

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 21ST DAY OF AUGUST, NINETEEN HUNDRED NINETY-FIVE, AT 4:34 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Perry M. DePue, Chairman, Powhatan District
David L. Sisk, Vice Chairman, Roberts District

Jack D. Edwards, Berkeley District
Robert A. Magoon, Jr., Jamestown District
Stewart U. Taylor, Stonehouse District
Sanford B. Wanner, Assistant County Administrator
Frank M. Morton, III, County Attorney

B. WORK SESSIONS

1. Archaeological Condition Policy

Mr. John T. P. Home, Manager of Development Management, introduced members of the Planning Commission and the Historical Commission. He introduced Mr. Gary Pleskac, Planner, who outlined the current policy, presented points of argument and flexibility of the policy, and recommended that no changes be made at the present time.

After joint discussion, Board and staff determined that the Archaeological Condition Policy would be reviewed during the Comprehensive Plan update.

2. Enterprise Zones

Mr. Douglas Powell, Assistant Manager of Community Services and Mr. Keith Taylor, Economic Development Director, presented an overview of purpose, eligibility criteria, State incentives, local incentives, and interagency cooperation and community cooperation.

Board and staff discussion followed with agreement to return to the work session after the regular Board of Supervisors' meeting at 7:00 p.m.

Mr. DePue declared a recess of the work session until after the regular Board meeting, at 5:47 p.m.

Mr. DePue reconvened the Board at 7:10 p.m.

C. PRESENTATIONS

1. 50th Anniversary - End of World War II

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION**50TH ANNIVERSARY - END OF WORLD WAR II**

- WHEREAS, August 14, 1995, marks the 50th Anniversary of the end of World War II; and
- WHEREAS, this anniversary is a reminder of the vigilance and preparedness which our Nation must maintain; and
- WHEREAS, citizens owe a great debt to members of the Armed Forces who lost their lives, and to those who faced extreme peril and hardship in performing their duties to the ultimate victory; and
- WHEREAS, it is important to remind our citizens, particularly our children, of the price of freedom.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes August 14, 1995, as the 50th Anniversary of the end of World War II and urges County citizens to honor the many sacrifices made by the veterans and their families.
- BE IT FURTHER RESOLVED that each citizen is called upon to remember that freedom should never be taken for granted.

Mr. DePue recognized and assembled young citizens and veterans representing several organizations from the audience.

Mr. Sisk presented resolutions to Jaime Stewart, senior class president of Lafayette High School; Joey Carr, Boy Scout Troop 180; Ricky Stone, Boy Scout Troop 103; and, Darron Dandridge, Boy Scout Troop 195.

Mr. Sisk read the resolution and a brief statement about each veteran. Mr. DePue presented a resolution to the following: Pearl Harbor Survivors Association - Everett Johnston, United States Navy; The American Legion - Willard Gilley, United States Army; The Marine Corps League - George Bartlett, United States Marine Corps; The Disabled American Veterans - Warren Tignor, United States Navy; Virginia National Guard - John Hodges, Army National Guard; and, Veterans of Foreign Wars - Jack Ferrell, United States Navy.

Mr. DePue asked Ricky Stone, Troop 103, to lead the gathering in the Pledge of Allegiance.

Mr. DePue declared a brief recess at 7:22 p.m.

Mr. DePue reconvened into open session at 7:24 p.m.

2. **Planning Commission Annual Report. Alexander Kuras**

Mr. Alexander Kuras, Chairman of the Planning Commission, reported activities and projects for 1995, gave a brief update on Planning Commission members, and thanked the Board for its support and trust.

On behalf of the Board, Mr. DePue expressed appreciation to the Planning Commission for its efforts.

- D. **MINUTES -** August 5, 1995 - Strategic Management Planning
 August 7, 1995 - Regular Meeting
 August 8, 1995 - Tour of Montgomery County Regional Composting Facility, Silver Springs, Maryland

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

Mr. Edwards made a motion to approve the three sets of minutes.

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

E. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Assistant Resident Engineer, Virginia Department of Transportation, was available for questions.

Mr. DePue asked when the first section of Route 199 to James City County line would be completed.

Mr. Sisk asked for a review of deterioration of painting and striping on the roads throughout the County.

