

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 3RD DAY OF FEBRUARY, NINETEEN HUNDRED NINETY-TWO, 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
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District
David L. Sisk, Roberts District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Leo P. Rogers, Assistant County Attorney

B. PRESENTATION

1. Historical Preservation Awards - Frederick Ladd Belden and Kevin P. Kelly

Mr. Edwards read a resolution of appreciation of service from the Historical Commission for the late Frederick L. Belden and presented it and a plaque to Phyllis Belden. Ms. Belden expressed her thanks to the Board.

Mr. Edwards read a resolution of appreciation for service and contributions from the Historical Commission to Kevin P. Kelly and presented it and a plaque to him. Mr. Kelly thanked the Board.

C. MINUTES - January 21, 1992

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

Mr. DePue made a motion to approve the minutes.

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

Mr. Edwards welcomed members of Boy Scout Troop 108 who were working on merit badges.

D. PUBLIC HEARINGS

1. Case No. SUP-46-91. James N. and Betty Jo Cook Family Subdivision

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Mr. and Mrs. James N. Cook had applied for a special use permit to allow a family subdivision of a 30-acre parcel of land into two parcels, one of which would be less than three acres in size, at 9001 Barnes Road, zoned A-1, General Agricultural, and further identified as Parcel (1-11) on James City County Tax Map No. (10-1).

Staff found that the proposed use is generally compatible with surrounding zoning and development and recommended approval of the application with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the resolution.

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

R E S O L U T I O NCASE NO. SUP-46-91. JAMES N. AND BETTY JO COOK

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit to allow a family subdivision with lot sizes less than 3 acres in size in the A-1, General Agricultural District, on property identified as Parcel (1-11) on James City County Real Estate Tax Map No. (10-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-46-91 for the development of a family subdivision as described herein with the following condition:

1. Final subdivision approval shall be secured within 18 months from the date of the issuance of SUP-46-91.
2. The area of the proposed lot directly west of Parcel No. (1-12) on James City County Real Estate Tax Map No. (10-1) shall remain in its natural vegetated state except for necessary driveway and utility crossings.

2. Case No. SUP-26-91. Jack L. Massie Contractor, Inc.

Mr. R. Patrick Friel, Senior Planner, stated that Mr. Gary M. Massie had applied on behalf of Jack L. Massie Contractor, Inc., for a special use permit to allow a mineral resource management area (borrow pit) on 219 acres zoned A-1, General Agricultural, located at 5781 Centerville Road, further identified as Parcel (1-79A) on James City County Tax Map No. (31-2) and Parcels (1-6), (1-6A) and (1-7) on James City County Tax Map No. (30-2).

Staff recommended denial of the special use permit for reasons of the industrial impact in an area primarily developed and designated residential and rural development; impact would produce noise, dust and traveling inconvenience in the area; this type of use would set a precedent for future development in this corridor; truck traffic would decrease on Centerville Road after other road improvements if there are no additional projects which generate industrial type traffic; and, proposal was inconsistent with development standards of the Comprehensive Plan.

Mr. Friel stated that the Planning Commission, by a 9-1 vote, recommended approval of the special use permit with 14 conditions listed in the resolution. Staff recommended addition of Condition 15, limiting special use permit to 7 years, if the Board chose approval.

Mr. Edwards opened the public hearing.

1. Alvin Anderson, Esq., representative of the Jack Massie family, responded to staff's recommendation of denial, and noted several benefits to the County as enhanced traffic safety by construction of new entrance, enhanced buffer, acquisition of right-of-way and improvement construction by private funds, and sales tax and business economically favorable.

Mr. Anderson requested that the Board approve the special use permit, as recommended by the Planning Commission.

The Board asked whether traffic impact was compared with residential traffic and why the entrance was changed.

Mr. Anderson responded that Centerville Road could handle the traffic impact when compared to residential, and the entrance was planned on the only frontage available on Centerville Road.

2. Mr. Elvin H. Jones, 6068 Centerville Road, spoke in favor of the project, which would provide safety with construction of new entrance and upgrade of Centerville Road.

Mr. Edwards closed the public hearing.

