. She stated that proffers provide road improvements as each phase is approved, and the amendment generates a seven percent increase in traffic.

Ms. Lindeman further stated that the proposed recreation facilities are acceptable; the water system is adequate, with an agreement between the developer and the James City Service Authority for providing sewer service; drainage is acceptable; and 28.82 acres have been designated for public use in accordance with the ordinance requirement of four acres of public land per 1,000 population.

The Planning Commission unanimously recommended approval with proffers.

Mr. Edwards opened the public hearing.

1. Mr. Vernon Geddy, representative for Ford's Colony, stated that the number of condominiums and townhouses has been reduced by 782, with single-family lots being increased by that number. The change in the golf course configuration will offer an environmental buffer for runoff to Powhatan Creek, and the archaeological survey is going forward under a \$5,000 grant from Ford's Colony, with important data being retrieved. He continued that buffers will be included in the subdivision plats when lots are actually developed, and that 6.75 acres, part of which is not usable due to its proximity to the swamp, will be conveyed to the County.

Mr. Geddy noted that a complimentary letter to Ford's Colony regarding its conservation efforts had been received from the Fish and Wildlife Service, and he requested that the Board approve the master plan amendment.

Mr. DePue asked whether the reasons for having the recreation area close to the Route 199 entrance and the lack of a recreation area near Section 1 were technical or for marketing purposes.

Mr. Drew Mulhare responded that the reasons were primarily marketing, and that an attempt had been made to spread recreation areas throughout the development.

Mr. Edwards questioned whether the reduction of townhouses and increase of detached homes were the result of changes in the developer's plans, marketing, or characteristics of the development.

Mr. Geddy replied that single-family dwellings were in greater demand but that some of the single-family houses will have zero lot lines.

Mr. Mahone mentioned that his concern regarding greenbelts was adequately answered by Mr. Geddy's explanation that the setback will be addressed during the site plan review process.

Mr. Brown summarized that the amendment increases the area by 248 acres, changes some dwelling types, and adds recreation.

2. Mr. Kevin Kelly, Chairman of the James City County Historical Commission, stated that Ford's Colony had been responsive to the recommendation that the most significant of the archaeological sites be excavated. He congratulated Ford's Colony for the actions taken to date.

3. Ms. Carolyn Lowe, 50 Summer East, stated that Ford's Colony had taken steps in responding to citizens' environmental concerns. The citizens are most appreciative of the adjustments in the site plans to reduce the adverse effects on the wetlands and bird habitats.

Ms. Lowe urged the Board to include the protection of natural resources as a part of the subdivision and site plan review process for the best interest of the County and with the support of the general public.

Mr. Edwards closed the public hearing.

Mr. Mahone made a motion to approve the resolution.

Mr. DePue complimented Mr. Paul Small and his firm for an uncomplicated, easy-to-read report. He mentioned that Ford's Colony was proof that standards can be set and met.

Mr. DePue commended the principals of Ford's Colony for their contribution to the community and for the presentation of the proposal.

Mr. DePue stated he would support the motion and that he was looking forward to seeing the Ford's Colony addition.

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. MP-2-87. FORD'S COLONY MASTER PLAN AMENDMENT

WHEREAS, Mr. Brian R. Ford has applied on behalf of Realtec, Inc., for an amendment to the approved master plan for Ford's Colony; and

WHEREAS, Section 20-15 of the James City County Zoning Ordinance reserves to the Board of Supervisors the authority to amend a master plan; and

WHEREAS, the James City County Planning Commission has unanimously recommended approval of this amendment; and

WHEREAS, the Planning staff has recommended approval of the amendment with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. MP-2-87 and amends the master plan for Ford's Colony consisting of the addition of 248 acres, a redesign of nine golf holes and a revised recreation amenity package as described on the amended plan dated July 21, 1987.

BE IT FURTHER RESOLVED, that the Board of Supervisors accepts the voluntary proffers as part of this application.

Mr. Brown encouraged citizens to continue to speak out on vital issues and compliment others for doing a fine job.

2. Case No. Z-19-87. Edward Katz

Ms. Lindeman stated that Mr. Edward Katz had applied to rezone approximately 2.24 acres from A-2, Limited Agricultural, to LB, Limited Business. A final proffer was received by the Planning Department on Friday, October 2, 1987.

Ms. Lindeman stated that public water is available, but public sewer must be extended by the developer. An area of 38.5 acres directly across News Road is zoned for commercial development, limited to 420,000 square feet. The Planning Commission recommended approval, with proffers, by a 9-1 vote.

Mr. DePue asked what commercial uses were allowed in A-2 zoning with a special use permit.

Ms. Lindeman read a lengthy list of permitted uses from the County Code.

Mr. Brown asked what the staff recommendation was to the Planning Commission.

Ms. Lindeman replied that staff recommended approval.

Mr. Edwards questioned whether an area should be rezoned without a specific use, or merely on the assumption that the area would be used for business. He asked Mr. Martin Garrett, member of the Planning Commission, if the Planning Commission had discussed that aspect of the case.

Mr. Garrett replied that the Commission discussed the Route 199 access, and they were aware of the 38.5 acres zoned commercial.

Ms. Lindeman noted the 38.5 acreage was a part of the Master Plan of Powhatan Planned Community.