Mr. Magoon asked for a status of the turnaround on Lake Powell Road and acquisition of right-of-way.

Mr. Magoon asked for investigation of a stop sign posted on Chestnut Hill Court as inconsistent with other such signs in the area.

Board of Supervisors', James City County
Statement - Bernard M. Farmer

Mr. Jack Edwards read the following statement:

"Two months ago, the Virginia Board of Housing and Community Development received allegations of gross negligence and continued incompetence against Bernard M. Farmer, Director of Code Compliance for James City County. After a hearing and the consideration of many documents and letters, the Board of Housing and Community Development reaffirmed Mr. Farmer's certification and competence. We are pleased with that quick and unanimous decision.

The Director of Code Compliance has a difficult job. He is responsible for ensuring compliance with both the building code and land use laws. He is caught between interested persons who may or may not agree with his decisions. Faced with making thousands of decisions, some of which are in dispute, any person is like to make some mistakes. None of us is perfect; each of us can improve.

Mr. Farmer has made some decisions that have been overturned on appeal. But the State body charged with certification has reaffirmed his competence and ability to do his job, and we concur in that finding. We recognize the integrity he has and the high quality of the job he does day in and day out.

We deplore the bitter tenor of the allegations and attacks upon Mr. Farmer in this case. Surely in this community we can have serious disagreements without attacking individuals personally.

The Board of Supervisors is pleased that this case has ended. We pledge to work with all James City County employees, including Mr. Farmer, to ensure that every County employee contributes to the County goal of providing high quality services for the public."

Mr. Edwards made a motion to approve the Board statement.

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

F. CONSENT CALENDAR

Mr. DePue asked if a Board member wanted to remove any item from the Consent Calendar.

Mr. DePue made a motion to approve the Consent Calendar.

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

1. Appropriation - Office of Community Services

RESOLUTION

APPROPRIATION - OFFICE OF COMMUNITY SERVICES

WHEREAS, the limited-term position of Teacher/Job Developer is funded in the approved FY 96 Social Services budget through a Federal JOBS grant; and

WHEREAS, the limited-term position of Teacher/Job Developer is to be transferred to the Office of Community Services; and

WHEREAS, the Office of Community Services will generate the revenue to pay the salary of the Teacher/Job Developer and support services by billing Social Services and other agencies for services rendered to JOBS clients.

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

Revenues:

Charges for Service \$30,000

Expenditures:

Office of Community Services \$30,000

This resolution shall be effective as of July 1, 1995.

2. Tire Recycling Service Agreement - Virginia Peninsulas Public Service Authority

RESOLUTION

TIRE RECYCLING SERVICE AGREEMENT - VPPSA

WHEREAS, James City County desires to participate in a tire recycling program through an agreement with the Virginia Peninsulas Public Service Authority (VPPSA); and

WHEREAS, a Tire Recycling Service Agreement has been developed with VPPSA for such services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the Tire Recycling Service Agreement and authorizes the County Administrator to sign the agreement on its behalf.

G. PUBLIC HEARING

1. Case No. Z-8-95, R. M. Hazelwood, Jr.

Mr. Mark J. Bittner, Planner, stated this case was deferred at the August 7, 1995, Board of Supervisors' meeting to allow the applicant to submit proffers that included the County Archaeological Condition Policy. He explained that two sets of signed proffers had just been received, one of which contained the Archaeological Condition Policy. He reiterated that Mr. Thomas Dow had applied to rezone approximately 86 acres from A-1, General Agricultural, to R-2, General Residential, for a subdivision of approximately 200 single-family home lots, located at 3376 Old Stage Road, further identified as Parcel No. (1-4) on James City County Real Estate Tax Map No. (12-2).

In concurrence with staff, the Planning Commission, by a vote of 4-1, recommended denial of the rezoning because proffers did not include the County's Archaeological Condition Policy.

Mr. DePue opened the public hearing.

1. Mr. Thomas Dow, applicant, stated the proffers were submitted and the subdivision would be of high quality.

Mr. DePue closed the public hearing.

Board discussion ensued with agreement expressed for need of archaeological condition policy on acreage where buildings were once located perhaps as long ago as the 1600's; acreage had been farmed for over a hundred years; citizens should give input on what values and issues are important, and the window of time for historical preservation; and, future discussion of public sharing the cost when public benefitted.

