

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF OCTOBER, NINETEEN HUNDRED NINETY-SIX, AT 5:04 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

David L. Sisk, Chairman, Roberts District
Robert A. Magoon, Jr., Vice Chairman, Jamestown District

Jack D. Edwards, Berkeley District
Perry M. DePue, Powhatan District
Stewart U. Taylor, Stonehouse District (Absent)
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. WORK SESSION

1. Warhill Discussion

Mr. Sisk called the work session to order. Mr. Taylor arrived at 5:06 p.m.

Mr. Sisk welcomed Mr. Anthony Conyers, Jr., Manager, Community Services, who briefly detailed a proposal to use a certain portion of the Warhill property for recreational uses and a process to decide for uses for the remainder of the property.

Discussion by Board and staff followed. The Board authorized staff to begin planning for sports facilities on the property and potential uses.

Mr. Sanford B. Wanner, County Administrator, recommended the Board go into executive session pursuant to Section 2.1-344(A)(7) of the Code of Virginia to consider acquisition of a parcel of property.

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

Mr. Sisk reconvened the Board into open session at 6:25 p.m.

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

RESOLUTION

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. Sisk recessed the Board for dinner at 6:26 p.m.

Mr. Sisk reconvened the Board at 7:02 p.m.

**C. MINUTES - October 2, 1996 - Special Meeting
October 8, 1996 - Regular Meeting**

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

Mr. Sisk made a motion to approve the two sets of minutes.

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

D. HIGHWAY MATTERS

Mr. Jim Brewer, Assistant Resident Engineer, Virginia Department of Transportation (VDOT), stated that Route 199 construction was on schedule.

Mr. Sisk requested a street sign at Howard Drive and Pocahontas Trail.

Mr. Wanner responded that staff had already ordered the sign.

E. CONSENT CALENDAR

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

Mr. DePue asked that Item No. 5 be removed.

Mr. Sisk made a motion to approve Items 1 through 4 on the Consent Calendar.

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

1. Temporary Appointment of Zoning Administrator

RESOLUTION

TEMPORARY APPOINTMENT OF ZONING ADMINISTRATOR

WHEREAS, pursuant to Section 20-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator; and

WHEREAS, a temporary appointment is necessary beginning November 1, 1996, until the position of Director of Code Compliance is filled and occupied; and

WHEREAS, the Director of Development Management recommends that Allen J. Murphy, Jr., be temporarily appointed in this position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Allen J. Murphy, Jr., as Zoning Administrator for the interim period specified herein.

2. Additional Allocation - Social Services Division

RESOLUTION

APPROPRIATION TO THE DIVISION OF SOCIAL SERVICES

WHEREAS, the State Department of Social Services has provided additional funding for Title IV-E Foster Care; and

WHEREAS, the number of foster children has significantly increased and the need to support the program has reached critical levels.

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

Revenues:

From the Commonwealth \$55,215

Expenditures:

Salaries	\$33,384
Fringes	7,188
Contractual Services	3,000
Furniture and Equipment	7,500
Materials and Supplies	3,143
Staff Development	<u>1,000</u>

Total \$55,215

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, establishes the following positions: Eligibility Worker - Social Services (Temporary); Social Services Case Aide - Social Services (Temporary); and Account Clerk II - Social Services (Temporary Half-Time).

3. Dedication of Streets in Governor's Land at Two Rivers: Horne's Lake and Parkside

RESOLUTION

DEDICATION OF STREETS IN GOVERNOR'S LAND AT TWO RIVERS:

HORNE'S LAKE AND PARKSIDE

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

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

4. Trash and Grass Lien

RESOLUTION

CODE VIOLATION LIEN

WHEREAS, the Director of Code Compliance has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Section 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Gertrude Kostoulas, J. Burlson, and D. Quackenbush
5849 Old Hunt Club Road
Elkridge, MD 21227

DESCRIPTION: 3049 North Riverside Drive
TAX MAP NO.: (19-1)(02-0-0068)
James City County, Virginia

AMOUNT DUE: \$190.00

5. Lease of Digital Orthophotography

Mr. DePue asked for clarification of orthophotography and whether costs could be recovered.

