

66 AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF APRIL, 1998, 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
David L. Sisk, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Ronald A. Nervitt, Powhatan District
M. Anderson Bradshaw, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PUBLIC COMMENT

Mr. Ed Oyer, 139 Indian Circle, expressed exasperation at noise, smoke, and garbage from adjacent properties in Country Village Mobile Home Park. He requested assessments of property be lowered by ten percent until the issue of a 35-foot buffer was resolved.

Mr. Nervitt acknowledged the real estate firm of Long and Foster for clearing debris from a lot in Season's Trace.

C. MINUTES - March 24, 1998, Regular Meeting
March 25, 1998, Work Session

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

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

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

D. BOARD CONSIDERATION

1. Case Nos. SUP-35-97 and HW-2-97. Jack L. Massie, Inc., Bituminous Concrete Facility (Deferred from March 24, 1998)

Mr. Edwards expressed Board appreciation for the dignity, fairness and civility of the citizens and applicant during the process. He stated that additional materials had been submitted by the April 3 deadline, and Board members would discuss and take action.

Mr. Paul D. Holt, III, Planner, stated that Mr. Gary Massie, on behalf of Jack L. Massie Contractor, Inc., had applied for a special use permit to operate a bituminous concrete facility, and for a height limitation waiver to install silos approximately 86 feet tall, on property zoned M-2, General Industrial, with proffers, located at 3900 Cokes Lane, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (13-3).

Mr. Holt briefly detailed property value, traffic and distances of surrounding residential structures as to noise. He explained that additional conditions had been added. The new conditions are: that the facility shall have a maximum eight-foot diameter drum, shall not burn hazardous waste, shall comply with any future standards adopted by Federal Environmental Protection Agency or Virginia Department of Environmental Quality, and shall not operate the plant and aggregate screen machine simultaneously.

In concurrence with staff, the Planning Commission, by a vote of 6-0, with one abstention, recommended approval of the special use permit.

Board members and staff discussed restriction on hours of operation; length of 10-foot high fence along the Van Driem and Wallace properties; and level of service requiring expansion of Richmond Road to six lanes would negatively affect Toano and Norge.

Individual Board members spoke of the enormous amount of technical, along with basic, information that had been received for this most difficult decision. They noted: perception of whether the facility was needed and whether the entire County would benefit, how the request fit within the County's vision and Comprehensive Plan, negotiations have brought about a better application, visit to the asphalt plant in Northern Virginia was worthwhile, emission and noise control were extremely important, was rail access truly a necessity, would other by right land uses be more objectionable, truck traffic would continue throughout the County, consider both odor and particulate emissions for health and safety, and what would be considered an acceptable level of noise.

Mr. Nervitt expressed consideration for the community character areas of which an asphalt plant would be inconsistent; Mr. Bradshaw stated technical information responded to noise, odor, traffic, and Norge and Toano were founded with business, industry and residences in close proximity to the railroad; Mr. McGlennon voiced concern for location and possible twenty-four hour operations; Mr. Sisk noted the support of the Comprehensive Plan industrial use area by staff and the Planning Commission; and, Mr. Edwards summarized that the noise, odor, traffic, tax revenue and property values were addressed, and that fugitive emissions have not yet been studied and could pose a potentially dangerous health situation.

Mr. Bradshaw made a motion to approve the two cases.

On a roll call, the vote was: AYE: Sisk, Bradshaw (2). NAY: McGlennon, Nervitt, Edwards (3).

Mr. Edwards declared a break at 8:40 p.m.

Mr. Edwards reconvened the Board into open session at 8:55 p.m.

E. CONSENT CALENDAR

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

Mr. McGlennon asked that Item No. 8 be removed.

Mr. Edwards made a motion to approve Item Nos. 1-7 and 9 on the Consent Calendar.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

1. National County Government Week, April 19-25, 1998

PROCLAMATION

NATIONAL COUNTY GOVERNMENT WEEK

WHEREAS, America's earliest immigrants placed great faith in the county form of government, which traces its roots to the English shire; and

WHEREAS, James City County was established by the General Assembly in 1634 as one of the eight original shires; and

WHEREAS, county government's primary concern is to assure that county leaders provide information and encouragement to its citizens so that together they can build strong, sustainable communities which nurture the economic, environmental, and social well-being of all citizens; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims April 19-25, 1998, as National County Government Week and urges its community leaders and citizens to take steps to learn about resources and available programs that can work to improve their community.

2. National Volunteer Appreciation Week, April 19-25, 1998

PROCLAMATION

VOLUNTEER APPRECIATION WEEK APRIL 19 THROUGH 25

WHEREAS, through their commitment and hard work, volunteers enrich the quality of life in James City by efficiently and effectively providing services that might otherwise not be provided; and

WHEREAS, in the tradition of our rich heritage, the Office of Volunteer Services recently celebrated its tenth anniversary, enabling citizens to participate in their government in order to meet community needs; and

WHEREAS, 300 volunteers strong, James City County volunteers have magnanimously given 40,000 hours valued at (\$521,033) to our community over the past year.

NOW, THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors, James City County, Virginia, that it hereby designates April 19-25, 1998, as

VOLUNTEER APPRECIATION WEEK

and urges all citizens to recognize and appreciate efforts of volunteers.

3. Child Abuse Prevention Month**PROCLAMATION****CHILD ABUSE PREVENTION MONTH**

WHEREAS, child abuse prevention is a community problem and finding solutions depends on involvement among people throughout James City County; and

WHEREAS, statistics of children who are abused and neglected escalate each year; where 10,269 cases of abuse were substantiated in Virginia and 29 children died from abuse in Virginia during the fiscal year 1997; and

WHEREAS, James City County has a stated goal of promoting a healthy community and effective child abuse programs succeed because of partnerships created among social services agencies, schools, religious organizations, law enforcement, medical facilities, and the business community; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within community, and become involved in supporting parents to raise their children in a safe and nurturing environment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, proclaims the month of April 1998, as CHILD ABUSE PREVENTION MONTH and calls upon County citizens to observe the month with appropriate programs, ceremonies, and activities.

3. Resolution Authorizing Hampton Roads Partnership to carry Out Provisions of the Regional Competitiveness Program and Approval of the Fund Distribution Methodology**A RESOLUTION OF THE BOARD OF SUPERVISORS OF****JAMES CITY COUNTY, VIRGINIA, AUTHORIZING THE HAMPTON ROADS****PARTNERSHIP TO CARRY OUT THE PROVISIONS OF THE REGIONAL****COMPETITIVENESS PROGRAM (RCP) AND APPROVING THE FUND DISTRIBUTION****METHODOLOGY PROPOSED BY THE HAMPTON ROADS PARTNERSHIP**

WHEREAS, in 1996 the Virginia General Assembly adopted the Regional Competitiveness Act (the Act), Chapter 26.3 of Title 15.1 (§15.1-1227.1 through §15.1-1227.5) of the Code of Virginia, 1950, as amended, to encourage counties, cities and towns to work together for their mutual benefit and that of the Commonwealth of Virginia; and

WHEREAS, to encourage regional strategic planning and cooperation, the Act establishes an incentive fund administered by the Virginia Department of Housing and Community Development (VDHCD) to be used to encourage and reward regional strategic economic development planning and joint activities; and