Mr. DePue made a motion to approve Case Z-8-95 with proffers that include the Phase I study.

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

RESOLUTION

CASE NO. Z-8-95, R. M. HAZELWOOD, JR.

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-8-95 for rezoning approximately 86 acres from A-1 to R-2, identified as Parcel No. (1-4) on James City County Real Estate Tax Map No. (12-2); and

WHEREAS, the Planning Commission of James City County, recommended denial of Case No. Z-8-95 by a vote of 4 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-8-95 and accepts the voluntary proffers.

H. BOARD CONSIDERATIONS

1. Lake Powell Pedestrian/Bicycle Bridge

Mr. John T. P. Horne, Manager of Development Management, stated that the total budget of \$47,340 was higher than estimated \$41,000 due to foundation design revision of installation on pads necessitated by weak wet soils in the dam, and right-of-way issues.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

The Board discussed the age of the spillway and concern of possible County liability; that the bridge was an asset to the community and could be moved when/if no longer needed at the Lake Powell spillway.

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

RESOLUTION

LAKE POWELL PEDESTRIAN/BICYCLE BRIDGE

WHEREAS, a pedestrian/bicycle bridge spanning the Lake Powell spillway will promote public safety and recreation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes appropriation of \$47,340 from capital contingency for this project.

2. Avalon/Utility Connection Policy

Mr. Horne stated that the special use permit amendment was deferred at the July 17, 1995, Board of Supervisors' meeting to prepare for a work session governing connections to water and sewer lines outside the Primary Service Area (PSA). Staff determined three main principles: 1) setting the PSA boundary only in the context of a full Comprehensive Plan review when ramifications could be discussed and debated by community at large; 2) preservation of the PSA boundary and its effectiveness once set; and 3) growth management decisions must drive utility policy (locations and connections) and not vice versa.

He stated Avalon had three existing buildings that had housed functions of the main use (a retreat), and those buildings, defined as main buildings, would be allowed three connections.

Mr. Horne explained that that interpretation had not been discussed previously because no other request with multiple structures or buildings on a site had ever been received. Staff anticipated a withdrawal of the application with the principal uses interpretation of the zoning ordinance.

Mr. Morton stated the interpretation had been discussed and agreed upon with the Avalon representative, Joseph Phillips.

Mr. DePue declared no action was necessary by the Board.

I. PUBLIC COMMENT

1. Mr. George W. Richardson, 3227 Chickahominy Road, Toano, questioned the requirement of setback of 300 feet and 150 feet across front of acreage and asked for Board assistance.

Mr. DePue asked for a staff report to Mr. Richardson and to the Board. He invited Mr. Richardson to attend the September 5, 1995, Board of Supervisors' meeting.

2. The Reverend Ned Cary, Morning Star Baptist Church, questioned the commercial/industrial zoning of Morning Star Baptist Church on Route 60 East, and requested a streetlight be located over the driveway entrance.

Mr. DePue asked staff to follow-up on Mr. Cary's request for a streetlight at Morning Star Baptist Church on Route 60 East.

3. Mr. David Brown, 231 Nelson Street, Yorktown, criticized County staff and record keeping in the Code Compliance department of an electrical inspection performed at his Bush Neck farm in July 1991. He asked for a letter of apology and change of staff's attitude toward listening to complaints.

Mr. DePue asked Mr. Brown to wait for State response on the requirements placed on the manufactured home being used as a farm structure. Mr. DePue asked staff to further research the records regarding Mr. Brown's allegations and electrical inspection in 1991.

4. Mr. H. D. Tooley, 8908 Hicks Island Road, spoke in opposition to Code Compliance staff statements of violations to the County Code and entering his property to make inspections.

5. Mr. Ray Basley, 4060 South Riverside Drive, Lanexa, spoke in support of County asking for legislative support for a beverage container disposal law or other alternatives to highway littering issue.

Mr. DePue responded that issue would be discussed during the legislative program process.

6. Ms. Linda Tiexeira, 904 Wood Duck Commons, spoke of her opinion that Code Compliance issues were still unresolved, and that problems exist in conduct of County business.

7. Mr. Robert Jones, 2983 John Tyler Highway, questioned the definition of main building as interpreted by staff in the Avalon case and asserted the citizens want fairness.