Mr. DePue suggested a postponement of Case No. Z-4-91 for further review.

Mr. Edwards declared a deferral of the case until the next Board of Supervisors' meeting on February 18, 1992.

3. Case No. SUP-37-91. Rite Way Taxi, Inc.

Mr. O. Marvin Sowers, Jr., stated that Ms. Ruth Lambert, on behalf of David L. Hertzler, had applied for a special use permit to allow a taxi business on a 2.53-acre site, zoned B-1, General Business, located on Merrimac Trail (Route 143) approximately one mile north of Route 199, further identified as Parcel (1-12) on James City County Tax Map No. (41-3).

In concurrence with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

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

Mr. DePue made a motion to approve Case No. SUP-34-91.

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

R E S O L U T I O N

CASE NO. SUP-37-91. RITE WAY TAXI, INC.

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following a public hearing on January 14, 1992, unanimously recommended approval of Case No. SUP-37-91 to permit a taxi cab business in the B-1, General Business District on property identified as Parcel (1-12) on James City County Real Estate Tax Map No. (41-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-37-91 as described herein with the following conditions:

1. If the project has not commenced within 12 months from the date of the issuance of this special use permit, it shall become void.
2. The number of taxicabs parked on the site shall be limited to 8.
3. The location and manner in which taxicabs will be parked shall be shown on the site plan and approved by the Director of Planning. Taxicabs shall not use the drive aisle located adjacent to the northern property line.
4. If additional lighting is proposed or required for the site, a lighting plan shall be provided and approved by the Director of Planning prior to final site plan approval.

5. The use of a loudspeaker system shall not be permitted for the taxicab business.
6. Taxicabs shall only use the southern entrance to enter and exit the property.

4. Case No. SUP-41-91. Williamsburg Farms, Inc.

Mr. O. Marvin Sowers, Jr., stated that Mr. Christopher M. Bergen, on behalf of Williamsburg Farms, Inc., had applied for a special use permit to allow for extension of time limit set on Case No. SUP-46-90, which was to allow an inn and restaurant on 292.37 acres, zoned R-8, Rural Residential, located at 2638 Lake Powell Road, further identified as Parcel (1-10) on James City County Tax Map No. (48-4). In review of the case, Mr. Sowers stated that the original special use permit, SUP-47-87, was approved in March 1988, with extensions granted in May 1990 (SUP-16-90) and January 1991 (SUP-46-90).

In concurrence with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

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

Mr. Sisk made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-41-91. WILLIAMSBURG FARMS, INC.

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, Virginia, voted unanimously to recommend approval of Case No. SUP-41-91, Williamsburg Farms, Inc., to permit the development of a Country Inn and Restaurant in the R-8, Rural Residential District on property identified as Parcel (1-10) on James City County Real Estate Tax Map No. (48-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-41-91. Williamsburg Farms, Inc., as described herein with the following conditions:

1. If construction has not begun within 24 months from the date of issuance of this permit, it shall become void. Construction shall be defined as clearing, grading, excavation and pouring of footings required for the project.
 2. The Winery entrance road, from Lake Powell Road (Route 617) to the Inn, shall be upgraded as necessary to support the projected average daily traffic in accordance with the Virginia Department of Transportation pavement structure design requirements. The required upgrading shall be approved by the County Engineer.
 3. Approximately 200 acres of this parcel shall be reserved, as shown on the proposed Land Use Plan, as "pasture land reserved for agricultural and recreational use," and recorded in a manner approved by the County Attorney.
 4. This special use permit shall be valid only for an Inn with a maximum of 66 rooms, including a restaurant, and swimming and tennis amenities.
 5. The total site area of the Inn and its associated swimming and tennis amenities shall not occupy more than 5 acres of the overall parcel.
 6. Prior to any approvals being granted under this permit, the well located within the proposed foundation walls shall be properly abandoned according to the James City County Health Department Standards.
5. Case No. SUP-42-91. Williamsburg-James City County Grove Elementary School

Mr. O. Marvin Sowers, Jr., stated that James City County had applied for a special use permit to allow the development of an elementary school, preschool facility, and related community recreation facilities, on 32.82 acres, zoned R-8, Rural Residential, located adjacent to Carter's Grove Plantation on Route 60 East, further identified as Parcel (1-17) on James City County Tax Map No. (59-2).