Mr. DePue asked whether the County would have more control over the property with LB zoning, or A-2, with a special use permit.

Ms. Lindeman replied LB, with proffers.

Mr. Garrett noted that the Planning Commission discussed the zoning as typical of a transitional area.

Mr. Edwards stated that the County should have an idea of the type of business being considered before rezoning the property.

Mr. Edwards opened the public hearing.

1. Mr. Henry Ertl, 3897 Ironbound Road, spoke in opposition to the rezoning, stating that the area was residential and a business such as a convenience store should not be located on the property.

2. Mr. Leonard Sazaki, 3927 Ironbound Road, spoke in opposition to the rezoning because Route 199 will create more traffic.

Mr. Sazaki mentioned the fact that the water level of his well is dropping, and if the property is rezoned commercial, he requested a review of the proffers and a check of the noise level in the surrounding area.

3. Mr. David Tobler, 3808 Ironbound Road, speaking for Mrs. Renick who opposes the rezoning, stated that a convenience store is not needed on the property as shopping areas are within a mile of the residences. He felt that the County would not benefit from rezoning the property commercial, and noted that the sewer line stops 400 feet from Ironbound Road.

Mr. Edwards closed the public hearing.

Mr. DePue agreed with the Planning Commission that the property is in a transitional area, but he felt rezoning was unwise without a specific use proposal. He concurred with the negative comments of living near a convenience store.

Mr. DePue made a motion to deny the request to rezone from A-2 to LB.

Mr. Edwards agreed with Mr. DePue and stated that the time for rezoning might be in the future if the Powhatan Planned Community and Route 199 are built.

Mr. Brown echoed Mr. Edwards' thoughts and stated that the timing might be ten years away before the need is there for further development.

Mr. Mahone agreed that rezoning now could potentially be a mistake. The development across the street will be a quality development, and a specific use has not been designated for this property. He further stated that the Planning Commission recommended approval, but the Board might decide the rezoning was not a good idea.

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

3. Case No. Z-21-87. Zoning Ordinance Amendment

Mrs. Victoria Gussman, Director of Development Management, stated that in October 1986, the A-2, Limited Agricultural, zoning district was amended to prohibit subdivisions exceeding five lots and to make the minimum lot sizes equal those of the A-1, General Agricultural District. The changes were intended to improve the function of the A-2 zone as a transition zone by limiting its use for residential purposes.

Staff recommends permitting the division of parcels into more than five lots with the issuance of a special use permit to effectively deal with parcels of various sizes.

The Planning Commission recommends approval of the ordinance.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Brown made a motion to approve the ordinance.

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

4. Transfer of Land to Industrial Development Authority

Mrs. Darlene Burcham, Assistant County Administrator, stated that the Board tentatively approved the use of the Strawberry Plains parcel for a Farmers Market in May 1987. Since that time, steps necessary to consummate the construction of a Farmers Market have been diligently pursued. She further stated that once the County transfers the land to the Industrial Development Authority, a meeting of the IDA will be held when the legal instruments as provided by the bond counsel are ready.

Mrs. Burcham noted that disposing of real property requires a public hearing. A second public hearing has been advertised for the second Board of Supervisors meeting in October regarding the segment of the parcel which has an encroachment. Staff recommends approval of the resolution.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Brown made a motion to approve the resolution.

Mr. Edwards asked if the land would remain with the Industrial Development Authority if it is not used for the Farmers Market.

Mr. Frank Morton, County Attorney, responded that the property would be transferred to the Farmers Cooperative by the Industrial Development Authority.

Mr. Edwards asked what would occur if the Farmers Cooperative could no longer use it.

Mr. Morton replied those details were still under investigation.

Mr. DePue stated that he had misgivings about the appropriation of County funds for the Farmers Market, but he agreed that this site had the fewest disadvantages of location. Mr. DePue further stated that he could support the issue of conveying land to the Industrial Development Authority, but would have to see the final package before supporting the Farmers Market.

On a roll call, the vote was AYE: Brown, Mahone, DePue, Edwards (4). NAY: (0). ABSTAIN: Taylor (1).

#### R E S O L U T I O N

#### AUTHORIZATION TO TRANSFER 5.6276 ACRES ± TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF JAMES CITY, VIRGINIA

WHEREAS, James City County, Virginia, owns certain property commonly known as the Richardson-Meadows Tract located on the westerly side of Strawberry Plains Road in James City County, Virginia; and

WHEREAS, it is the desire of the Board of Supervisors to transfer a portion of said property to the Industrial Development Authority of the County of James City, Virginia, to enable it to be developed as a farmers market; and

WHEREAS, pursuant to Section 15.1-262 of the Code of Virginia (1950), as amended, a public hearing was held on October 5, 1987, to consider the transfer of said property; and

WHEREAS, it is found to be in the best interest of the County to transfer 5.6276 acres ± of said property for such purposes.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of James City, Virginia, hereby authorizes its Chairman to execute a Deed transferring 5.627 acres ± of property as set out and shown on a plat entitled, "Subdivision of a Portion of Parcel "A," Richardson-Meadows Tract for Conveyance from James City County to the Industrial Development Authority of James City County," made by Rouse-Sirine, Ltd., dated July 8, 1987, less 0.1014 acres ± of property as set out and shown on a plat entitled, "A Survey for the Proposed Conveyance of Approximately 0.1014 Acres ± From the County of James City to John Grier Construction Company," made by AES, a professional corporation, and dated October 2, 1987.