- WHEREAS, the Act provides a monetary incentive, totaling Ten Million, Thirty-five Thousand, Two Hundred Thirty-nine Dollars (\$10,035,239.00) in 1998, for distribution among the State's regions to communities that have qualified pursuant to the Act and in accordance with all applicable statutes and by procedures adopted by the VDHCD, with the 1998 round incentive funds being due July 1998; and
- WHEREAS, incentive funds will be disbursed to qualified regions in an amount equal to the percentage of the funds appropriated in incentive payments for a fiscal year that represents the region's percentage of the total population of all qualified regions; and
- WHEREAS, the Hampton Roads Partnership (the Partnership) is a Virginia nonprofit, non-stock corporation comprised of leading representatives from the public, business, education, civic, and military communities and whose mission is to enhance regional cooperation and improve economic competitiveness in the Hampton Roads Region (the Region) which is defined as the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, Suffolk, Newport news, Hampton, Franklin, Poquoson, and Williamsburg; the Counties of Gloucester, Isle of Wight, James City, Southampton, and York; and the Town of Smithfield; and
- WHEREAS, the Partnership in close cooperation with the Hampton Roads Planning District commission submitted the Region's successful application for Regional Competitiveness Program (RCP) incentive funding in June 1997, and received such funding in October 1997; and
- WHEREAS, in recognition of the Partnership's role in fostering regional cooperation and economic competitiveness, the Hampton Roads Mayors and Chairs caucus supports distributing all RCP funds received by the region directly to the Partnership (distribution methodology); and
- WHEREAS, the RCP guidelines require that each municipality designate by resolution approval of the region's RCP incentive funds distribution methodology; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, supports the Partnership's efforts to carry out the provisions of the RCP and to administer the monetary incentives on its behalf.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that on behalf of the County of James City, Virginia:

1. It recognizes the Hampton Roads Region as a region contemplated by the Act and hereby declares itself to be a member of and a participant in the Hampton Roads Region.
 2. It supports the Partnership's efforts to carry out the provisions of the RCP and authorizes the Partnership to receive RCP incentive funding on behalf of the region.
5. Additional Allocations - Social Services Division

RESOLUTION

ADDITIONAL ALLOCATIONS - SOCIAL SERVICES DIVISION

- WHEREAS, the State Department of Social Services has provided additional funding for Title IV-E Child Day Care and Transportation Services, the Child Day Care Quality Initiative Program, Adoption Subsidies, Administration-Equipment, and In-Home Companion Services; and

WHEREAS, these funds support mandated or critical programs; and

WHEREAS, sufficient matching funds are available in the current Social Services' budget.

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

Revenues:

From the Commonwealth \$26,208

Expenditures:

Title IV-E Child Day Care and Transportation	\$ 3,000
Child Day Care Quality Initiative Program	3,500
Adoption Subsidy	5,000
Administration-Equipment	708
In-Home Companion Services	<u>14,000</u>
	<u>\$26,208</u>

6. Virginia Department of Transportation Recreational Access Program

RESOLUTION

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)

RECREATIONAL ACCESS PROGRAM

WHEREAS, the District Park Sports Complex is owned and is to be developed by the County of James City as a recreation facility serving the residents of James City County and adjoining localities; and

WHEREAS, the facility is in need of adequate access; and

WHEREAS, the procedure governing the allocation of recreational access funds as set forth in Section 33.1-223 of the Code of Virginia requires joint action by the Director of the Department of Conservation and Recreation and the Commonwealth Transportation Board; plus a statement of policy agreed upon between the said Director and Board approved the use of such funds for the construction of access roads to publicly-owned recreational areas or historical sites; and

WHEREAS, it appears to the Board that all requirements of the law have been met to permit the Director of the Department of Conservation and Recreation to designate the District Park Sports Complex as a public recreation facility and further permit the Commonwealth Transportation Board to provide funds for access to this public recreation area in accordance with Section 33.1-223 of the Code of Virginia; and

WHEREAS, the right of way of the proposed access road is provided by the County of James City at no cost to the Recreation Access Fund; and the Board acknowledges that, pursuant to the provisions of Section 33.1-223 of the Code of Virginia, this road shall be designated a

“Virginia Byway” and recommends the Commonwealth Transportation Board, in cooperation with the Director of the Department of Conservation and Recreation, take the appropriate action to implement this designation. Further, the Board agrees, in keeping with the intent of Section 33.1-63 of the Code of Virginia, to use its good offices to reasonably protect the aesthetic or cultural value of this road.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Director of the Department of Conservation and Recreation to designate the District Park Sports Complex as a public recreation area and to recommend to the Commonwealth Transportation Board that recreation access funds be allocated for an access road to serve said park; and

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board is hereby requested to allocate the necessary recreational access funds to provide a suitable access road as hereinbefore described.

7. Greensprings Greenway - Virginia Department of Conservation and Recreation Grant

RESOLUTION

GREENSPRINGS GREENWAY

VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION GRANT

WHEREAS, the Virginia Department of Conservation and Recreation, in cooperation with The National Recreation Trail Fund and the Federal Highway Administration, has made funds available for the development of greenways; and

WHEREAS, funds are needed to construct a boardwalk and observation deck at James City County’s Greensprings Greenway Trail Project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$30,000 grant awarded by the Virginia Department of Conservation and Recreation to help in the construction of 1,000 feet of boardwalk and observation deck at the Greensprings Greenway Trail.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation within the FY 1998 Capital Improvements Fund.

Revenues:

From the Commonwealth	<u>\$30,000</u>
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Expenditures:

Greenways and Open Space Development	<u>\$30,000</u>
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9. Dedication of Streets in Fieldcrest - Sections 1-5

RESOLUTION

DEDICATION OF STREETS IN FIELDCREST, SECTIONS 1-5

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.

8. Installation of “Watch for Children” Signs

Mr. McGlennon reminded citizens to submit an application for the “Watch for Children” signs for their neighborhoods.

Mr. McGlennon made a motion to approve the item.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

GREATER FIRST COLONY AREA SUBDIVISIONS, “WATCH FOR CHILDREN” SIGNS

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, the Greater First Colony Area Civic Association has requested that three (3) "Watch For Children" signs be installed at the three entrances to the area's subdivisions; one each on The Maine, John Rolfe Lane, and Heritage Landing Road, as illustrated on the attached drawing titled Greater First Colony Area, "Watch For Children" Signs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain "Watch For Children" signs as requested by the Greater First Colony Area Civic Association with funds from the County's secondary road system maintenance allocation.

Mr. Bradshaw read the National Volunteer Appreciation Week resolution and presented it to Chris and Henri Julie.

Mr. McGlennon read the Child Abuse Prevention Month resolution and presented it to Diana Hutchens and Gwen Gay.

F. PUBLIC HEARINGS

1. Proposed Fiscal Year 1999-2000 Budget
2. FY 1999-2003 Capital Improvements Program
3. Ordinance Amendment, Section 11-14(b)(1), Increase Convenience Center Fees
4. Ordinance Amendment, Section 20-25, Increase Special Tax for Enhanced 911 Emergency Telephone System
5. Proposed FY 99 Water Rate (Joint Meeting with James City Service Authority Board of Directors

Ms. Carol O. Davis, Assistant Manager of Financial and Management Services, highlighted the County Administrator's Fiscal Years 1999-2000 proposed budgets. She detailed revenues, operating expenses, requests for new positions, and stated that James City Service Authority was supported entirely by user fees.