Mr. Sowers further stated that the project was generally consistent with the Comprehensive Plan and surrounding development and zoning.

In concurrence with staff, the Planning Commission, by a vote of 9-0 with 1 abstention, recommended approval of the special use permit with conditions listed in the resolution.

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

Mr. Edwards made a motion to change the word "Grove" to "Roberts District" in the title and to approve the resolution.

Mr. DePue commended staff, the School Board and School staff for their efforts in designing a joint use facility.

Mr. Edwards expressed appreciation for the effort of all who worked on the new concept of maximum use of public investment in major facilities.

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

R E S O L U T I O N

CASE NO. SUP-42-91. WILLIAMSBURG/JAMES CITY COUNTY

GROVE ELEMENTARY SCHOOL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, Virginia, voted 9-0 with 1 abstention to recommend approval of Case No. SUP-42-91. Williamsburg/James City County Grove Elementary School to permit the construction of an elementary school, preschool and community recreation facilities in the R-8, Rural Residential Zone on property identified as Parcel (1-17) on James City County Real Estate Tax Map No. (59-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-42-91. Williamsburg/James City County Grove Elementary School as described herein with the following conditions:

1. The School Board shall submit an emergency evacuation plan for review and approval by the James City County Fire Department at the time of site plan review.
2. A signal analysis for the intersection of the site entrance and Route 60 shall be submitted to the Planning Division for review and approval as part of the site plan submittal. The analysis shall also determine the necessity for a pedestrian activated signal and crosswalk. The recommendations of the approved analysis shall be incorporated in the site plan.
3. Five parking spaces shall be removed from the northeast corner of the front parking lot shown on the conceptual plan in order to improve on-site traffic flow.
4. A sidewalk shall be extended from the school to the Route 60 intersection.

6. Case No. Z-7-91. James City County Affordable Housing Subdivision

Mr. Sowers stated that Mr. Richard Hanson on behalf of James City County had applied to rezone approximately 28.33 acres from A-1, General Agriculture, to R-3, General Residential, located on the east side of Chickahominy Road, approximately 1,500 feet south of Chickahominy Road's intersection with Richmond Road in Toano, further identified as Parcel (1-51) on James City County Tax Map No. (12-4).

Mr. Sowers further stated that the proposed rezoning is consistent with the Comprehensive Plan and surrounding zoning and development.

In concurrence with staff, the Planning Commission unanimously recommended approval of the rezoning with conditions listed in the resolution.

The Board questioned the price per acre of land to be developed and why maximum density per lot was not used.

Mr. Anthony Conyers, Jr., Community Services Manager, responded that a combination of State and local funds would be used for the purchase, the cost per acre would be brought forward for Board approval when that figure had been determined, and the success of the project was relevant to the limitation of size of subdivision.

Mr. Edwards opened the public hearing.

1. Mr. R. M. Hazelwood, Toano, speaking as a taxpayer and developer, stated that the cost of the acreage should be determined by the amount paid when bought.

Mr. Edwards closed the public hearing.

Ms. Knudson made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. Z-7-91. JCC AFFORDABLE HOUSING SUBDIVISION

WHEREAS, Rick Hanson, Housing and Community Development Administrator, on behalf of James City County has applied to rezone County-owned property for the purpose of developing an affordable housing subdivision; and

WHEREAS, in accordance 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 on Zoning Case No. Z-7-91 for rezoning approximately 28.33 acres from A-1, General Agricultural, to R-3,

General Residential, with proffers, on property identified as a portion of Parcel (1-51) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission of James City County, on January 24, 1992 unanimously recommended approval of Case No. Z-7-91 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-7-91, and accepts the voluntary proffers.

7. Case No. Z0-11-91. Zoning Ordinance Amendment/Residential Cluster Development

Mr. Jeffrey J. Mihelich, Planner, stated that the proposed Residential Cluster Development Ordinance was reviewed by a three-person subcommittee of the Planning Commission, who recommended a number of significant changes which would implement many of the provisions of the updated Comprehensive Plan.