8. Mr. Ed Oyer, 139 Indian Circle, adamantly confirmed his opposition to the composting facility for environmental reasons after making the tour of the Silver Springs, Maryland facility.

Mr. DePue expressed appreciation to Mr. Oyer for time and effort spent traveling to the Maryland facility.

9. Mr. R. M. Hazelwood, Toano, spoke in opposition to the composting facility and the beverage container deposit law. He complimented citizens who volunteer to collect trash on the roadways, and commended James City County for its excellent recycling system.

10. Mr. James Watson, 2702 James Tyler Highway, asked for definition of the Primary Service Area.

Mr. DePue stated the Primary Service Area was a boundary outlined in the County to discourage growth beyond that boundary. He invited Mr. Watson and other citizens to attend the upcoming citizen input hearings on the Comprehensive Plan review.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Sanford B. Wanner, Assistant County Administrator, recommended that the Board go into Executive Session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, appointment of individuals to County boards and/or commissions.

Mr. DePue declared a five-minute break at 9:28 p.m.

Mr. DePue reconvened the Board at 9:35 p.m. and asked for continuation of the Enterprise Zones Work Session.

Mr. Wanner asked the Board to endorse staff investment of time and resources to complete the application with no guarantee of State approval. He advised the Board that preparation of the application would require moving the starting date of the Comprehensive Plan review from September to October.

Mr. Powell stated a public hearing would be required before the application was due October 18, 1995. He indicated the State decision would be made in November with an effective date of January, 1996; Office of Housing and Community Development makes recommendation to the Governor who designates the Enterprise Zones.

After discussion, staff asked that the Board submit individual input and clarifiers during the next week or so.

Mr. Magoon suggested a few: clarify parameters, types of industries - large and/or small, and include community businesses.

Mr. Anthony Conyers, Jr., Manager of Community Services, requested that Board members relate concerns to staff as soon as possible.

Mr. DePue recessed the Board for a James City Service Authority Board of Directors' meeting at 9:50 p.m.

Mr. DePue reconvened the Board at 9:57 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Magoon requested that John McDonald assist with the enterprise zone application in regard to incentives.

Mr. DePue made a motion to go into executive session as recommended by the Assistant County Administrator at 9:59 p.m.

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

Mr. DePue reconvened the Board at 10:04 p.m.

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

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

RESOLUTION

MEETING DATE: AUGUST 21, 1995

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. DePue made a motion to approve the Community Criminal Justice Board resolution and appoint Wilson F. Skinner, Jr., or his designee, Robert C. Key, and Jonathan Weiss to the Community Criminal Justice Board for Colonial Community Corrections for a 3-year term, term expiring August 21, 1998, respectively.

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

RESOLUTION**APPOINTMENT OF COMMUNITY CRIMINAL JUSTICE BOARD MEMBERS**

WHEREAS, the Community Criminal Justice Board for the Colonial Community Corrections has been created; and

WHEREAS, § 53.1-183 of the Code of Virginia, requires appointments to CCJB's be made by local governing bodies; and

WHEREAS, James City County is required to appoint three members to serve a three-year term.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the Chief Magistrate of the 9th Judicial Circuit or designee, the Chief of Police of James City County, and the Director of Clinical Services of the Colonial Services Board to three year terms as the James City County members.

Mr. Edwards made a motion to reappoint James Dorsey, Kevin Kelly, and Nick Lucchetti to the Historical Commission for a 3-year term, term expiring August 31, 1998, respectively.

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

Mr. DePue made a motion to recess the Board until 5:00 p.m., Tuesday, September 5, 1995, for a work session.

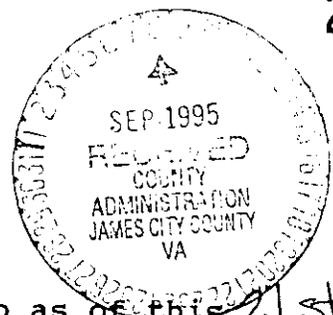
The Board recessed at 10:06 p.m.