Ms. Davis explained two ordinance amendments that would increase Convenience Center User Fees from \$2.00 to \$3.00 coupon fee, and Enhanced 911 emergency telephone service tax from \$1.20 per month to \$1.50 per month. She stated that three work sessions were scheduled during the next two weeks and the proposed budget would be placed on the April 28, 1998, Board of Supervisors meeting agenda.

Mr. Edwards opened the five public hearings.

1. Mr. David Schulte, Williamsburg Convention and Visitors Bureau, presented statistics for the number of tourists, amount of meals tax, room tax, etc., during the past year. Mr. Ed Dreistadt, Vice President of Marketing, Busch Gardens Williamsburg, compared the marketing of Colonial Williamsburg with national theme parks.

2. Ms. Evie Thrift, 430 Waller Mill Road, Heritage Humane Society, spoke of a successful record over the past three years and asked that the County once again support the effort for this year.

3. Mr. L. Bruce Abbott, Colonial Soil and Water Conservation, elected official for localities of York, Charles City, New Kent, James City, and Williamsburg, stated that State funding had been reduced and asked that the Board support the work being done and asked that it get involved with the programs.

4. Mr. R. M. Hazelwood, Jr., 300 Old Stage Road, Toano, spoke in opposition to the Parks and Recreation Division budget and the proposed position in James City Service Authority for Water Conservation efforts. He stated that the funds spent for salary would be better spent on water supply.

5. Mr. Ed Oyer, 139 Indian Circle, commented on budget questions that he had submitted to County Administration for response.

Mr. Edwards closed the five public hearings.

6. Case No. SUP-33-97. David Hertzler/C&P Telephone Building

Ms. Jill Schmidle, Planner, stated that Mr. David Hertzler, II, had applied for a special use permit to allow a real estate appraisal office in an existing 1,787 square foot structure on a one-acre parcel, zoned A-1, General Agricultural, located at 4925 Centerville Road, approximately 750 feet south of intersection of Jolly Pond Road and adjacent to the James River Baptist Church, further identified as Parcel No. (1-6) on James City County Real Estate Tax Map No. (30-4).

Staff determined that the proposal was consistent with surrounding zoning, development and the Comprehensive Plan.

In concurrence with staff, the Planning Commission by a vote of 7-0 recommended approval of the case, with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Mr. David Hertzlers, applicant, asked that the Board approve the request for professional offices in an existing structure.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CASE NO. SUP-33-97. DAVID HERTZLER, II, PROFESSIONAL OFFICE

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 its public hearing on December 1, 1997, voted 7-0 to approve Case No. SUP-25-97, to allow a professional office of less than 2,000 square feet in an A-1, General Agricultural District, further identified as Parcel No. (1-6) on James City County Real Estate Tax Map No. (30-4).

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-33-97 as described herein with the following conditions:

1. This proposal shall require site plan approval.
2. Additional planted buffering shall be placed around the proposed parking spaces, and supplemental buffering shall be added to the entrance, as specified in the conditions

of Case No. SUP-56-90. Such planting shall be subject to Planning Director approval.

3. If a certificate of occupancy on this project has not been obtained within a period of 24 months from the date of issuance of this permit, this permit shall become void.
4. All lighting shall be restricted to recessed fixtures approved by the Planning Director.

7. Case No. SUP-1-98. Peter and Frances Derks

Ms. Schmidle stated that Peter and Frances Derks had applied for a special use permit to allow an accessory apartment within an existing single-family structure, zoned R-1, Limited Residential, located at 110 Vaiden Drive, further identified as Parcel No. (8-1-9) on James City County Real Estate Tax Map No. (38-4).

Staff determined there were no covenants on this property and that the proposal was consistent with the surrounding zoning, development and the Comprehensive Plan.

In concurrence with staff, the Planning Commission by a vote of 7-0 recommended approval with conditions listed in the resolution.

Mr. Edwards asked that the case be deferred to consider the concern of a rental apartment if property were sold.

Mr. Edwards opened and continued the public hearing until the April 28, 1998, Board of Supervisors meeting.

8. Case No. SUP-9-98. Griffith Family Subdivision

Ms. Tamara A. M. Rosario, Senior Planner, stated that Ms. Nancy O. Griffith had applied for a special use permit to allow a family subdivision of a 3.936-acre parcel into two parcels, zoned A-1, General Agricultural, located at 4650 Fenton Mill Road, further identified as Parcel No. (3-9B) on James City County Real Estate Tax Map No. (14-3).

Staff determined that the proposal was consistent with surrounding development and the Zoning Ordinance, and recommended approval of the resolution with the listed condition.

Mr. Edwards opened the public hearing.

1. Ms. Nancy Griffith, 4680 Fenton Mill Road, stated that she was requesting the subdivision so that her daughter could build a home.

Mr. Edwards closed the public hearing.

Mr. Bradshaw stated that disclosed that he had personally represented Ms. Griffith in 1991, but would be able to participate fairly, objectively and in the public interest in this case.

Mr. Bradshaw made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CASE NO. SUP-9-98. GRIFFITH FAMILY SUBDIVISION

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

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

Applicant:	Nancy O. Griffith
Real Estate Tax Map No.:	(14-3)
Parcel No:	(3-9B)
Address:	4650 Fenton Mill Road
District:	Stonehouse
Zoning:	A-1, General Agriculture
Condition:	Final subdivision approval shall be secured within 18 months from the date of approval of Case No. SUP-9-98, or this permit shall become void.

9. **Case No. Z-14-97. Nelsen Funeral Home**

Ms. Schmidle stated that Mr. Robert Singley, Jr., had applied on behalf of John Grier Construction Company to rezone 3.65 acres from LB, Limited Business with proffers, to LB, Limited Business with proffers, for construction of a funeral home, located at the corner of Strawberry Plains Road and Midlands Road, further identified as a portion of Parcel No. (1-29B) on James City County Real Estate Tax Map No. (38-4).

Staff determined that rezoning and amended proffers were appropriate because proposed commercial uses were compatible with adjacent property and minimized impacts of commercial development. The proposal was generally consistent with the Comprehensive Plan and Development Standards as proffers, building and site design mitigate impacts of development on adjacent residential area.

Staff recommended approval of the rezoning and voluntary proffers.

Board and staff discussed chemical storage, landscaping and the access onto Strawberry Plains Road, giving the business two access areas.

In concurrence with staff, the Planning Commission by a vote of 7-0 recommended approval of the case.

Mr. Edwards opened the public hearing.

1. Mr. Greg Davis, Anderson, Franck & Davis, stated that the request was only a change in proffers. He noted that chemicals stored on site were not discharged into public system.

2. Mr. Blair Nelson, applicant, explained that two access areas were needed for the funeral procession to not be interrupted by other vehicles and that the Midlands Road access would be for service delivery. He stated that a gate would limit access and give the appearance that the building was not open.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CASE NO. Z-14-97. NELSEN FUNERAL HOME

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing was scheduled on Zoning Case No. Z-14-97 for rezoning approximately 3.65 acres from LB, Limited Business, with proffers to LB, Limited Business with proffers for the purpose of amending the proffers to allow a funeral home, further identified as Parcel No. (1-34) and a portion of Parcel No. (1-29B) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the Planning Commission of James City County, Virginia, following its public hearing on March 2, 1998, recommended approval of Case No. Z-14-97, 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 Case No. Z-14-97 as described herein, and accepts the voluntary proffers.