Mr. Mihelich explained slides showing cluster developments and stated that the Subcommittee had concurred with a change to page 12, Section 20-511 (a) of the Ordinance, changing "fifty percent" to "forty percent."

In concurrence with staff, the Planning Commission by a vote of 9-1 recommended approval of the ordinance.

Mr. Edwards opened the public hearing.

1. Ms. Jill Pope, Peninsula Housing and Builders Association, asked that this amendment be referred back to the Planning Commission and that the complete Zoning Ordinance be considered simultaneously.

Mr. Edwards closed the public hearing.

The Board expressed concerns with the Ordinance and staff responded that they would provide answers to those concerns.

Without objection, Mr. Edwards declared the Ordinance amendment deferred until the Board of Supervisors' meeting on February 18, 1992.

8. Case No. Z0-12-91. Zoning Ordinance Amendment/R-1, Limited Residential Districts; R-2, Limited Residential District; and R-3, General Residential District

Mr. Friel stated that the Residential District Subcommittee of the Planning Commission had proposed changes to R-1, Limited Residential; R-2, Limited Residential District; and, R-3, General Residential District.

In concurrence with the Subcommittee and staff, the Planning Commission, by a vote of 9-1, recommended approval to the Ordinance amendment and Zoning map.

Mr. Edwards opened the public hearing, and without Board objection, Mr. Edwards declared the Ordinance amendment deferred until the Board of Supervisors' meeting on February 18, 1992.

E. BOARD CONSIDERATIONS

1. Case No. Z0-8-91. Zoning Ordinance Amendment/ Timbering

Mr. John T. P. Horne, Manager, Development Management, stated that the proposed amendment would regulate timbering activities in excess of 2,500 square feet by requiring a special use permit in all zoning districts except A-1.

In concurrence with staff, the Planning Commission unanimously recommended approval of the Ordinance amendment.

Without Board objection, Mr. Edwards allowed citizens to speak to the issue.

1. Ms. Frances White, 2590 Greensprings Road, spoke in opposition to the proposed amendment. She emphasized that as an owner of farm land that was rezoned from A-1 to R-8, she would be required to pay the proposed County fee and the decision of whether an owner could harvest trees would be decided at a public hearing.

2. Mr. R. M. Hazelwood, Toano, stated that the proposed amendment had forced him to harvest approximately 180 acres of trees 10 years in advance of original plan.

3. Mr. William Apperson, Department of Forestry, stated that Department's recommendation for harvesting tree operation was to cut the middle and over aged trees to allow young trees to respond to sunlight and new environment, and to leave more of the same species in thinning.

Ms. Knudson made a motion to approve the Ordinance amendment.

Mr. Taylor made a motion to amend the Ordinance to include Agricultural and Forestal Districts with the A-1 exemption.

On a roll call, the vote on the amendment was: AYE: Taylor (1). NAY: DePue, Sisk, Knudson, Edwards (4).

Mr. DePue made a motion to defer the Ordinance amendment until the February 18, 1992, Board of Supervisors' meeting.

Mr. Edwards asked staff to work with the Department of Forestry to include Mr. Apperson's suggestions in the Ordinance.

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

2. Case Nos. Z0-11-91 and Z0-12-91. Comprehensive Zoning Revisions - Vested Rights

Mr. Sowers stated that in order to provide orderly transition from existing regulations to revised regulations, staff was requesting preliminary approval of the standard for achieving vested rights in anticipation of the adoption of the comprehensive revision of the Zoning Ordinance.

Staff recommended approval with conditions listed in the resolution.

Mr. Edwards made a motion to approve the resolution.