Mr. Richard Sebastian, Director of Real Estate, stated that orthophotography gave a clearer image of the curvature of the earth and data would be available from the company holding the lease agreement.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION**LEASE OF DIGITAL ORTHOPHOTOGRAPHY**

WHEREAS, the Office of Real Estate Assessments desires to obtain current digital orthophotography on Compact Disk; and

WHEREAS, digital orthophotography incorporated into the County's Geographic Information System (GIS) will provide the County with updated and accurate image base mapping system for planning and analysis use by all departments; and

WHEREAS, the Offices of Real Estate Assessments and Purchasing has sought information for competitive procurement with response from five vendors confirming that this product is only available through lease agreement from one source, VARGIS, LLC; and

WHEREAS, VARGIS, LLC., has offered a six-year lease agreement to include maintenance of the data with 20 percent update in the third and fifth year, at a cost of \$28,000 per year for a total of six years, or a total of \$168,000.00; and

WHEREAS, funds have been appropriated for this project within the Capital Improvements Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs Sanford B. Wanner, County Administrator, to execute the lease agreement with VARGIS, LLC., for the sum of \$168,000.00.

F. PUBLIC HEARINGS

1. Case Nos. MP-2-95 and Z-21-95. Warhill, T.M.B. Service Corporation (Continued from October 8, 1996)

Mr. Gary A. Pleskac, Planner, stated that Mr. Vernon Geddy, III, had applied on behalf of TMB Service Corporation to rezone 67.7 acres north of the Virginia Power easement from B-1, General Business (34 acres) and M-1, Limited Business/Industrial (33.7 acres), to Planned Unit Development Commercial (PUD-C), with proffers, located generally southwest of Richmond Road/Centerville Road intersection, further identified as Parcel No. (1-57) on James City County Real Estate Tax Map No. (32-2).

Mr. Pleskac described the project, the proposed Master Plan, and stated that staff determined that the zoning and development was generally compatible with surrounding zoning and development; architectural review and outparcel design would be determined by the Director of Planning; revised traffic study reflecting proposed zoning and development had been reviewed by the Virginia Department of Transportation; and, the proposal was generally consistent with the Comprehensive Plan.

Without objection from Board members, Mr. DePue requested that Planning staff confer with the Board when the conceptual plan was received for Warhill from The Mission Bank, Case Nos. MP-2-95 and Z-21-95.

Mr. Sisk opened the public hearing.

1. Mr. Vernon Geddy, III, on behalf of TMB Service Corporation, asked the Board to favorably consider the application as applicant had proffered considerable controls to the County for quality development.

Mr. Sisk closed the public hearing.

Mr. DePue made a motion to approve Case Nos. MP-2-95 and Z-21-95.

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

RESOLUTION

CASE NO. Z-21-95. WARHILL, T. M. B. SERVICE CORPORATION

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-21-95 for rezoning approximately 67.7 acres of land from B-1, General Business District, and M-1, Limited Business/Industrial District with proffers, to PUD-C, Planned Unit Development-Commercial, with proffers and a Master Plan prepared by AES Consulting Engineers and dated June 1996, and revised July 1996, and is further identified as Parcel No. (1-57) on James City County Real Estate Tax Map No. (32-2); and

WHEREAS, the Planning Commission of James City County recommended approval of Zoning Case No. Z-21-95, by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-21-95, with the attached proffers.

Mr. Sisk stated that the public hearings would be opened for the telecommunications towers but Board consensus was that action would not be taken until regional concerns were addressed in the proposed master plan.

2. Case No. SUP-11-96. Virginia Metronet, Inc.

Mr. Pleskac stated that Mr. M. E. Gibson, Jr., had applied on behalf of Virginia Metronet, Inc., d/b/a 360 Communications Company (formerly Sprint Cellular Company) for a special use permit to allow construction of a cellular telecommunications tower facility on approximately three acres, zoned A-1, General Agricultural, located at 3470 Brick Bat Road, further identified as a portion of Parcel No. (1-18) on James City County Real Estate Tax Map No. (44-2).

Mr. Pleskac described the site, tower and project, Comprehensive Plan guidelines, visual impacts, and site analysis of Brick Bat Road tower.

In concurrence with staff, the Planning Commission recommended that the Board of Supervisors defer this case until a wireless telecommunications master plan was completed.

Mr. Sisk opened the public hearing.

1. Mr. M. E. Gibson, Jr., stated the company had provided all requested information and urged the Board to make a decision because of the length of time already spent and towers are needed for complete coverage of service. He determined the application should be considered with the rules that existed when the application was filed, and described it as a win-win situation.

2. Mr. Stanley Milton, 138 Saw Mill Road, asked who would the tower serve and voiced concern about the visual impact when leaves have fallen from trees. He stated that the trees in photographs are 60 feet rather than 200 feet as reported.

3. Ms. Jessie Hilstrom, 3682 Brick Bat Road, spoke in opposition to the tower being placed in her neighborhood for service for persons living in other neighborhoods.

4. Ms. Ilsa Daigneault, 2872 John Tyler Highway, spoke in opposition to the tower location.

Without objection, Mr. Sisk continued the public hearing and deferred the case for further study of the telecommunications master plan.