F. CONSENT CALENDAR

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

Mr. Mahone asked that Item No. 2 be removed.

Mr. Edwards made a motion to approve Items No. 1 and 3 of the Consent Calendar.

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

1. Foster Care Placement Prevention Appropriation

R E S O L U T I O N

APPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided supplemental funds to render additional services through the Foster Care Placement Prevention Program of the local Department of Social Services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation:

Revenues:

Revenues from the Commonwealth \$2,787

Expenditures:

Purchased Services \$2,787  
#007-083-5719

3. Community Development Block Grant - Section 3 Plan

R E S O L U T I O N

SECTION 3 PLAN

WHEREAS, James City County has been awarded a Community Development Block Grant of \$700,000 for the Chickahominy Road Residential Improvement Project; and

WHEREAS, Section 3 of the Housing and Urban Development Act of 1968 specifies that lower income "project area" residents and businesses should be utilized to the greatest extent feasible, and further requires that recipients of Community Development Block Grant funds must adopt and act in accordance with a written Section 3 Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached James City County Section 3 Plan.

2. Code Violation Liens

Mr. Mahone questioned the unusually large amount of money involved in the Code Violation Lien charges on Sandy Bay Road, and on Mildred Drive.

Mrs. Burcham responded that these charges represent not only trash and grass but debris removed which can amount to several tons, and that the charge is a vendor's contract price for loading, delivery, and unloading at the landfill on the County's behalf. She continued that the County staff is

unable to perform this service in-house, and after corresponding with the owner for payment, if the payment is not received, a lien is rendered against the property.

Mr. DePue volunteered to contact the bank which owns the Mildred Drive property if the Board so desired.

Mr. Edwards asked if postponement of the items until the next Board of Supervisors meeting would be a problem.

Mr. Mahone agreed postponement would be appropriate.

#### G. BOARD CONSIDERATIONS

##### 1. Vacation of Right-of-Way for Birchwood Park/Section 8, Poplar Lane, Between Lots 77 and 87

Mr. Morton stated this matter was postponed from the last meeting to allow the applicants and the staff to resolve a purchase price for the right-of-way to be vacated.

Mr. Edwards made a motion to approve the ordinance.

Mr. Mahone indicated he could not support the ordinance as he did not support the policy when adopted. He felt that the figure was less than reasonable for the land being vacated as that right-of-way may now make the owner's lot wide enough to enlarge his home.

Mr. Mahone further stated that he respected the Board's decision, but he felt, on behalf of the public, that the County should be receiving more compensation.

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

#### H. PUBLIC COMMENTS

1. Mr. Van Calhoun, 2204 Jolly Pond Road, requested information about a special use permit being issued for an area that included a family cemetery.

Mr. Edwards asked if he had talked to staff about the matter.

Mr. Calhoun replied that he had spoken with Mr. Larry Davis, Assistant County Attorney.

Mr. Morton responded that the County was aware of the cemetery, and was unable to determine who to contact. Mr. Morton further stated that the County will make necessary arrangements for preservation or relocation of the cemetery in accordance with State law.

Mr. Taylor indicated that he felt the cemetery should be preserved.

Mr. Calhoun felt that the Board of Supervisors should have made the decision as a part of the public hearing on the special use permit.

Mr. Edwards requested staff to prepare a report about the situation, and expressed the Board's appreciation to Mr. Calhoun for his comments.

2. Ms. Dorothy Sheldon, resident of Hicks Island, requested the Board's permission for a permit to keep a trailer which does not now have a permit.

Mr. Brown asked if there was a house and two trailers on the property.

Ms. Sheldon stated there were two occupied mobile homes.

Mr. DePue clarified that one mobile home did not have a permit of any kind.

Mr. Edwards requested that this matter be on the agenda for the next Board of Supervisors meeting and cautioned that this decision could affect other County decisions.

Mr. Taylor stated one trailer could not be brought through the railroad tunnel now.

Mr. Edwards commented that the Board needs to be sure it has the authority to grant exceptions.

Mr. Mahone suggested that staff make recommendations.

Mr. David Norman, County Administrator, stated a full report would be made.

#### I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman announced the Surry exercise would be on Thursday, October 8, 1987, with County officials participating, along with officials from other jurisdictions.

Mr. Brown stated that the exercise would be for the full day, and that the new additional sirens will be tested.

Mr. Norman replied that was his understanding.

Mr. Norman reported that Mr. Edwards was selected as the Second Vice President of the Virginia Municipal League.

#### J. BOARD REQUESTS AND DIRECTIVES

Mr. Brown suggested that staff investigate additional methods for enforcing our ordinances in relation to the parking problems generated by Governor's Square.

Mr. Edwards inquired if obtaining a list of residents would be possible.

Mr. Morton replied that a list of owners would be needed.

Mr. Edwards remarked that enforcing three students to an apartment would be difficult.

Mr. Brown asked staff for a report on the options available for the fullest action that could be taken.