10. Acquisition of .278 Acres in Kristiansand Adjacent to 118 Nina Lane.

Mr. Larry Foster, General Manager, James City Service Authority, stated that an additional .278 acres of property was needed to construct the proposed well facility adjacent to Kristiansand development. He further stated that Section 15.2-1905 of the Code of Virginia required a public hearing setting forth compensation offered by the County for any property taken by Right of Eminent Domain, with the County Office of Real Estate Assessments estimating a market value of \$16,700.

Staff recommended approval of the resolution.

Mr. Edwards opened the public hearing.

1. Mr. Sheldon Franck, of Anderson, Franck & Davis, representative for owner, stated that Ms. Sharon Morrison was not anxious to sell her property and was concerned about the impact of the acquisition on the remainder of her property.

Mr. Edwards closed the public hearing.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACQUISITION OF CERTAIN REAL PROPERTY

IN JAMES CITY COUNTY, VIRGINIA, ALL AS SHOWN AS

PARCEL "B-1" ON A PLAT PREPARED BY AES CONSULTING ENGINEERS

DATED DECEMBER 8, 1997, FOR PUBLIC PURPOSES, TO-WIT:

FOR WATER SUPPLY PURPOSES.

WHEREAS, in the opinion of the Board of Supervisors of James City County, a public necessity exists for the acquisition of certain real property, hereinafter more particularly described, in James City County, Virginia, for water supply purposes and for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of James City County, Virginia.

NOW, THEREFORE, BE IT RESOLVED BY THE JAMES CITY COUNTY BOARD OF SUPERVISORS:

1. That the acquisition of the hereinafter described property for water supply purposes is declared to be a public necessity pursuant to § 15.2-1903, Code of Virginia (1950), as amended and to constitute an authorized public undertaking pursuant to § 25-232.01, Code of Virginia (1950), as amended.

2. That pursuant to § 15.2-1905, Code of Virginia (1950), as amended, the Board of Supervisors hereby declares its intent to enter and take the hereinafter described property and further declares the necessity to enter and take the hereinafter described property prior to or during the condemnation proceedings and further that pursuant to the aforesaid section the County is hereby vested with those powers granted the Commonwealth Transportation Commissioners pursuant to §§ 33.1-119 through 33.1-132.

3. That the County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan be, and they are hereby authorized and directed to acquire the hereinafter described property in the manner provided in Title 33.1, Chapter 1, Article 7, Code of Virginia (1950), as amended, and, to the extent applicable, Titles 15.2 and 25, Code of Virginia (1950), as amended.

4. The name of the present owner of the land to be acquired, together with a substantial description of the parcel, is as follows:

Sharon C. Morrison Trust

Parcel "B-1" consisting of 0.278 acres as shown in Plat of Subdivision prepared by AES Consulting Engineers and dated December 8, 1997, which said property is in the Kristiansand Subdivision and is adjacent to 118 Nina Lane.

5. That based upon an appraisal the County has determined that the just compensation due to the landowner for the land being acquired for public purposes is \$16,700 and that there are no damages to the residue; that said sum was offered to the property owner and was thereafter refused.

6. That in the event any of the property described in Paragraph 4 of this Resolution has been conveyed, the County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are authorized and directed to institute proceedings against successors in title.

7. An emergency is declared to exist and this resolution shall be in effect from the date of its passage.

G. BOARD CONSIDERATIONS

1. Award of Contract, James City County Fire Station Design

Mr. Bernard M. Farmer, Jr., Capital Program Administrator, stated proposals were received and based upon proposed qualifications and evaluations, The TAF Group was selected as the design firm for a new fire station in the vicinity of Greensprings Plantation. He further stated that the fee was within the allocated project budget funded as part of the FY 98 Capital Improvement Budget.

Staff recommended approval of the resolution.

The Board and staff discussed that the firm was known by the County and other fire station designs had been considered but could not be used because of expected operations of the project.

Mr. Nervitt suggested deferral for additional information.

Mr. Edwards deferred the item until the April 28, 1998, Board of Supervisors meeting for a meeting to be scheduled between Mr. Nervitt and staff for explanation of the project.

2. Case No. ZO-3-97. Wireless Communication Facilities Ordinance

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that additional information on adequacy and service with 100-foot towers, increased incentive to use lower towers or camouflaged wireless communication facilities, special setback regulations for schools, special use permit requirements for certain antenna, Telecommunications Act requirements and service provision, no visual intrusion criteria, tower height alternatives, towers in agricultural and forestal districts, and miscellaneous issues were addressed in the staff report.

Staff recommended endorsement of the Ordinance and Performance Standards with referral back to the Planning Commission by the Board.

Mr. Sisk agreed with the basic concept of the proposed tower ordinance.

Mr. Nervitt asked for 115-foot to 120-foot telecommunication towers to be put in sensitive areas and for agricultural and forestal sites for higher towers where there would be no impact.

Mr. McGlennon asked that incentives be set for shorter towers in scenic/historic areas and to provide rationale for by right with no legislative approval process.

Mr. Bradshaw asked about areas that would not be impacted by towers; the cost of very large number of towers; offsite buffers; language in Section 24-122(d)(b1); concern that owner would grow timber crop and be unable to timber trees with the tower there; and no performance standards related to camouflage. He emphasized that standards should be made and adhered to.

Mr. Edwards encouraged taller towers with minimal impacts and shorter towers with significant impacts. He urged procedures be set that would not require excessive staff time.

Mr. Edwards referred the proposed ordinance to the Planning Commission.

H. PUBLIC COMMENT

1. Mr. R. M. Hazelwood, Jr., 300 Old Stage Road, Toano, commented on escalating school costs and Board votes on the Massie case being fair to all concerns and made even in the face of much opposition.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended a recess for a brief James City Service Authority meeting. He recommended an executive session pursuant to Section 2.1-344(A)(3) of the Code of Virginia to consider acquisition/disposition of a parcel of property for public use.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon commended Paul Tubach for the successful tree planting program at Upper County Park.

Mr. Edwards declared a recess for a James City Service Authority Board of Directors meeting at 11:26 p.m.

Mr. Edwards reconvened the Board and made a motion to go into executive session as recommended by the County Administrator, at 11:33 p.m.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board at 11:37 p.m., and made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

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

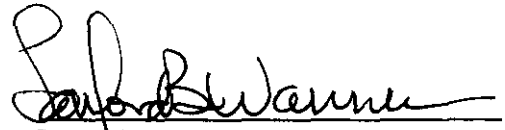
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

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 were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(3) acquisition/disposition of a parcel of property for public use, convening the executive meeting.

Mr. Edwards made a motion to recess until 7:00 p.m., Thursday, April 16, 1998, for a budget work session.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

The Board recessed at 11:38 p.m.