3. Case No. SUP-19-96. Virginia Metronet, Inc.

Mr. Paul D. Holt, III, Planner, stated that Mr. M. E. Gibson, Jr., representative for Virginia Metronet, Inc., d/b/a 360 Communications Company (formerly Sprint Cellular Company) had applied on behalf of Sleepy Hollow Corporation of Toano for a special use permit to allow construction of a 250-foot communications tower and related equipment on approximately three acres, zoned A-1, General Agricultural, located on a 100 foot x 100 foot leased portion of Jack Massie Borrow Pit off Centerville Road, approximately one-half mile north of Longhill Road, further identified as Parcel No. (1-84) on James City County Real Estate Tax Map No. (31-1).

In concurrence with staff, the Planning Commission recommended that the Board of Supervisors defer action until a wireless telecommunications master plan was completed.

Mr. Sisk opened the public hearing.

1. Mr. M. E. Gibson, Jr., on behalf of Virginia Metronet, Inc., asked that this case be approved as no one has voiced opposition and the location was favorable for the tower facility.

Mr. Taylor made a motion to approve the resolution.

Board and staff discussed the time element of application if defeated.

Mr. Edwards made a motion to defer Case No. SUP-19-96.

Mr. Taylor withdrew his motion.

Mr. Sisk declared a deferral of the case until a wireless telecommunications master plan was completed.

4. Case No. SUP-17-96. PrimeCo Personal Communications/ Stonehouse, Inc. (Continued from September 10, 1996)

Mr. Holt stated that Mr. Larry Woods of Clough, Harbour and Associates, representing PrimeCo Personal Communications, had applied for a special use permit to allow construction of a 190 foot communications tower and related equipment, located on the east end of Sand Hill Road, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (13-1).

In concurrence with staff, the Planning Commission recommended deferral of the case until a wireless telecommunications master plan was completed.

Mr. Sisk opened the public hearing.

Without objection, Mr. Sisk declared a deferral until a wireless telecommunications master plan was completed.

Mr. Sisk explained that the reason for deferral was so that all applications could be considered equally.

Mr. Sisk declared a five-minute recess at 8:35 p.m.

Mr. Sisk reconvened the Board at 8:40 p.m.

5. Case No. AFD-3-86. Hill Pleasant Farm. Williamsburg Pottery Addition

Mr. Pleskac stated that Mr. Preston Smith, on behalf of Williamsburg Pottery Factory, had applied to add approximately 27 acres to the existing Hill Pleasant Farm Agricultural and Forestal District (AFD-3-86), located at 6906 Richmond Road, further identified as a portion of Parcel No. (1-17) on James City County Real Estate Tax Map No. (24-3).

In concurrence with staff, the Agricultural and Forestal District Advisory Committee unanimously recommended approval and the Planning Commission, by a vote of 6-0 with 1 abstention recommended approval of the amendment.

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

Mr. Edwards made a motion to approve the ordinance amendment.

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

6. Amendment to the James River Enterprise Zone Incentives

Mr. M. Douglas Powell, Assistant Manager, Community Services, stated that staff proposed deletion of the Machinery and Tools/Business Personal Property Tax Rebate incentive and addition of the incentive: The County will assist qualifying businesses in applying to the Industrial Development Authority for grants. If the amendment should be approved, staff would request amendment of the James River Enterprise Zone Ordinance to reflect the changes.

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

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

AMENDMENT TO THE JAMES RIVER ENTERPRISE ZONE

WHEREAS, the James City County Board of Supervisors wishes to amend the application for Enterprise Zone designation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to submit an application for amendment to the James River Enterprise Zone.

BE IT FURTHER RESOLVED that the Board of Supervisors supports the IDA policy to provide grants to industries which meet the eligibility criteria for enterprise zone incentives.

7. Authorize Sale of Land to Virginia Natural Gas to Construct a Reducing Station

Mr. Leo P. Rogers, Deputy County Attorney, stated that the property of 1.392± acres sought by Virginia Natural Gas, Inc. was located along utility easements and northwest property line of the Warhill Tract.

Staff recommended approval.

Mr. Sisk opened the public hearing.

1. Mr. Mark Rinaldi, representative of Virginia Natural Gas, stated the purpose of the facility was to reduce pressure, and he briefly defined the access, screening and noise impact.

2. Mr. Harley Stone, 143 Ruth Lane, stated opposition to the facility as being close to residences, the odor and noise and requested the facility be located near the Virginia Power facility on the property.

3. Mr. Brian Machamer, Jr., Virginia Natural Gas, stated the facility would be maintained regularly and monitored 24 hours daily by sensors.