Mr. Brown mentioned the letter from Mr. Frank Hall regarding the speed limit on Jamestown Road, and a memo from Mr. David Clark regarding the trash hauler who raised his price \$3.00 because the County raised the tipping fee at the landfill by \$.35.

Mr. Brown made reference to the mobile home memo in the reading file and noted that he would like to see a proposal for an exception of parcels of three acres or more which have a second dwelling unit within the 150-foot frontage requirement.

Mr. Taylor said that many family divisions of land give each person an entrance to the road, and citizens do not request permits of the County because they do not have the 150-foot frontage requirement.

Mr. Edwards requested staff to recommend a proposal.

Mr. Taylor indicated that he would prefer two acres, rather than three, because some citizens have had their acreage decreased by easements, etc.

Mr. Edwards stated that each special use permit would have to be reviewed by the Board.

Mr. Morton mentioned that the family situation could be resolved through a family subdivision.

Mr. Taylor stated that families do not want to subdivide.

Mr. Edwards asked that the issue be on the agenda for the next Board of Supervisors meeting.

Mr. Brown suggested that a provision for families could be put in the proposal.

Mrs. Burcham asked Mr. Taylor for names of the citizens involved and indicated that staff would get the information to them to satisfy their concerns.

Mr. Morton stated that, from a planning perspective, multiple units should be placed on individual lots.

Mr. DePue indicated that he would prefer examples of real situations, with names, in a case study report.

Mr. Mahone mentioned that one option would be having a list of questions available in the Planning Department for each citizen who comes in requesting assistance.

Mr. DePue appreciated staff preparing the report for the Growth Commission and he thanked Mr. Carlyle Ford, Commissioner of the Revenue, for providing the answer to the citizen that the County is following the Code of Virginia in requiring a Business License. Mr. DePue clarified that this citizen had not been singled out in the category.

Mr. Ford replied that 160 letters had been mailed to other residents in the same category.

Mr. Edwards made a motion to recess into executive session for a legal matter pursuant to Section 2.1-344(a)(6) of the Code of Virginia 1950, as amended, at 9:15 p.m.

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

Mr. Edwards reconvened the Board at 9:47 p.m., and made a motion to recess until Monday, October 12, 1987, at 3:00 p.m.

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

  
David B. Norman  
Clerk to the Board

## RESTATED FORD'S COLONY PROFFERS

THESE RESTATED FORD'S COLONY PROFFERS ("Restated Proffers") are made as of this 1<sup>st</sup> day of October, 1987, by REALTEC INCORPORATED, a North Carolina corporation, successor by merger to Ford's Colony at Williamsburg, Inc., a Virginia corporation ("Ford's Colony").

RECITALS:

A. By certain proffers dated March 11, 1987, a copy of which is attached hereto as Exhibit "A" (the "Proffers"), Ford's Colony agreed to satisfy certain conditions and obligations in connection with an amendment to its original Master Plan for Ford's Colony (the "Master Plan"). In consideration of the Proffers, James City County (the "County") amended the Master Plan on March 11, 1987. Prior to the March 11, 1987 amendment, the Master Plan had been previously amended on January 28, 1985, April 2, 1985 and February 10, 1986.

B. Ford's Colony is the owner of certain real property in James City County, Virginia (hereinafter referred to as the "Property"), which is more particularly described as follows:

All those certain lots, pieces and parcels of land, situate in Powhatan and Berkeley Districts, James City County, Virginia, set out and shown on a plat hereto attached and made a part hereof, which plat is entitled "1987 MASTER PLAN - FORD'S COLONY @ WILLIAMSBURG, POWHATAN AND BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA," made by AES, a professional corporation, dated July 21, 1987, which lands contain 2,401.41 acres.

C. Pursuant to a proposed Amendment to Master Plan dated July 21, 1987 and submitted to the Planning Commission of the

County on August 25, 1987 (the "Amended Plan"), Ford's Colony has again applied for an amendment to the Master Plan. Under the Amended Plan, the Property, which includes 249 acres not currently included in the Master Plan, would be included in the Master Plan.

D. Ford's Colony wishes to reiterate to the County its agreement to complete and perform its obligations as set forth in the Proffers, as amended hereby, and set forth its agreement to satisfy certain additional obligations.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of James City of the Amended Plan, and pursuant to Section 15.1-491.1 et seq. of the Code of Virginia, 1950, as amended, Ford's Colony agrees as follows:

1) Ford's Colony hereby restates, affirms and ratifies the Proffers in their entirety, which Proffers are specifically incorporated herein by reference, provided, however, that the time limits set forth in Paragraphs 3 and 5 of the Proffers shall begin to run upon approval of this amendment to the Master Plan.

2) Ford's Colony shall convey to the County, within 90 days of receipt by Ford's Colony of a written demand therefor from the County, the additional 6.76 acres of land shown on the plat attached hereto and made a part hereof entitled, "SKETCH OF 6.76 Ac.± PROPOSED ADDITIONAL PUBLIC SERVICE AREA, FORD'S COLONY @ WILLIAMSBURG, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA," made by AES, a professional corporation, and dated Sept. 18,

1987, (the "Sketch"), as an additional public service area, such conveyance to be made using a metes and bounds description or by reference to an actual plat of survey of the 6.76 acres.