Sanford B. Wanner
Clerk to the Board



ADDITIONS FORM SR-5(A) - Proposed Additions to the Secondary System of State Highways

Attachment to (check one) Board of Supervisors Resolution Surety Date 4/14/98

Attachment 1 of 1

Name of Subdivision: Fieldcrest (Sect. 1-5)

James City (47) County

Ref. No.	Name of Street (Required Data Field)	Street Addition Termini	R-O-W Width (ft)	Miscellaneous Notes	Centerline Length (mi)
1	Fieldcrest Court	From: 0.16 mi NE of Rt 614 (Greensprings Rd) To: 0.05 mi NE Plat Recorded Date: 01/29/87 Plat Book: 44 Page: 60	50	#Occupied Dwt: 3 Other Service: Plat book 51, Pg 53, 10/26/96 Description: Bit. conc. surface, curb and gutter	0.05
2	Deerfield Court	From: Rt 1120, 0.16 mi NE of Rt 614 To: 0.43 mi SE Plat Recorded Date: 01/29/87 Plat Book: 44 Page: 60	50	#Occupied Dwt: 6 Plat book 66, pg 19-20, 03/03/97 Other Service: Plat book 50, pg 49, 03/06/89 Description: Bit. conc. surface, curb and gutter	0.43
3	Quail Hollow	From: Deerfield Ct 0.06 mi S of Rt 1120 To: 0.10 mi W Plat Recorded Date: 03/06/89 Plat Book: 50 Page: 49	50	#Occupied Dwt: 6 Other Service: Description: Bit. conc. surface, curb and gutter	0.10
4	Mallard Cove	From: Deerfield Ct 0.08 mi S of Quail Hollow To: 0.08 mi W Plat Recorded Date: 03/06/89 Plat Book: 50 Page: 49	50	#Occupied Dwt: 3 Other Service: Description: Bit. conc. surface, curb and gutter	0.08
5	Robin's Way	From: Deerfield Ct. 0.20 mi S of Rt 1120 To: 0.12 mi W to Rt 614 Plat Recorded Date: 03/06/89 Plat Book: 50 Page: 49	80-50	#Occupied Dwt: 5 Other Service: Description: Bit. conc. surface, curb and gutter	0.12
6	Neal Court	From: Deerfield Ct. 0.09 mi S of Robin's Way To: 0.07 mi W Plat Recorded Date: 03/03/97 Plat Book: 66 Page: 19-20	50	#Occupied Dwt: 3 Other Service: Description: Bit. conc. surface, curb and gutter	0.07
7		From: To: Plat Recorded Date: Plat Book: Page:		#Occupied Dwt: Other Service: Description:	
Total Mileage					0.85

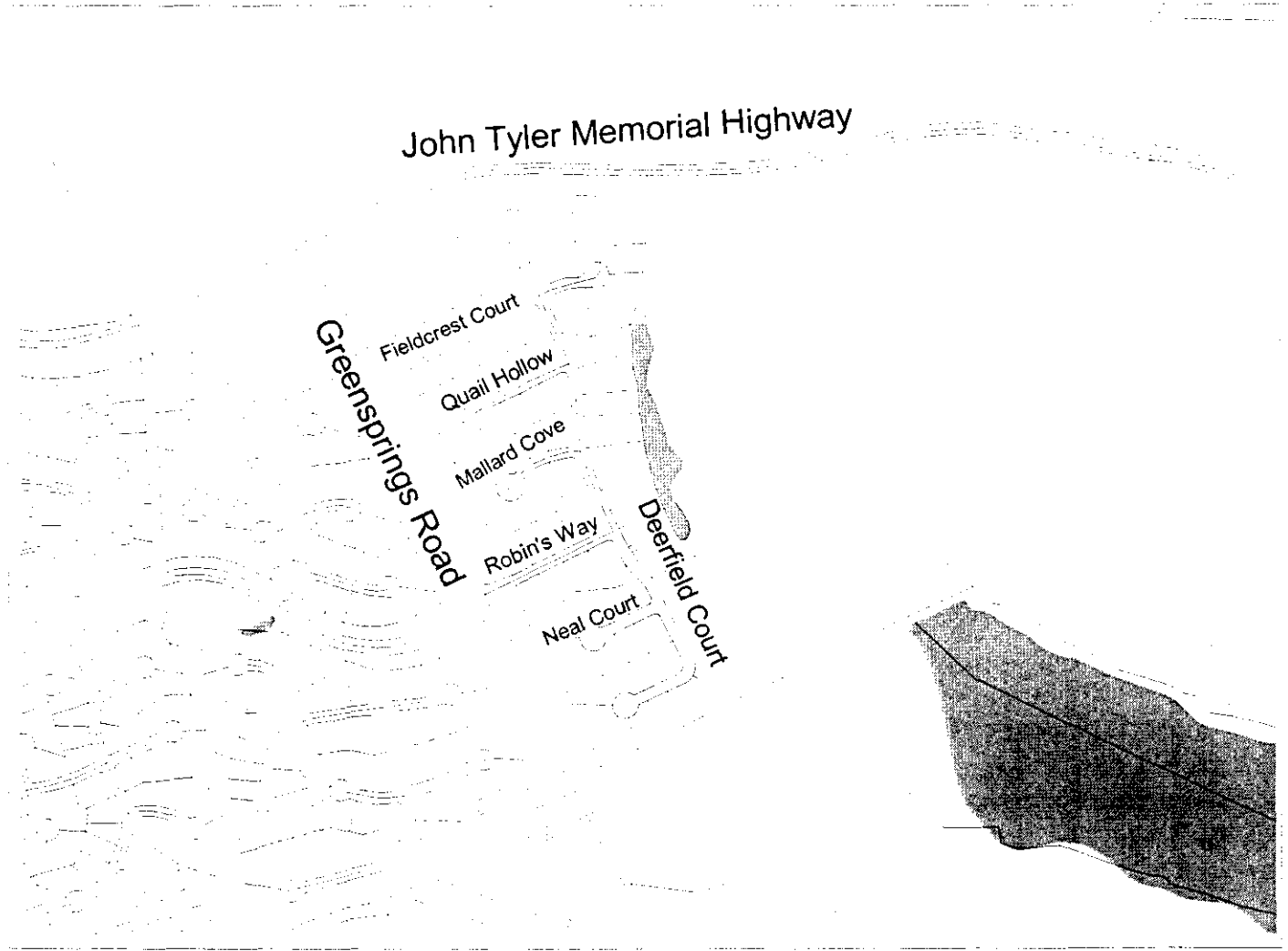
Notes: Guaranteed width of right of way exclusive of any necessary easements for cuts, fills, and drainage.

Magisterial District: Berkeley

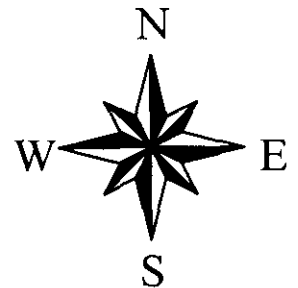
CERTIFICATION OF ATTACHMENT (by county clerk or surety agent)
 This attachment is certified a part of the document above.