Mr. DePue requested deferral until the November 12, 1996, Board of Supervisors' meeting so that he could meet with residents of Ruth Lane as promised.

8. Authorize Sale of Land to Route 5 Transportation Improvement District for Construction of Alternate Route 5 Near Powhatan Secondary and Powhatan Plantation

Mr. Rogers stated that the sale of 14.9972± acres of County-owned land to the Route 5 Transportation Improvement District would allow construction of a portion of Alternate Route 5.

Staff recommended advancing the sale funds to the County's Capital Improvement Account for News Road for certain improvements, and the funds would be reimbursed by proffer money from development in the Route 5 corridor.

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

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTION

SALE OF PROPERTY TO THE ROUTE 5 TRANSPORTATION IMPROVEMENT

DISTRICT AND TO ADVANCE THE PROCEEDS TO NEWS ROAD

CAPITAL IMPROVEMENTS ACCOUNT

WHEREAS, James City County owns 10 parcels consisting of 14.9972± acres along the boundary of Powhatan Secondary and Powhatan Plantation; and

WHEREAS, the Route 5 Transportation Improvement District wishes to acquire this property from the County for \$283,276; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey this property to the Route 5 Transportation Improvement District; and

WHEREAS, it is in the public interest to expedite improvements to News Road in advance of the availability of sufficient proffer money in order to coordinate the News Road Project with improvement being made to Route 199 and a portion of Alternate Route 5.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator, Sanford B. Wanner, to execute such deeds and other documents necessary to transfer the above-referenced properties to the Route 5 Transportation Improvement District for \$283,276.

BE IT FURTHER RESOLVED that the proceeds from this sale, \$283,276, be advanced to the News Road Capital Improvement Account to be reimbursed, over time, by the receipt of proffer money.

9. Amendment of Chapter 11, Motor Vehicles, Section 11.40-1, Parking Spaces Reserved for Handicapped, Summons for Unauthorized Use, Penalty

Mr. Rogers stated that the proposed ordinance amendment would prohibit unauthorized parking in handicapped parking spaces; amend the definition of who may park in a handicapped parking space; and, increase the fine from \$100 to \$250.

Staff recommended approval of the ordinance amendment.

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

Mr. Magoon made a motion to approve the ordinance amendment.

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

G. BOARD CONSIDERATION

1. Case Nos. Z-7-96 and MP-3-96. Governor's Land Master Plan Amendment (Deferred from 10/8/96)

Mr. Pleskac stated that Mr. Vernon M. Geddy, III, had applied on behalf of Governor's Land Associates to rezone two separate parcels, approximately 38 acres, from A-1, General Agricultural, to R-4, Residential Planned Community, with amended proffers, for the purpose of incorporating both parcels into the Governor's Land Planned Community for development of 12 additional single-family detached homes, 22 acres identified as Parcel No. (1-17) on James City County Real Estate Tax Map No. (44-2) and 16 acres identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (43-2). Both parcels were advertised for a Board of Supervisors' public hearing after being considered by the James City County Planning Commission.

Staff recommended denial of the applications.

Mr. Magoon stated that he would abstain from discussion or voting on the cases because of the nature of his relationship with the applicant.

Board and staff discussed the number of lots, border of 16-acre parcel, difficulty of explaining policy to community if parcel was approved, and importance of growth management.

Mr. DePue made a motion to approve the resolutions.

Board and staff discussed the principles of policy setting and the other proposals brought forward as part of the Comprehensive Plan update.

Mr. DePue requested a recess.

Mr. Sisk declared a five-minute recess at 9:45 p.m.

Mr. Sisk reconvened the Board at 9:49 p.m.

Mr. Sisk explained the recess as negotiations with the applicant not to build on the 16-acre parcel and to add that language in the proffers.

Without objection, Mr. Sisk deferred the cases until the November 12, 1996, Board of Supervisors' meeting to allow the applicant time to revise the proffers.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner reported that the County had received a \$4,600 Church Arson Prevention Program grant. He stated the funds would be used to increase police patrol and include lighting requested by a church in Roberts District.

Mr. Wanner noted a memorandum to the Board from Ms. Kelly Morton, Intern Assistant to the County Administrator, regarding signage for the County consistent with area jurisdictions.

Mr. Sisk requested that Ms. Morton also research welcome signs for the Historical Triangle with locations at Camp Peary exit on Interstate 64 and the ferry landing on Jamestown Road.

Mr. Wanner stated that Ms. Morton would review the request.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Magoon asked for discussion of regulations for jet skis' wake within 50 feet of piers and 100 feet of swimmers.

Mr. DePue spoke to the misrepresentation of a statement in a letter to the editor which stated that five members of the Board of Supervisors seemed to agree that a tax increase for solid waste disposal was a good idea.