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

R E S O L U T I O N

ZONING ORDINANCE TRANSITION

WHEREAS, the Board of Supervisors is considering comprehensive revisions and amendments to sections of Chapter 20, Zoning, of the Code of the County of James City, Virginia, as described in case Nos. Z0-11-91 and Z0-12-91; and

WHEREAS, the orderly transition from the existing zoning regulations to revised regulations requires a transition period to effect changes in law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that vested rights under the regulations in effect prior to the adoption of the comprehensive revisions referenced above shall only be granted under one of the following situations:

1. Having preliminary approval of a subdivision or site plan on or before the date of adoption;
2. Having obtained a valid building permit on or before the date of adoption;
3. Having obtained Overall Development Plan approval of a residential cluster in accordance with the Zoning Ordinance and commencement of construction of a section of the cluster within one year from the date of adoption; or
4. Having special use permit approval and commencement of construction or use covered under that permit within one year from the date of adoption, or the term of the special use permit, whichever is greater.

3. House Bill 787/Virginia Conservation and Recreation Foundation and Fund

Mr. Horne stated that House Bill 787 established the Virginia Conservation and Recreation Foundation, with one of its major duties being the administration of a newly created Virginia Conservation and Recreation Fund. He noted one purpose of the fund would be to purchase fee simple title or other rights to property for protection or preservation of ecological, cultural, or historical resources lands for recreational purposes, but that no monies were appropriated for the fund.

Ms. Knudson made a motion to approve the resolution.

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

R E S O L U T I O N

RESOLUTION OF JAMES CITY COUNTY BOARD OF SUPERVISORS

WHEREAS, the continued development of the Commonwealth of Virginia is increasing the need to protect areas of ecological, cultural and historical importance and lands for recreation purposes; and

WHEREAS, the Commission of Population Growth and Development has recommended the establishment of a Virginia Conservation and Recreation Foundation and a Virginia Conservation and Recreation Fund to assist in the preservation of the above lands; and

WHEREAS, the Board of Supervisors of James City County wishes to support the establishment of the above Foundation and Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby encourages its own legislative representatives and all members of the Virginia General Assembly to support House Bill 787, which would establish the Virginia Conservation and Recreation Foundation and the Virginia Conservation and Recreation Fund.

F. PUBLIC COMMENT

1. Mr. R. M. Hazelwood, Toano, asked for a response to his letter to Mr. Thomas K. Norment, Jr., dated December 3, 1991, regarding the increase in cost of well drilling which increases the cost of housing, and that silt fencing does not serve its intended purpose.

G. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, expressed pleasure in the distribution of the 1991 Comprehensive Plan. He also recommended an executive session pursuant to Section 2.1-344(a)(1)(7) of the Code of Virginia to consider a personnel matter, appointments, and consult with Assistant County Attorney about pending litigation.

H. BOARD REQUESTS AND DIRECTIVES

Mr. Horne referred to a Reading File memorandum on Lake Powell Road Abandonment Procedure and asked for the Board's direction in the matter.

Mr. Edwards stated that action would be taken at the February 18, 1992, Board of Supervisors' meeting.

Mr. Edwards made a motion to convene into executive session as recommended above by the County Administrator and to have a 5-minute break at 10:00 p.m.

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

Mr. Edwards reconvened the Board into open session at 11:04 p.m.

Mr. Edwards made a motion to approve the executive session resolution.

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

R E S O L U T I O N

MEETING DATE: February 3, 1992

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

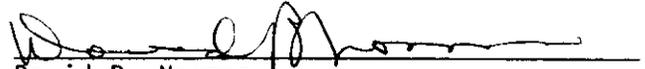
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies;

and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. Edwards made a motion to adjourn.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: (0). ABSENT: DePue.

The Board adjourned at 11:05 p.m.



David B. Norman
Clerk to the Board

2043w

PROFFER AGREEMENT

WHEREAS, James City County ("the Owner"), plans to develop certain real property in James City County, Virginia, more particularly described as follows:

All that certain parcel of land in Stonehouse District, James City County, Virginia containing 28.33 acres more or less being that same property shown as parcel "B" on that certain plat entitled "SUBDIVISION OF 62.39 ACRES STANDING IN THE NAME OF THE COUNTY OF JAMES CITY, JAMES CITY COUNTY, VIRGINIA", prepared by Lynn D. Evans, Certified Land Surveyor of The DeYoung-Johnson Group, Inc., dated December 18, 1991, which plat is recorded in the Clerks Office of the Circuit Court for the City of Williamsburg and the County of James City Plat Book 55, Page 47.