The County shall have the right to construct an access from the 6.76 acres to the proposed 80' right of way shown on the Sketch and any private road built thereon by Ford's Colony at a location to be selected by the County between News Road and the beginning of the 20' scenic easement shown on the Sketch, so long as the 6.76 acres is used by the County as a site for a fire station, emergency services station, police substation, public library or other similar use beneficial to the Ford's Colony at Williamsburg subdivision. Ford's Colony shall also grant the County an easement for ingress and egress over the portion of the proposed 80' right of way between News Road and County's access onto the 80' right of way. If, at the time the County determines to develop the 6.76 acres for one of the aforementioned uses, Ford's Colony has not constructed a private road on the proposed 80' right of way, the County shall have the right to construct a road on such right of way from News Road to the access constructed by the County to the 6.76 acres.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, has, as of the date first written above, caused

these Restated Proffers to be executed by its duly authorized corporate officer.

REALTEC INCORPORATED, successor  
by merger to Ford's Colony at  
Williamsburg, Inc., a Virginia  
corporation

By: Michael J. Tiernan  
Title: Assistant Treasurer

STATE OF VIRGINIA AT LARGE

CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this  
1<sup>st</sup> day of October, 1987, by Michael J. Tiernan, Assistant  
Treasurer of REALTEC INCORPORATED, a North Carolina corporation,  
on behalf of the corporation.

My commission expires: July 4, 1989

Jackie L. Sutton  
NOTARY PUBLIC

**FORD'S COLONY****PROFFERS**

THESE PROFFERS, made as of this 11 day of March, 1987, by REALTEC INCORPORATED, a North Carolina corporation, successor by merger to Ford's Colony at Williamsburg, Inc., a Virginia corporation, ("Ford's Colony"),

**RECITALS:**

A. Ford's Colony is the owner of certain real property in James City County, Virginia (hereinafter referred to as the "Property") and more particularly described as follows:

All those certain pieces and parcels of land situate in James City County, Virginia, more fully described in that certain Amendment to 1986 Master Plan submitted by Ford's Colony at Williamsburg, Inc. to the Planning Commission of James City County, Virginia, on July 22, 1986, and on file in the Planning Department of James City County, which parcels include 416.6± acres formerly referred to as "Williamsburg West" and 333± acres of land formerly known as "Craney Meadow", which lands contain, in the aggregate, approximately 750 acres. A copy of said plat is recorded herewith in Plat Book \_\_\_\_\_ at page \_\_\_\_\_.

B. Ford's Colony has applied for an amendment to its original Master Plan for Ford's Colony (as subsequently amended on January 28, 1985, April 2, 1985 and February 10, 1986) such that the Property would be included into and made a part of the Master Plan of Ford's Colony all as more particularly set forth in the proposed Amendment to Master Plan submitted on July 22, 1986 to the Planning Commission of James City County (the "Amended Plan").

C. James City County (the "County") may be unwilling to permit Ford's Colony to incorporate the Property into the

existing Ford's Colony project because of the projected impact of the proposed development on the roadways available in that part of the County.

D. Ford's Colony, for itself and its successors and assigns, is desirous of offering to the County certain assurances and understandings for the protection of the community that are intended to increase the capacity of existing roadways and alleviate some projected congestion of the roadways available in that portion of the County.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of James City of the Amended Plan, and pursuant to Section 15.1-491.1 et. seq. of the Code of Virginia, 1950, as amended, Ford's Colony agrees that in addition to the restrictions heretofore imposed in connection with the original Master Plan, as subsequently amended, it will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. Ford's Colony will upgrade the existing and proposed entrances to Ford's Colony (the "Project") to increase the capacity of the existing road network and to provide enhanced safe access to those roads. The affected entranceways to be improved are as set forth in the Amended Plan. These improvements shall include:

(a) Installation of traffic signals at the intersection of (i) Country Club Drive or a private road (the "Alternate Route") and Route 612 (Longhill Road), (ii) a yet unnamed road and Route 613 (News Road), and (iii) Ford's Colony Drive and Route 612;

(b) Installation of left and right turn lanes as may be required by the Virginia Department of Transportation ("VDOT") and James City County at the News Road and at the Centerville Road/Old Manchester Road entrances to the Project;

(c) When required by the approved phasing plan set forth below, Ford's Colony shall establish a right of way for the the Alternate Route (sufficient in width to permit the ultimate construction of a four-lane road) from that part of the Williamsburg West tract included within this Master Plan Amendment to Route 612 (Longhill Road) to intersect at or near Country Club Drive. Ford's Colony shall construct a two-lane private road within such right of way. If the VDOT does not permit construction of an intersection with Route 199 as set forth in paragraph (g) below, Ford's Colony shall, in accordance with the phasing plan, widen the initial two-lane road to a four-lane road.

(d) At the intersection of Longhill Road and Country Club Drive or the Alternate Route, the following: installation of dual through lanes on Route 612, installation of dual left turn lanes on Route 612, a right turn lane on Route 612, and dual right turn lanes on Country Club Drive or the Alternate Route.