Mr. Magoon requested Mr. Greg Daniels share the new figures in his report on solid waste management with the press.

Mr. Wanner responded that Mr. Daniels would be available to brief the press.

Mr. Sisk made a motion to recess until Saturday, October 26, 1996, at 9:00 a.m., at the Child Development Resources building for Board of Supervisors retreat.

Mr. DePue asked that the most important priorities be discussed first at the retreat, Saturday, October 26, 1996.

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

The Board recessed at 10:02 p.m.



Sanford B. Wanner
Clerk to the Board

017964

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PROFFERS

THESE PROFFERS are made as of this 18th day of October, 1996, by TMB SERVICE CORP., a Kansas corporation (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of certain real property (the "Property") in James City County, Virginia more particularly described on Exhibit A attached hereto and made a part hereof.

B. The Property is now zoned B-1 and M-1, with proffers. The existing proffers are set forth in an Agreement dated June 9, 1987 and are recorded in James City County Deed Book 377 at page 722 (the "Existing Proffers").

C. Owner has applied for a rezoning of the Property now zoned B-1 and M-1, with proffers, to PUD-C, Planned Unit Development- Commercial, with proffers, to obtain the greater flexibility in developing and locating uses within the Property provided under the PUD-C provisions of the County Zoning Ordinance and to terminate the Existing Proffers applicable to the Property and to replace the Existing Proffers as they apply to the Property with these Proffers. In accordance with Section 20-484 of the County Zoning Ordinance, Owner has submitted to the County a master plan entitled "Master Plan of a portion of the Warhill Tract to be Zoned PUD-C, Owner: TMB Service Corporation" prepared by AES Consulting Engineers and dated June 1996 and revised July 1996 (the "Master Plan").

D. Owner desires to continue to offer to the County certain conditions on the development of the Property not generally applicable to land zoned PUD-C.

NOW, THEREFORE, for and in consideration of the approval of the requested amendment, Master Plan and 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 it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Amended and Restated Proffers shall be null and void and the Existing Proffers shall remain in full force and effect.

CONDITIONS

1. Archaeological Sites. Owner shall be required to pay up to \$10,000.00 for a Phase I archaeological study acceptable to the County of the portion of the Property generally shown and set out on Exhibit B hereto before any land disturbance in such area. Should all study funds here committed be insufficient to fund an archaeological study on that portion of the Property then Owner shall consult with the County in determining the portions to be excluded. Thereafter, Owner shall give the County written notice of intent to submit a site or subdivision plan in any area not studied, whereupon the County at its expense shall have sixty (60) days from receipt of such notice in which to conduct initial archaeological reconnaissance in the proposed area or areas. If such reconnaissance reveals sites which County wishes to study in

greater detail, then County shall so notify Owner in writing whereupon County shall have sixty (60) days from the date of such notice in which to conduct further studies.

2. Greenbelts. (a) The Owner shall designate a greenbelt buffer of 75 feet in width measured from the right-of-way of Route 199 in all subdivision or site plans for uses adjacent to Route 199 except that adjacent to the ramp from Route 199 to Route 60 the greenbelt buffer shall have a width of 50 feet. In areas, if any, where the greenbelt buffer is not forested, enhanced landscaping approved by the Development Review Committee in the plan approval process shall be provided. The greenbelt buffers shall remain undisturbed, except for entrances, utilities, drainage and stormwater improvements, pedestrian/bicycle trails and signs shown on the approved site plan or approved by the Director of Planning.

3. Architectural. The buildings in the portion of the Property with a Master Plan designation of E shall be of harmonious and/or uniform architectural design and color scheme as determined by the Director of Planning. Owner shall design the buildings within this area of the Property and any other buildings within the Property designated for retail use with varied roof lines, wall articulations, window placements and other features to reduce the mass and unbroken building lines that may occur in certain standard commercial building designs. Owner shall submit to the Director of Planning with each site plan for development within the portion of the Property with a

Master Plan designation of E or for buildings within the Property designated for retail use conceptual architectural plans, including architectural elevations, for the buildings shown on the site plan for the Director of Planning to review and approve for consistency with this Proffer. Final architectural plans shall be consistent with the approved conceptual plans. The goal of this Proffer is to (i) insure the buildings constructed on this portion of the Property or for retail use are of high quality and are compatible with (but not of the same design as) surrounding development and (ii) avoid the mass and unbroken building lines that may occur in certain standard commercial building designs. It is not the intent of this Proffer to require any particular architectural style.