Sanford B. Wanner
Deputy Clerk to the Board

082195bs.min

TIRE RECYCLING
SERVICE AGREEMENT



This SERVICE AGREEMENT is entered into as of this 21st day of August, 1995 between the County of James City (the "Community") and the Virginia Peninsulas Public Service Authority, a political subdivision of the Commonwealth of Virginia formed pursuant to the Virginia Water and Sewer Authority Act ("VPPSA").

RECITAL

The Community is a member jurisdiction of VPPSA. VPPSA has contracted with U.S. Tire Recycling, L.P. ("U.S. Tire") for tire recycling services on the terms set forth in the Agreement between VPPSA and U.S. Tire, a copy of which is attached hereto as Exhibit A (the "U.S. Tire Agreement"). The Community desires to contract with VPPSA for such tire recycling services.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **Services.** U.S. Tire shall provide directly to the Community the services described in the U.S. Tire Agreement on the terms set forth therein. The Community shall designate to VPPSA the site for U.S. Tire to locate the trailer for tire drop-off and shall notify VPPSA when the trailer is full. VPPSA promptly shall notify U.S. Tire that the trailer is full.

2. **Community Responsibilities.** The Community shall perform and discharge all duties and responsibilities of the

Community under the U.S. Tire Agreement in accordance with the terms thereof.

3. Billing. The Community will pay to VPPSA all costs charged to VPPSA by U.S. Tire pursuant to the U.S. Tire Agreement for services provided to the Community. U.S. Tire shall bill VPPSA directly for services provided to the Community hereunder. VPPSA shall in turn bill the Community for such services. Invoices from VPPSA shall be payable within 20 days of receipt.

4. Term. This Agreement shall have a term concurrent with the term of the U.S. Tire Agreement. Upon the termination of the U.S. Tire Agreement, this Agreement shall automatically terminate. Upon termination, the Community shall remain liable to pay VPPSA for services rendered under this Agreement before the date of termination.

IN WITNESS WHEREOF, this Agreement having been duly authorized by all necessary action, the parties hereto set their hands.

THE COUNTY OF JAMES CITY

By: [Signature]
Title: County Administrator

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY

By: [Signature]
Executive Director

011316

PROFFERS

THESE PROFFERS are made as of this 24th day of July, 1995, by Thomas A. Dow "Applicant" and Robert M. Hazelwood together with its successors and assigns, the "Owner".

RECITALS

A. Applicant is the contract purchaser and Owner is seller of a certain tract or parcel of land known as the Hazelwood Tract (the "Property") containing approximately 86 acres located in James City County, Virginia, and identified in Rezoning case #Z-8-95. In regards to these Proffers, the terms "Applicant" and "Owner" shall be interchangeable and binding on both parties.

B. Applicant and Owner have applied for a rezoning of the Property from A-1, Agricultural District, to R-2, General Residential District, with proffers. Said rezoning is case #Z-8-95.

C. Applicant and Owner desire to offer to James City County ("County") certain conditions on the development of the Property not generally applicable to land zoned R-2, General Residential District and the Special Commissioners desire to consent to said proffers.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.1-491.2:1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Zoning Ordinance, Owner agrees that the development of the Property shall meet and comply with all of the following

1-6

conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Additional On-Site Improvements. Prior to any final subdivision plan approval of the Property, the Owner of the Property shall construct, or have constructed, to Virginia Department of Transportation ("VDOT") required standards, right and/or left turn lane(s) from Old Stage Road to the Property and a right turn lane from the Property onto Old Stage Road provided such turn lanes are determined to be necessary by VDOT. The turn lanes shall be constructed on or before the time they are required by VDOT.

2. Sewer and Water Connections. The Owner proffers that he shall be responsible to design and build the public sewer and public water lines to the Property such that each home in the subdivision shall have sufficient utilities to meet peak demand. Adequate domestic and fire flows shall be required and provided by the owner.

3. The Owner, his successors and/or assigns shall cause to be built the following recreational facilities:

A) Basketball court 84' x 50' with poles and baskets. The court shall be constructed of concrete or asphalt and shall include striping and poles. The basketball court shall be constructed prior to final approval being granted to the 90th lot within the subdivision.

B) Hiking - Jogging trail, a trail 5' - 6' wide of soft surface such as rock, gravel, sand or wood chips shall be provided generally around the perimeter of the Property. Appropriate stream crossings shall be placed wherever necessary. The intent of this trail is to provide a natural trail through the woodland areas, disturbing the natural setting only as absolutely necessary. If said construction causes areas of erosion, the addition of appropriate erosion control shall be required. The trail shall be shown on the subdivision plans.