 (Name and Title)

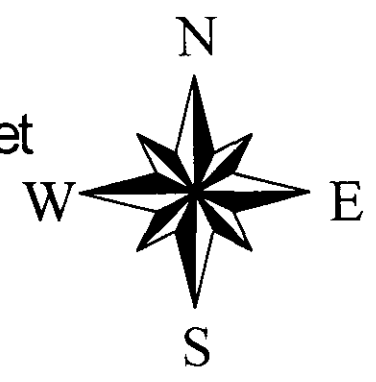
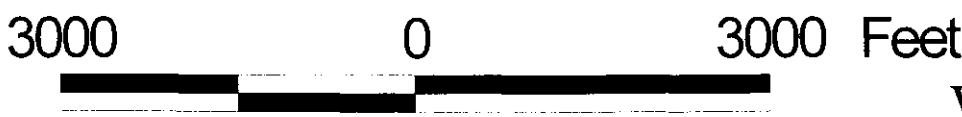
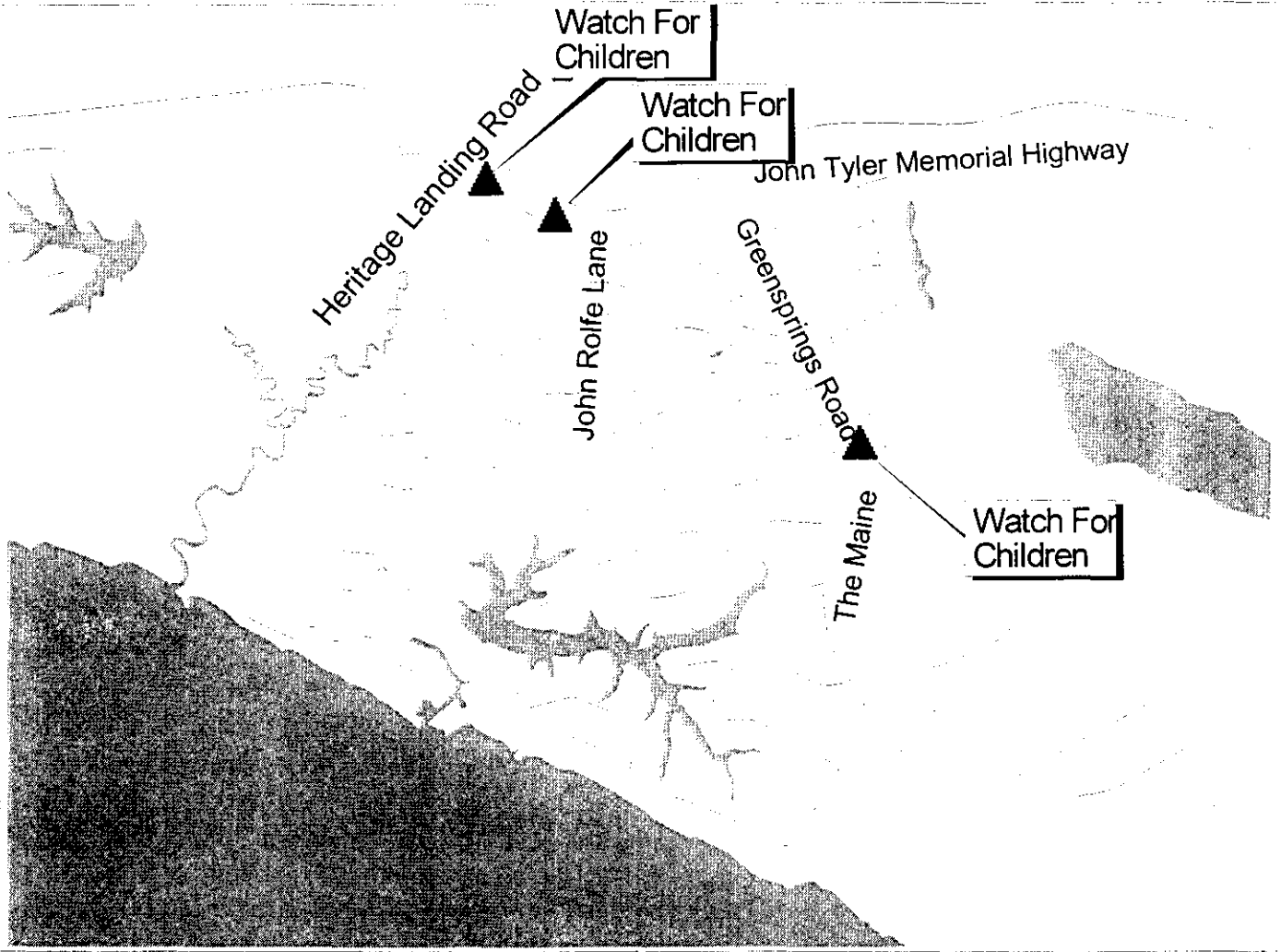
Dedication of Streets Fieldcrest Subdivision



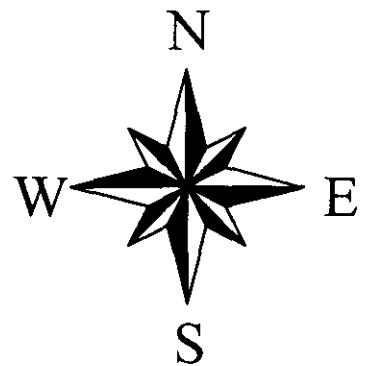
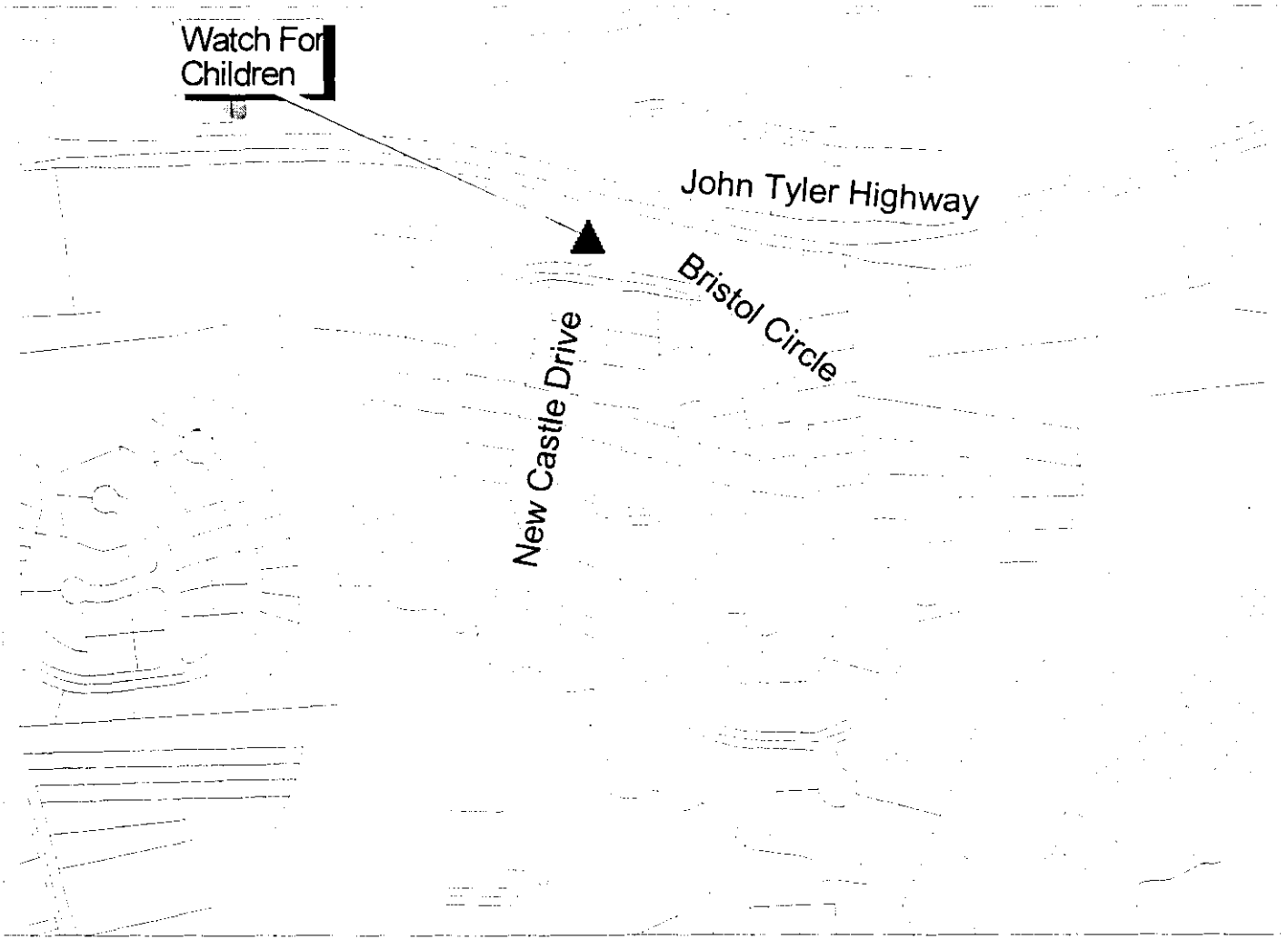
Roads Being Dedicated