(e) Installation of a right turn lane at the Intersection of Route 612 and Ford's Colony Drive;

(f) Dedication to the County of a fifteen foot (15') strip of land to widen Route 612 (between Country Club Drive or the Alternate Route and Ford's Colony's property line along Route 612) and construction of the roadway improvements required to create a four-lane road from the entrance to the Project on Country Club Drive or the Alternate Route to the proposed intersection of Route 612 with Route 199 (consistent with the corridor adopted by the Virginia Highways and Transportation Board on October 16, 1986); provided however, Ford's Colony shall not be obligated to purchase any land or acquire any right of way across private property other than property currently owned or controlled by Ford's Colony; and

(g) Payment by Ford's Colony of \$250,000 to the VDOT for the installation of an intersection at a point on the Property where Route 199 (as the corridor was adopted by the Virginia Highways and Transportation Board on October 16, 1986) crosses the Property and as may be approved by VDOT, including, the installation of appropriate turn lanes and traffic signals to the extent required by VDOT.

2. To the extent a roadway on the Property is constructed to intersect with Route 199, it is understood and agreed that certain other improvements contemplated hereby may no longer be necessary or required and, to the extent such improvements are deemed no longer necessary or required by VDOT and James City

County (e.g. the improvement of the intersection of Country Club Drive with Route 612), then, in that event, such improvements shall no longer be required and shall then not be deemed additional obligations of Ford's Colony.

3. All such improvements shall be installed in accordance with a phasing plan to be developed by Ford's Colony and submitted to the County within six months of the approval of the Master Plan Amendment. Within sixty (60) days, the Board of Supervisors shall approve or disapprove the phasing plan. Until Ford's Colony files such a plan, and receives approval, the County shall be under no obligation to give final approval to any subdivision plat or development plan filed by Ford's Colony; provided, however, that the subdivision plats for Sections VI and X of Ford's Colony (which have heretofore received preliminary approval by the County) and any clearing and grading or building permits for work within such Sections shall not be subject to this provision.

4. Ford's Colony agrees to donate and contribute all necessary land currently owned by Ford's Colony to construct such road improvements (at no cost to the County); provided, however, Ford's Colony shall not be required to acquire or purchase any land not currently owned by Ford's Colony to facilitate the construction of such road improvements.

5. Within 120 days after final approval of the Amended Plan, Ford's Colony shall convey to the County, without cost, fee simple title to a site for use by the County as a well site, with

access rights thereto. Such site shall be 100 feet by 100 feet in size and shall be at a location between News Road and Longhill Road mutually agreeable to Ford's Colony and the County.

6. Ford's Colony shall designate a Scenic Easement along the line of Cold Spring Swamp, such easement to be defined by the edge of the swamp or marsh and a line that is a minimum distance of fifty (50) feet therefrom. The boundaries of such fifty (50) foot easement shall be shown on all final subdivision plats or final site plans of areas adjoining Cold Spring Swamp.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, has, as of the date first written above, caused these Proffers to be executed by its corporate officer, duly authorized.

REALTEC INCORPORATED, successor by merger to Ford's Colony at Williamsburg, Inc., a Virginia corporation

By: Brian F. Ford  
Title: V.P.

STATE OF VIRGINIA AT LARGE

CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 11th day of March, 1987, by Brian F. Ford, Vice President of REALTEC INCORPORATED, on behalf of the corporation.

Jackie L. Milton  
NOTARY PUBLIC

My commission expires:  
July 4, 1989

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE IV, DISTRICTS, DIVISION 3, LIMITED AGRICULTURAL DISTRICT, A-2, SECTION 20-131, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

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 amending Section 20-131, Uses Permitted by Special Use Permit Only.

#### Chapter 20.

#### Article IV, Districts

#### Division 3, Limited Agricultural District, A-2.

#### Section 20-131. Uses Permitted by Special Use Permit Only.

In the Limited Agricultural District, A-2, structures to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

- Subdivisions of land into more than five residential lots.
- Two-family dwellings.
- Professional, business and governmental offices.
- Convenience stores with the sale of fuel in accordance with Section 20-89.
- Farm equipment sales and service establishments.
- Farmer's markets.
- Raising of hogs.
- Flea markets.
- Manufacture and sale of wood products.
- Sanitary landfills in accordance with Section 20-97, waste disposal or publicly-owned solid waste container sites.
- Airports.
- Gift shops, antique shops.

- Restaurants, taverns.
- Beauty shops, barber shops, and drug stores.
- Hospitals, nursing homes, sanitoria, and rest homes.
- Medical clinics.
- Group homes.
- Mobile home parks.
- Tourist homes.
- Lodges, civic clubs, fraternal organizations, and service clubs.
- Cemeteries and memorial gardens.
- Radio and television stations or towers.
- Photography sales, and arts and crafts shops.
- Excavation or filling, borrow pits, extraction, processing and removal of sand, gravel, stripping of top soil but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally without a Special Use Permit.
- Hotels and motels.
- Day care or child care centers.
- Campgrounds.
- New or expansion of water impoundments for public or private use of 50 acres or more or a dam height of 25 feet or more.
- Food processing and storage, but not the slaughter of animals.
- Commercial livestock feeding operations containing 1,000 animal units or more (as defined in 1976 by the U. S. Environmental Protection Agency).
- Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, are permitted generally and shall not require a Special Use Permit.
- Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.
- Public or private electrical generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.
- Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way, and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a Special Use Permit.
- Telephone exchanges and telephone switching stations.