4. Outparcel Design. The design, colors and building materials of all buildings located on shopping center outparcels in the portion of the Property with a Master Plan designation of E shall be consistent with the design, colors and building materials of the adjacent shopping center, as reasonably determined by the Director of Planning prior to final site plan approval.

5. Landscaping. (a) A plan for a unified landscape treatment for any development, including outparcels, located on the portion of the Property with a Master Plan designation of E shall be submitted to and approved by the Director of Planning with the first site plan for development within this portion of the Property. Sufficient information regarding landscaping shall

be submitted with each subsequent site plan to allow the Director of Planning to determine if the site plan conforms to the approved unified landscaping plan. The goal of this Condition is to insure an attractive and unified landscape treatment of this portion of the Property.

(b) Enhanced landscaping (as defined below) shall be provided within the 50' landscape setback along the main entrance road into the Property required by Section 20-501 of the Zoning Ordinance in the areas designated F and G on the Master Plan. The enhanced landscaping shall be shown on site plans for development within this portion of the Property, may be provided in phases as this portion of the Property develops and shall be subject to the approval of the Development Review Committee. As used herein "enhanced landscaping" means landscaping that (i) exceeds the numerical requirements of the Landscaping Ordinance by at least 25%, with credit given for the preservation of existing trees in accordance with the Landscaping Ordinance or (ii) is otherwise approved by the Director of Planning.

6. Entrance Locations. There shall be one entrance into the Property unless otherwise approved by the Director of Planning and such entrance shall be located generally as shown on the Master Plan. The location of the entrance(s) to the portion of the Property with a Master Plan designation of E shall be subject to the approval of the Director of Planning to insure sufficient spacing from a traffic flow and safety perspective between the entrance(s) into the portion of the Property with a

Master Plan designation of E and the Centerville Road entrance into the Property.

7. Pedestrian System. A sidewalk shall be provided along one side of the main entrance road into the Property. The sidewalk shall be shown on site plans for development along the main entrance road and may be constructed in phases as such property develops. A sidewalk or trail shall be provided connecting the development within the portion of the Property with a Master Plan designation of E to the sidewalk along the main entrance road. A crosswalk across Centerville Road shall be provided at the main entrance to the Property subject to the approval of the Virginia Department of Transportation. The exact location of the sidewalks and crosswalk shall be subject to the approval of the Director of Planning in the site plan review process.

8. Road and Intersection Improvements. The following road and intersection improvements shall have been completed or completion bonds in form acceptable to the County posted with the County before the County shall be obligated to approve development plans for uses that generate more than the number of daily trips per day calculated in accordance with paragraph (b) below:

Daily Trips

1,500

Improvement

Add separate northbound left turn lane on Route 614 to serve left turn movements to

	westbound Route 60
2,000	Add a left turn lane to southbound Route 614 at the entrance to the Property
2,500	Widen Route 614 to a four lane divided roadway and add a second left turn lane on westbound Route 60 at Route 614
3,400	Install signal at Route 614 and entrance to the Property, if warrants are met, and add a right turn lane on northbound Route 614 at the entrance to the Property
4,400	Add a second southbound left turn lane on Route 614 and entrance to the Property
13,000	Add a second northbound left turn lane at the southbound Route 199 off-ramp approach to Route 60

(b) The daily trip number shall be calculated based on each 1,000 square feet of commercial uses generating 54 daily trips, each 1,000 square feet of office uses generating 16.58 daily trips and each 1,000 square feet of industrial uses generating 6.97 daily trips. The proffered improvements described above shall include any required modifications to existing traffic signals and shall be constructed in accordance with Virginia Department of Transportation standards.

9. Use Limitations. Development on the Property shall be limited to no more than (i) 150,000 square feet of retail uses, (ii) 60,000 square feet of office uses and (iii) 300,000 square

feet of uses other than retail and office permitted in the PUD-C zoning district.

10. Entrance Signage. The sign at the main entrance to the Property shall be subject to the review and approval of the Director of Planning before a sign permit is issued.

11. Severability. Each Condition, or portion thereof is severable. The invalidity of any particular Condition, or portion thereof, shall not effect the validity of the remaining conditions, or portions thereof.

12. Definitions. All terms used herein and defined in the County Zoning Ordinance shall have the meaning set forth therein unless otherwise specifically defined herein.

13. Termination of Existing Proffers. The Existing Proffers insofar as they apply to the Property are hereby terminated and of no further force or effect. The Existing Proffers shall continue to apply to all property to which they now apply other than the Property.

WITNESS the following signature and seal:

TMB SERVICE CORP.

By: [Signature]

Title: President

KANSAS
STATE OF ~~VIRGINIA~~

CITY/COUNTY OF Johnson, to-wit:

The foregoing instrument was acknowledged before me this 12th day of October, 1997, by May Lebrun, Jr.