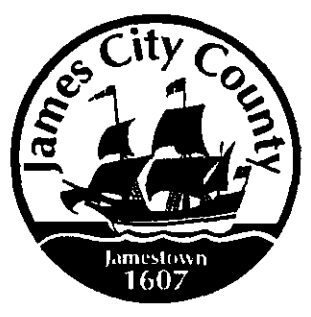
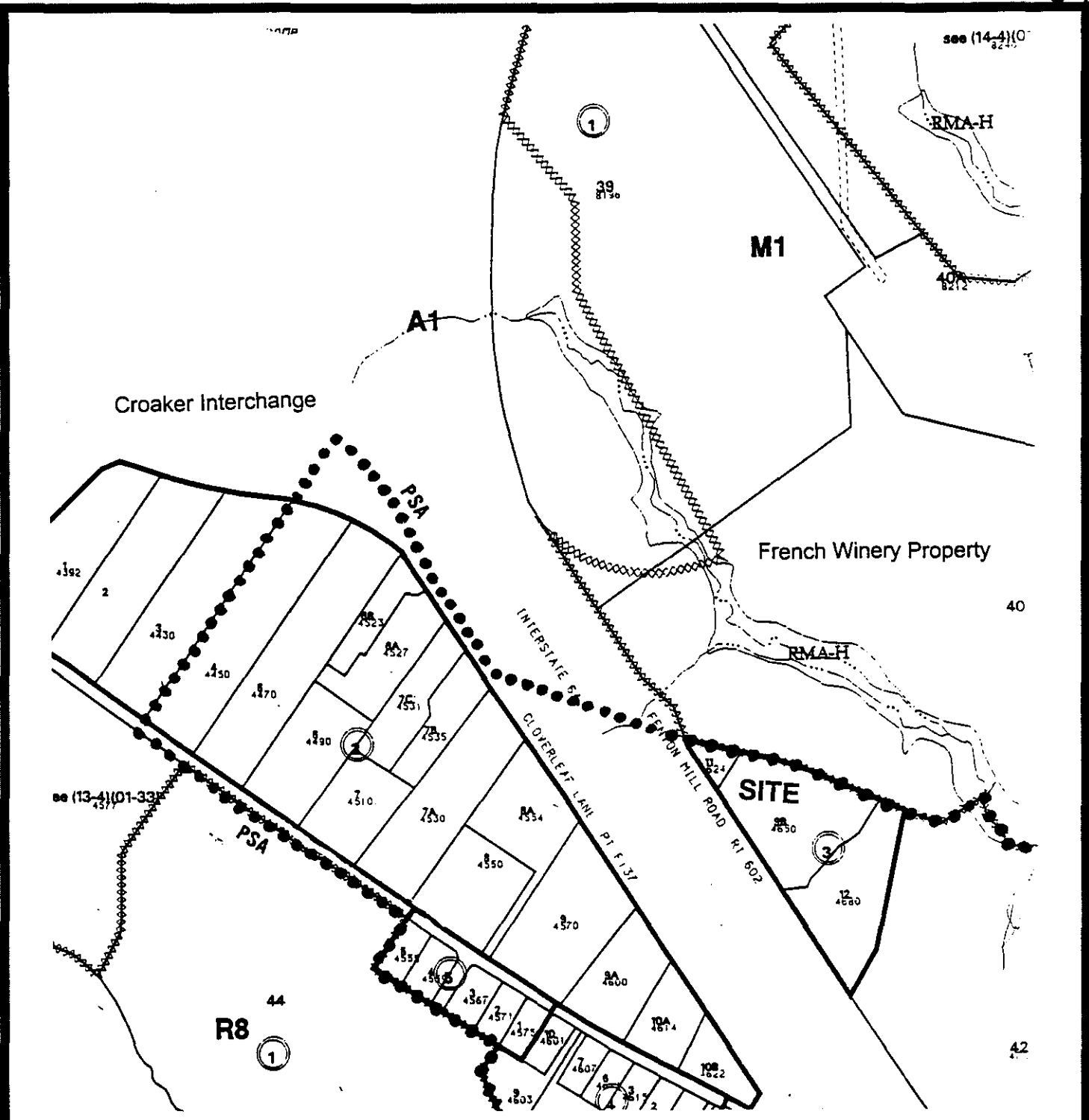


Greater First Colony Area "Watch For Children" Signs



Westray Downs Subdivision "Watch For Children" Sign





Case No: **SUP-9-98**
 Name: **GRIFFITH FAMILY SUBDIVISION**

PLANNING DIVISION



PROFFER AMENDMENT

THIS PROFFER AMENDMENT is made as of the 13th day of February, 1998, by JOHN GRIER CONSTRUCTION COMPANY, a Virginia corporation, the owner of record of the Property (as hereinafter defined) and NELSEN FUNERAL HOME INC., a Virginia corporation, the contract purchaser of the Property (as hereinafter defined) (collectively "the Owner" or "the Owners"), together with their respective successors and assigns, which Owners collectively own and/or have an interest in certain real property shown on the James City County Tax Map 38-4 as Parcels 1-29B and 1-34, also known as 3751 and 3785 Strawberry Plains Road, Williamsburg, Virginia 23185, respectively.

RECITALS

A. JOHN GRIER CONSTRUCTION COMPANY is the owner of record of certain real property in James City County, Virginia, more particularly described as follows:

All that certain tract, piece or parcel of land now or formerly situated in Jamestown District, James City County, Virginia, containing 8.0219 acres, more or less, shown and set forth as "Proposed LB Zone" on a plat entitled: "PROPOSED REZONING, SECTION 1 & 3, MIDLANDS, OWNER: JOSEPH S. TERRELL, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" made by AES, a professional corporation, dated July, 1985 ("the Whole Property").

B. Nelsen Funeral Home is the contract purchaser of a portion of the Whole Property which portion of the Whole Property is hereinafter referred to as the Property and is more particularly described as follows:

All that certain tract, piece or parcel of land now or formerly situated in Jamestown District, James City County, Virginia containing 3.65 acres, more or less, shown and set forth as "New Total Area, 3.65

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Acres ±” on a plat entitled “PLAT OF SUBDIVISION AND LOT LINE EXTINGUISHMENT, BEING THE PROPERTY OWNED BY JOHN GRIER CONSTRUCTION, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA,” dated 12/8/97, prepared by G. T. Wilson, Jr. of AES, Consulting Engineers.