WHEREAS, the Owner has applied for a rezoning of the above described property ("Property") from the Agricultural District, A-1 ("Existing Zoning") to the General Residential District, R-3, of the James City County Code, ("Proposed Zoning"); and

WHEREAS, James City County, Virginia ("County") may be unwilling to rezone the Property, because the Proposed Zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning regulations.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulations provided in the Proposed Zoning, it shall meet and comply with all of the following conditions in the development of the Property:

1. The Property shall be developed as a cluster subdivision in accordance with James City County Code Chapter 20, Zoning Article IX, Residential Cluster Development, as amended and in effect on the date the master plan is submitted to the County.
2. The use of the Property shall be limited to:
 - a. Single-family dwellings, two-family dwellings. The total number of individual dwelling units shall not exceed 60.
 - b. Community recreation facilities.
 - c. Garages and other storage structures that are attached to dwellings. No detached accessory structures shall be permitted.

3. The subdivision plan shall be in general conformance with the conceptual plan submitted as part of the rezoning application as determined by the Director of Planning.
4. All individual dwelling units shall be sold at or below the Virginia Housing Development Authority's Home Mortgage Loan Program price limit, as adjusted (\$81,500 as of October, 1991). Fifty percent of the individual dwelling units will be sold at or below 80 percent of the VHDA price limit, as adjusted (\$65,200 as of October, 1991).
5. The footprint of single-family or two-family structures shall not exceed 1,700 square feet. Decks shall not be included in the footprint area of two-family structures. Clearing, in addition to building footprints, shall be limited to 3,000 square feet for each single-family or two-family structure. Clearing for driveways shall be minimized and not included in the 3,000-square foot limit.
6. The subdivision plan shall provide for a single entrance to the Property along State Route 631. The Property shall not have any private driveways entering State Route 631 (Chickahominy Road).
7. Except for walking trails and drainage facilities approved by the Planning Commission, areas shown as "Designated Open Space" on the conceptual plan submitted as part of this application shall be left in their natural vegetated state or landscaped in accordance with plans approved by the Development Review Committee. If grading, as approved by the Development Review Committee, of any part of such areas requires the removal of natural vegetation, such vegetation shall be replaced with appropriate screen planting approved by the Development Review Committee. Such designated open space areas shall be conveyed to the homeowners' association subject to a conservation easement to James City County. The homeowners' association shall be responsible for all maintenance and trash removal in such areas. Until conveyance of such areas to the association, the owner shall be responsible for such maintenance.
8. The subdivision plan shall provide a variable width (minimum 50-foot) scenic buffer adjacent to the right-of-way line of State Route 631. This buffer area shall be included as part of the designated open space referred to in Proffer 7.
9. All streets and roads shall be built to specifications of the Virginia Department of Transportation (VDOT) and shall be dedicated to the County.
10. A VDOT standard sidewalk shall be installed on the north side of the entrance road and northward along Chickahominy Road connecting to the middle school sidewalk as shown on the conceptual plan submitted as part of this application.

11. An unpaved walking trail 6 feet wide shall be installed to improve pedestrian access to the recreation area and also along Chickahominy Road south of the entrance road as shown on the conceptual plan submitted as part of this application.
12. The Owner shall provide appropriate documentation acceptable to the County Attorney demonstrating that a Homeowners' Association ("Association") has been legally established with authority to impose, raise and collect assessments against the owners of lots according to law. The Association shall have the ability to place a lien on every lot within the Property for unpaid assessments levied against that lot.
13. The owner shall install all road improvements to Chickahominy Road that may be required by VDOT to serve this development.

IN WITNESS WHEREOF, the Proffers were executed on the date first above-written.

County of James City, Virginia

By: David B. Norman
David B. Norman, Administrator

COMMONWEALTH OF VIRGINIA AT LARGE, TO-WIT:

The foregoing proffers were acknowledged before me this 29 day of January, 1992, by David B. Norman County Administrator of James City County.

Vicki Ann Sprigg
NOTARY PUBLIC

My commission expires: March 23, 1992

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