EXHIBIT A

That certain piece or parcel of land located in James City County, Virginia shown and set out as "Parcel 2, 67.7 Ac." on the plat of subdivision entitled "Plat of Subdivision Showing a portion of the Warhill Tract, Owner: TMB Service Corporation" made by AES Consulting Engineers and dated May 1996 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 64 at pages 30-32.

VIRGINIA: City of Williamsburg and County of James City, to W.:
In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the 76 day of Dec. 1996 This Draft was presented with certificate annexed and admitted to record at 10:51 o'clock
Teste: Helene S. Ward, Clerk
by Claudia B. Bantz Deputy Clerk

PLAT RECORDED IN
DE 820 PAGE 178

Micki Bradley

NOTARY PUBLIC

My commission expires:

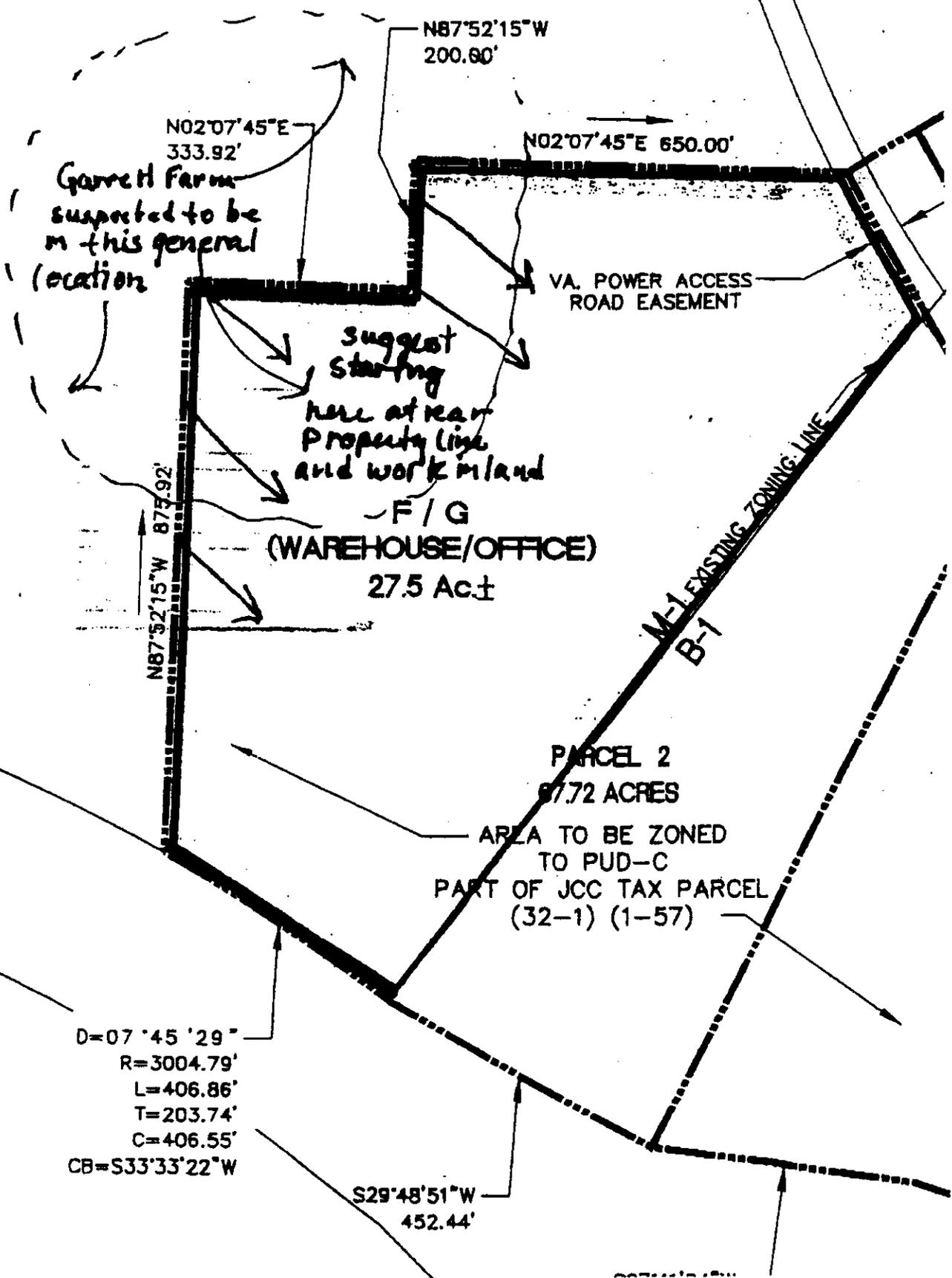


8-27-2000

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris & Geddy
516 South Henry Street
Williamsburg, VA 23185