C) Children's playground not less than 1.5 acres, complete with equipment shall be built by the Owner but shall be maintained by the Homeowners Association. The playground shall be constructed prior to final approval being granted for the 60th lot within the subdivision. The playground shall include, but not be limited to, one swing set, one see-saw and one set of monkey bars.

4. No home shall be constructed closer than 200' to the existing Interstate 64 right-of-way or the proposed Stonehouse Interchange right-of-way. These setbacks shall be shown on the subdivision plan for the Property.

5. Only one entrance shall be provided to and from Old Stage Road unless otherwise required by VDOT.

6. The "Archaeological Condition Policy", (Exhibit A) which is attached to and made a part of these Proffers, shall be adhered to by Owner prior to development.

The undersigned consent to the foregoing proffers.

Thomas A. Dow

Thomas A. Dow, Applicant

Robert M. Hazelwood, Jr.

Robert M. Hazelwood, Jr., Owner

STATE OF VIRGINIA,

City of Newport News, to-wit:

The foregoing instrument was acknowledged before me on this 17th
August 1995, by Thomas A. Dow as applicant.

Patricia J. Sutto

Notary Public

My Commissions expires: 12/31/95

STATE OF VIRGINIA,

County of James City
~~City of Newport News~~, to-wit:

The foregoing instrument was acknowledged before me on this 17th
day of August, 1995, by Robert M. Hazelwood, Jr., as owner.

Susan C. Kohlman

Notary Public

My Commission expires: 6/30/96

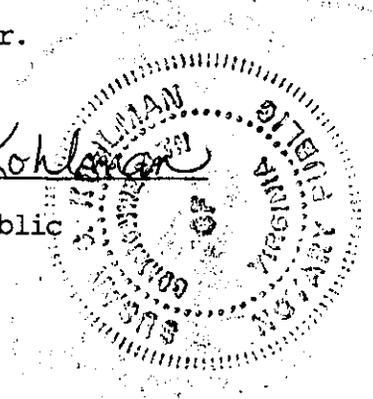


EXHIBIT "A"

Archaeological Condition Policy

12/21/92

It is the goal of the Development Management Department to identify and protect significant archaeological sites in the County. To achieve this goal a condition has been developed and staff will recommend it be added to all special use permit cases and rezonings where it appears significant archaeological potential exists.

A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

The purpose of this policy is to explain how the condition is to be interpreted. The following procedures and guidelines will be followed:

1. *A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. Since the County lacks the expertise to review such documents, the County will send the studies to the Virginia Division of Historic Resources (VDHR) for review. VDHR's responsibility is to determine if the study meets the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. This is the preferred option for review of these studies.*

The developer may request staff to hire an independent archaeologist to review the study. The Director of Planning shall select the independent archaeologist. The developer will pay the full costs of this review. It would be the independent archaeologist's responsibility to determine if the study meets the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management

Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. The developer will take full risk in this matter. If at some point in the future the developer needs to go before the VDHR, and comments are made regarding previous studies, it will be the County's position that all VDHR issues need to be resolved. The County's archaeologist will not participate in this process.

2. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition and shall include, at a minimum, the extent of impact to the area, a description of the probable boundaries and recommendations for treatment of the area. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline #1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase II study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preserving the site in a manner acceptable to the Director of Planning.

3. If a Phase II study is undertaken such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. The study will be reviewed as outlined in Guideline #1.

The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition. If there is a question as to whether or not sites are impacted by development, staff will examine these sites and determine if a treatment plan is necessary. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline #1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase III study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preservation of the site in a manner acceptable to the Director of Planning.

4. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. The developer shall pursue the nomination of eligible sites. However, submission of the application to initiate this process will fully satisfy the condition.

5. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. The study will be reviewed as outlined in Guideline #1.

6. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

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VIRGINIA: City of Williamsburg and County of James City, to Wit:

In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City

the 23 day of Aug, 1995. This [Signature] was presented with certificate annexed and admitted to record at 12:33 o'clock

Teste: Helene S. Ward, Clerk by [Signature]