  
 Jack D. Edwards, Chairman  
 Board of Supervisors

ATTEST:

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

  
 David B. Norman  
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,  
this 5th day of October, 1987.

**JAMES CITY COUNTY'S  
SECTION 3 PLAN**

1. The County of James City designates as its Section 3 covered project area the boundaries of James City County.
2. The County of James City, its contractors, and designated third parties shall in utilizing Community Improvement Grant funds utilize businesses and lower income residents of the Section 3 covered Project Area in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for work and for procurement of materials, equipment or services, the County of James City, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the Section 3 covered area:
  - (a) The County of James City shall ascertain what work procurements are likely to take place through the Community Improvement Grant funds:
  - (b) The County of James City shall ascertain through various and appropriate sources including advertisement in The Daily Press, Newport News, Virginia, the business concerns covered by Section 3 which are likely to provide materials, equipment and services which will be utilized in the activities funded through Community Improvement Grant.
  - (c) The identified business concerns shall be apprised of opportunities to submit bids, quotes or proposals for work or procurement contracts which utilize CIG funds.
  - (d) To the greatest extent feasible the identified businesses and any other project area business concerns shall be utilized in activities which are funded with CIGs.
4. In the utilization of trainees or employees for activities funded through CIG's the County of James City its contractor's, and designated third parties shall take the following steps to utilize lower income persons residing in the Section 3 covered project area:

- (a) The County of James City in consultation with its contractors (including design professionals) shall ascertain the types and number of positions for both trainees and employees which are likely to be utilized during the project funded by CIGs.
  - (b) The County of James City shall advertise the availability of such positions in the Daily Press, Newport News, Virginia, along with the information on how to apply.
  - (c) The County of James City, its contractors, and designated third parties shall be required to maintain a record of inquiries and applications by project area of residents who respond to advertisements, and shall maintain a record of the status of such inquiries and applications.
  - (d) To the greatest extent feasible, the County of James City, its contractors, and designated third parties shall utilize lower income project area residents in filling training and employment positions necessary for implementing activities funded by CIGs.
5. In order to ascertain substantial compliance with the above affirmative actions and Section 3 of the Housing and Community Development Act of 1968, the County of James City shall keep, and require to be kept by contractors and designated third parties, listings of all persons employed and all procurements made through the implementation of activities funded by CIGs. Such listings shall be complete and shall be verified by site visits and interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

## ORDINANCE # 177

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT ENTITLED, "BIRCHWOOD PARK, SECTION B, PART 2, JAMES CITY COUNTY, VIRGINIA," DATED AUGUST, 1959, AND MORE PARTICULARLY DESCRIBED AS THAT 50-FOOT RIGHT-OF-WAY NAMED POPLAR LANE BETWEEN LOTS 77 AND 87.

WHEREAS, application has been made by Mr. Joseph A. Abdelnour on behalf of Llew N. Smith, Jr., and Janet S. Smith, owners of Lot 87, and Betsy A. Thomas, owner of Lot 77, of Birchwood Park, Section B, to vacate certain lines, words, numbers and symbols on a plat more particularly described below; and

WHEREAS, notice that the Board of Supervisors of James City County would consider such application has been given pursuant to Section 15.1-482 and 15.1-431 of the Code of Virginia, 1950, as amended; and

WHEREAS, the Board of Supervisors did consider such application on the 17th day of August, 1987, pursuant to such notice and was of the opinion that such vacation would not result in any inconvenience and is in the interest of the public welfare.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia:

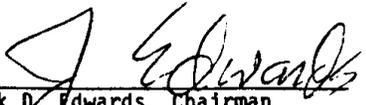
1. That a portion of a certain subdivision plat entitled, "Birchwood Park, Section B, Part 2, James City County, Virginia," dated August, 1959, and recorded in Plat Book 17, Page 39, be vacated so as to permit the recordation of a new plat that will serve to remove certain lines, words, numbers and symbols as more specifically set forth in said plat and thereby vacating that 50-foot right-of-way named Poplar Lane between Lots 77 and 87.
2. That a new plat entitled, "Survey Plat to Vacate and Abolish Poplar Lane and to Assign its Area to Lots 77 and 87, Birchwood Park, Section B, Part 2, James City County, Virginia," dated May 30, 1987, prepared by Douglas E. White, a Certified Land Surveyor, and approved by James City County, be put to record in the Clerk's Office of the Courthouse for the City of Williamsburg and County of James City, Virginia.

Ordinance to Vacate  
Page 2

- 3. That said vacation shall be conditioned upon the purchase of the right-of-way by Llew N. Smith, Jr., and Janet S. Smith, owners of Lot 87, and Betsy A. Thomas, owner of Lot 77, for the sum of \$575, such value being agreed upon by the applicants and James City County.

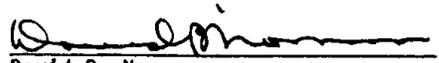
This ordinance shall be in full force and effect from the date of its adoption.