EXHIBIT B BOOK 0820 PAGE 0178

REMAINDER M-1



ORDINANCE NO. 165A-5

OCT 23 1996

HILL PLEASANT FARMBOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIAAGRICULTURAL AND FORESTAL DISTRICT (AFD-3-86)WILLIAMSBURG POTTERY ADDITION

WHEREAS, an Agricultural and Forestal District has been established in the Hill Pleasant Farm area; and

WHEREAS, in accordance with Section 15.1-1511(F) of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertized, and public hearings have been held on the application for an addition to the Hill Pleasant Farm Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on August 29, 1996, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing on August 5, 1996, voted 6-0-1 abstain to recommend approval of the application.

NOW, THEREFORE, BE IT ORDAINED;

1. The Hill Pleasant Farm Agricultural and Forestal District is hereby amended by the addition of the following parcel:

Williamsburg Pottery (24-3)(1-17) part 27.00 acres

Total: 27.00 acres

2. That pursuant to the Virginia Code, Section 15.1-1512, as amended, the Board of Supervisors requires that no parcel in the Hill Pleasant Farm Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is to be limited to parcels of 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family.
 - b. No land within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district.
 - c. No Special Use Permit shall be issued except for agricultural, forestal, or other activities and uses consistent with State Code section 15.1-1506 et. seq. which are not in conflict with the policies of this district.

David L. Sisk

David L. Sisk
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner

Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	AYE
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 1996.

Afd386.res

OCT 23 1996

ORDINANCE NO. 66A-39

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, ARTICLE III, STOPPING, STANDING, AND PARKING, SECTION 11-40.1, PARKING SPACES RESERVED FOR HANDICAPPED; SUMMONS FOR UNAUTHORIZED USE; PENALTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-40.1, Parking spaces reserved for handicapped; summons for unauthorized use; penalty.

Chapter 11. Motor Vehicles and Traffic

Article III, Stopping, Standing, and Parking

Sec. 11-40.1. Parking spaces reserved for handicapped; summons for unauthorized use; penalty.

(a) It shall be unlawful for any operator of a motor vehicle to park in a parking space identified by an above-grade sign as reserved for the handicapped, except:

~~(1) A person possessing a special handicapped vehicle parking permit issued by the commissioner of motor vehicles pursuant to section 46.2-1238 of the Code of Virginia or a person transporting by passenger car, van or pickup truck the holder of any such permit, which permit shall be displayed in the window of the vehicle transporting the holder of the permit in order to permit the vehicle to park lawfully in a parking space reserved for the handicapped;~~

Ordinance to Amend and Reordain
 Chapter 11. Motor Vehicles and Traffic
 Page 2

~~(2) A handicapped person driving a motor vehicle displaying state license plates designated for handicapped persons or a state decal issued to handicapped persons and issued pursuant to section 46.2-731 of the Code of Virginia, or a person transporting a handicapped person in a motor vehicle displaying such license plates or decals, or~~

~~(1) A person with a disability that limits or impairs his or her ability to walk who is driving a motor vehicle displaying state disabled license plates, an organizational placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under section 46.2-731 of the Code of Virginia, or a person using a motor vehicle displaying such license plate or placard described above who is transporting a person with a disability that limits or impairs his or her ability to walk, or~~

~~(2)~~ A disabled veteran driving a motor vehicle displaying special license plates issued pursuant to section 46.2-739 of the Code of Virginia or a person transporting a disabled veteran in a motor vehicle displaying such special license plates.

(b) Any police officer of James City County may issue a summons charging a person parking in violation of paragraph (a) of this section, or if such person is not known, then the registered owner of the motor vehicle parked in violation of paragraph (a).

(c) Violation of the provisions of paragraph (a) of this section shall be a traffic infraction punishable by a fine of not more than ~~one hundred dollars (\$100.00)~~ \$250.

Ordinance to Amend and Reordain
Chapter 11. Motor Vehicles and Traffic
Page 3

(d) The owner or duly authorized agent of a private parking space, or an agent of a public authority having control of a public space, which space is properly designated and marked for handicapped parking, shall have authority to have any vehicle not displaying handicapped parking permits or plates as described in paragraph (a) removed and stored. Possession may be regained by payment to the person who removed the vehicle of all reasonable costs for the removal and storage. The vehicle owner may contest the removal in the manner provided by section ~~46.2-1238~~ 46.2-1237 of the Code of Virginia.



David L. Sisk, Chairman
Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23th day of October, 1996.