C. The Property is currently zoned Limited Business District, LB with Proffers recorded in the Clerk’s Office of the Circuit Court for the City of Williamsburg and County of James City in James City County Deed Book 346, page 59, *et seq* (“the Old Proffers”) which Old Proffers limit the use of the Property to the following:

- Banks and other financial institutions;
- Office supply stores, secretarial and duplicating services;
- Business, governmental and professional offices;
- Doctors, dentists and other medical clinics or offices;
- Contractor’s offices without the storage of construction equipment or building materials;
- Off street parking as required.

D. The Owners have applied for an amendment of the Old Proffers. The amendment would result in a rezoning of the Property from the Limited Business District, LB with the Old Proffers to the Limited Business District, LB with new proffers (“the New Proffers”). The New Proffers would limit the use of the Property to the following:

- An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property;
- Banks and other financial institutions;
- Office supply stores (with less than 10,000 square feet of floor area), secretarial and duplicating services;
- Business, governmental and professional offices;
- Doctors, dentists and other medical clinics or offices;
- Funeral homes;
- Lodges, civic clubs, fraternal organizations and service clubs;
- Contractor’s offices without the storage of construction equipment or building materials;
- Off street parking as required;

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- Houses of worship.

In addition, the New Proffers would impose additional restrictions against the Property.

E. The proposed development will not be a burden on the public school system, the systems providing transportation, water and sewer, or fire or recreation facilities.

F. The James City County Land Use Plan Map of the James City County 1997 Comprehensive Plan designates the Property as "Moderate Density Residential" which designation specifically envisions "very limited commercial facilities."

G. The Owners desire to offer to James City County ("the County") the New Proffers for the development of the Property which New Proffers are not generally applicable to land similarly zoned and for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning set forth above, and pursuant to Section 15.2-2302 *et seq* of the Code of Virginia, 1950, as amended, and Section 24-20 of the County Code, the Owners agree that they will meet and comply with all of the following proffers in developing the Property. In the event all of the requested amendment is not granted by the County, this Proffer Amendment shall thereupon become null and void.

NEW PROFFERS

1. Uses:

The uses of the Property shall be limited to the following:

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- An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property;
- Banks and other financial institutions;
- Office supply stores (with less than 10,000 square feet of floor area), secretarial and duplicating services;
- Business, governmental and professional offices;
- Doctors, dentists and other medical clinics or offices;
- Funeral homes;
- Lodges, civic clubs, fraternal organizations and service clubs;
- Contractor's offices without the storage of construction equipment or building materials;
- Off street parking as required;
- Houses of worship.

2. Conceptual Plan:

The Property will be developed generally in accordance with a conceptual plan entitled "Nelsen Funeral Home, James City County, Virginia" dated January 29, 1998 prepared by J. Stuart Todd Architects, Inc. ("the Conceptual Plan"). The Owner may, from time to time, in final plats or site plans submitted to the County, relocate the specific uses shown on the Conceptual Plan (provided that such uses are permitted by the County Zoning Ordinance and these Proffers) provided that the County's Director of Planning determines that said relocations do not alter the basic concept or character of the development as depicted in the Conceptual Plan.

3. Architectural Design and Building Materials:

The architectural design and building materials of the main building on the Property shall be substantially in accordance with the rendering on file with the County entitled "NELSEN FUNERAL HOME, JAMES CITY COUNTY, VIRGINIA" prepared by J. Stuart Todd, Inc. as determined by the County's Director of Planning.

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The architectural design and building materials of the monument style sign at the northeast corner of the Property shall be subject to the review and approval of the County's Director of Planning.

The screening of the dumpster pad and the screening of all exterior heating and air conditioning compressors shall be subject to the review and approval of the County's Director of Planning.

4. Sidewalk Along Midlands Road:

In conjunction with the development of the Property, the Owner shall install a concrete sidewalk on the Property four (4) feet in width adjacent to and parallel with the entire northerly border of the Property except in the area of the driveway to and from the Property and to and from Midlands Road where the sidewalk and driveway apron shall be integrated with each other. The plans for said sidewalk shall be subject to review and approval by the County's Director of Planning.

5. Tree Protection:

In conjunction with the development of the Property, the Owner shall provide orange mesh tree protection fencing around but outside of the dripline of each of the following trees shown on the Conceptual Plan as follows:

Along Strawberry Plains Road:

2--14" Magnolias
1--24" Gum
1--36" Oak

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Along the southerly property line of the Property:

- 1--24" Oak
- 1--14" Oak
- 1--16" Oak
- 1--18" Maple
- 1--8" Hickory
- 1--18" Maple

None of the trees hereby protected shall be applied against the number of trees otherwise required by the County's Zoning Ordinance or these proffers.

During construction, no parking or storage shall be permitted within the areas of tree protection fences.

6. Enhanced Landscaping:

The area of the Property shown on the Conceptual Plan between the right of way of Strawberry Plains Road and the parking lot shall be supplemented with landscaping so that the required number of plants equal up to one hundred thirty-three percent (133%) of the County's Landscaping Ordinance requirements with up to thirty-three percent (33%) of the required number of trees being evergreen. The plan for all landscaping hereby required shall be subject to the review and approval of the County's Director of Planning.

APR 17 2004

7 Environmental Protection:

The storage and use of any of the contaminants included in the Safe Drinking Water Act Amendments Phase II, IIB or V shall be prohibited on the Property.

8. Lighting of Parking Area and Drive Aisles:

All parking area and drive aisle lighting shall be limited to twenty (20) feet in height above finished floor elevation and shall be approved by the County's Director of Planning provided that all such exterior light fixtures on the Property shall be horizontally mounted recessed fixtures with no lens, bulb or globe extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture.

9. Headings:

All section and subsection headings of this Proffer Amendment are for convenience only and are not part of these proffers.

10. New Proffers Replace Old Proffers:

These New Proffers shall replace and supersede in their entirety the Old Proffers.

11. Severability of Provisions:

If any clause, sentence, paragraph, section or subsection of these New Proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way

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affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to the Owner or to any other government agency, person or circumstance.

WITNESS the following signatures and seals:

JOHN GRIER CONSTRUCTION COMPANY

By: Joseph S. Terrell (SEAL)
President

NELSEN FUNERAL HOME

By: Blair H. Alder (SEAL)
President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged before this 12 day of March, 1998 by Joseph S. Terrell, Vice President of JOHN GRIER CONSTRUCTION COMPANY, its officer and on its behalf.

Adah L. Hays
NOTARY PUBLIC

My commission expires: 10/31/2000

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COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Henrico, to-wit:

The foregoing instrument was acknowledged before this 16th day of March, 1998 by BLAIR H. NELSEN

C.E.O. of NELSEN FUNERAL HOME, its officer and on its behalf.

Arnd Raymond Wollett
NOTARY PUBLIC

My commission expires: August 31, 2001

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NOTARY PUBLIC
STATE OF VIRGINIA
COMMISSION EXPIRES
AUGUST 31, 2001

VIRGINIA: City of Williamsburg and County of James City, to Wilt:
In the presence of the Circuit Court of the City of Williamsburg and County of James City the Proffer was presented and examined and returned at 9:10 o'clock AM on April 1, 1998 at Williamsburg.
Test: William S. Ward, Clerk
Deputy Clerk

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Prepared by:
Alvin P. Anderson, Esquire
Anderson, Franck & Davis, P.C.
P.O. Drawer Q
Williamsburg, VA 23187
(757) 229-7322