Ordinance to Vacate  
Page 3

  
 Jack D. Edwards, Chairman  
 Board of Supervisors

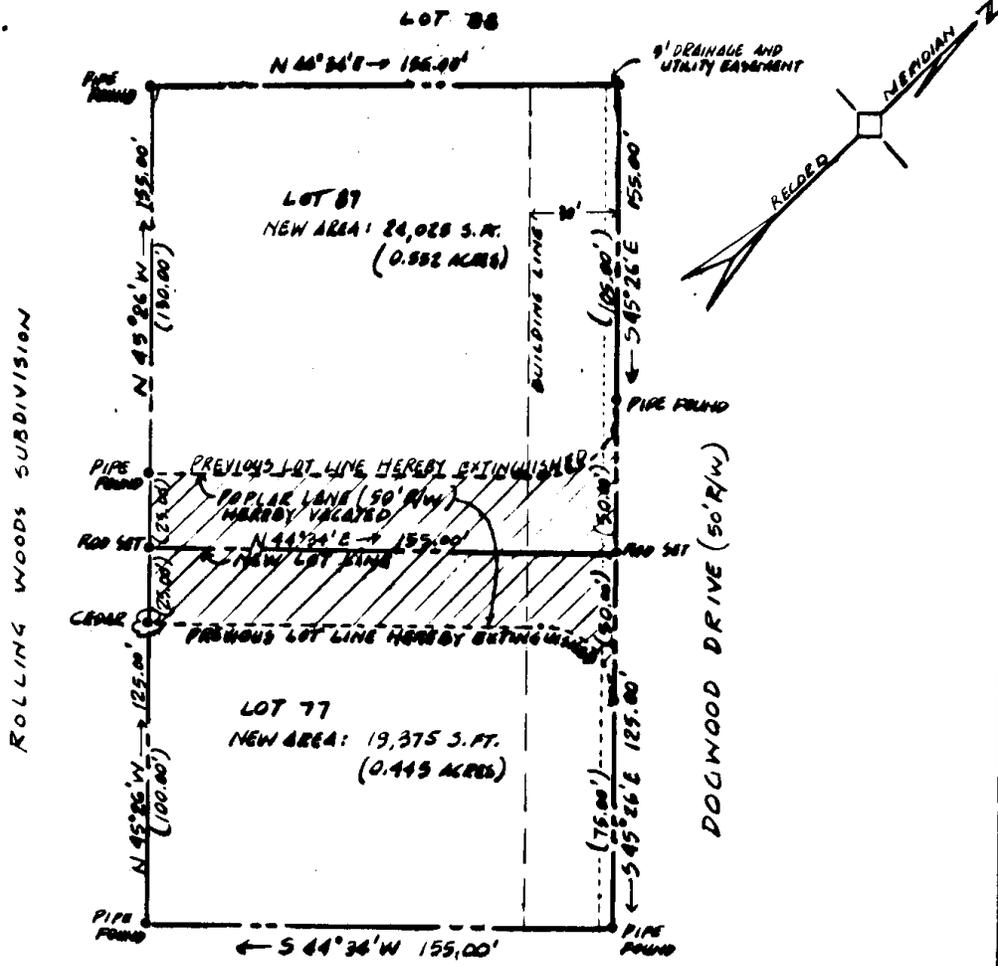
SUPERVISOR	VOTE
BROWN	AYE
TAYLOR	AYE
MAHONE	NAY
DEPUE	AYE
EDWARDS	AYE

ATTEST:

  
 David B. Norman  
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 5th day of October, 1987.

0187U



LOT 76

SOURCE OF TITLE:  
 LOT 87 CONVEYED TO LEW N. AND JANET S. SMITH, DEED BOOK 98, PAGE 599.  
 LOT 87 CONVEYED TO Betsy A. THOMAS, DEED BOOK 122, PAGE 12.

**CERTIFICATE OF APPROVAL:**  
 THIS RE-SUBDIVISION IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH EXISTING SUBDIVISION REGULATIONS AND MAY BE COMMITTED TO RECORD.

SIGNED: [Signature] DATE: 10/18/87  
PLANT FOR GOVERNMENTAL BODY

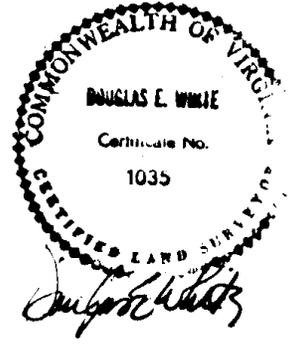
COMMONWEALTH OF VIRGINIA, CITY/COUNTY OF \_\_\_\_\_

I, Joy J. Worthington, CERTIFY THAT THE PERSONS WHOSE NAMES ARE SIGNED BELOW HAVE ACKNOWLEDGED THE SAME BEFORE ME THIS 27<sup>th</sup> DAY OF June 1987.

SIGNED: Joy J. Worthington, NOTARY PUBLIC.  
 MY COMMISSION EXPIRES 10-24-88.

**OWNERS' CONSENT:**  
 THIS RESUBDIVISION IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND SIRES OF THE UNDERSIGNED OWNERS.

(SIGNED) [Signature]  
 (SIGNED) [Signature]  
 (SIGNED) [Signature]



SURVEY PLAT TO VACATE AND ABOLISH POPLAR LANE AND TO ASSIGN ITS AREA TO LOTS 77 AND 87, BIRCHWOOD PARK, SECTION B, PART 2.