

213

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE EIGHTEENTH DAY OF MAY, NINETEEN HUNDRED EIGHTY-SEVEN, AT
1:03 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD,
JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
Stewart U. Taylor, Vice-Chairman, Stonehouse District
William F. Brown, Roberts District
Perry M. DePue, Powhatan District
Thomas D. Mahone, Jamestown District

David B. Norman, County Administrator
Darlene L. Burcham, Assistant County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - May 4, 1987

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

Mr. Mahone made a motion to approve the minutes as presented.

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

C. PROCLAMATION

1. "Buckle Up" Week - James City County

Mr. Edwards read and presented the proclamation to Mr. Richard Wallis of the James City County Transportation and Safety Commission.

Mr. Wallis thanked the Board for its support, and presented a safety sign, "We Care - Buckle Up", to the Board for display at the exit from the Government Center.

R E S O L U T I O N

"BUCKLE UP AWARENESS WEEK"

WHEREAS, on Virginia Highways we have been losing almost 1,050 motorists and suffering nearly 53,000 injuries a year; and

WHEREAS, there is proof beyond doubt that the use of safety belts reduces the occurrence of these deaths and injuries by approximately one-half; and

WHEREAS, traffic accidents and deaths cost taxpayers, employers and insurance policyholders tens of billions of dollars each year; and

WHEREAS, one of the most effective ways to reduce deaths and injuries is to promote the use of safety belts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate the week of May 18th to May 25th, 1987, as

"BUCKLE UP AWARENESS WEEK"
in JAMES CITY COUNTY

and calls upon all drivers in James City County to buckle their safety belts; and to continue this practice after this week and for all times thereafter.

D. PRESENTATION**1. Resolution of Appreciation - James Lukaszewicz**

Mr. Edwards read and presented the proclamation to James Lukaszewicz in appreciation for his community efforts.

Mr. Lukaszewicz thanked the Board for the opportunity to work with James City County.

Mr. Edwards presented a farewell gift to Mr. Lukaszewicz, who once again thanked the Board and stated he had enjoyed the relationship.

2. Virginia Peninsula Economic Development Council - J. A. Denton, III

Mr. Edwards introduced Mr. J. A. Denton, III, President of the Virginia Peninsula Economic Development Council.

Mr. Denton stated the VPEDC had enjoyed a successful 1986 and that inquiries about James City County had increased 42% over the past year. Mr. Denton reported that, at a meeting on May 18, the Council voted against merging with the Forward Hampton Roads organization. Mr. Denton concluded that he was looking forward to working with the County Administrator on the Economic Development program.

3. Community Diversion Incentive - Charleen Kappler-Villa

Charleen Kappler-Villa, of the Community Correction Resources Board, spoke on the Community Diversion Incentive program for the Middle Peninsula area, and thanked the Board for its past support.

4. Historical Commission - Kevin Kelly

Kevin Kelly, Chairman of the James City County Historical Commission, stated that the Commission assists citizens and agencies by providing information about historic sites and the importance of preservation. Some of next year's goals include completion of the oral history project, the addition of buildings and sites to the State Register, and developing guidelines for working with developers, etc.

Mr. Kelly presented Historical Commission awards to Mr. and Mrs. Robert Cooney and the Busch Corporation.

E. HIGHWAY MATTERS

Jim Kelly, of the Highway Department, reported the Longhill Road project, which involves two left turn lanes at Windsor Forest, should be under contract by the third week of June. The contract is for ninety days, with work possibly beginning in August.

Mr. Taylor requested that the 35 mile per hour speed limit on Racefield Drive be checked because citizens feel a 25 mile per hour speed limit would be safer.

F. PUBLIC HEARINGS**1. Case No. SUP-6-87. Bryant Construction Company**

Victoria Gussman, Director of Planning, said that Mr. Darrell Rickmond of Rickmond Engineering, Inc. had applied on behalf of Mr. Bert Geddy for approval of a Special Use Permit to allow the construction of a proposed office/storage building in the Reservoir Protection Overlay District. The property is located approximately one-half mile east of the Richmond Road and Chickahominy Road intersection, and approximately 400 feet north of a private road entrance connected to Richmond Road.

Staff recommends approval of the application with conditions outlined in the resolution.

Mr. Edwards opened and closed the public hearing.

Mr. DePue made a motion to approve SUP-6-87.

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

R E S O L U T I O N

CASE NO. SUP-6-87. BRYANT CONSTRUCTION COMPANY

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.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-6-87 as described herein with the following conditions.

1. The execution of an Inspection/Maintenance Agreement prior to final site plan approval and as approved by the County Attorney for performance assurances pertaining to runoff control and reservoir protection measures.
2. Runoff from the building shall be controlled by infiltration trenches (seepage pits). The details and calculations for both trenches shall be provided and approved by the Department of Public Works prior to final site plan approval.
3. A soil test shall be provided for approval by the Department of Public Works to insure that the soils are suitable for infiltration trenches.
4. Construction of the infiltration trenches shall be delayed until disturbed areas draining to the trenches are stabilized. This shall be noted on the site plan.
5. If construction of this facility has not begun within a 24-month period from the issuance of this permit, it shall become void. Construction shall be defined as clearing, grading, and the excavation and pouring of all footings covered by this permit.

2. Case No. SUP-10-87. Erccrute Travers

Allen Murphy, Jr., Principal Planner, stated Mr. Erccrute Travers had submitted an application for a Special Use Permit to allow the placement of a mobile home to be used as a residence on approximately .35 acres. The property is zoned A-1 and is located at 3108 Chickahominy Road in the Stonehouse District.

Staff recommends approval of the Special Use Permit with conditions outlined in the resolution.

Mr. Edwards opened and closed the public hearing.

Mr. Mahone asked if "when" should be used in condition 4 rather than "in".

Mr. Murphy agreed.

Mr. Brown noted that the Health Department has approved a permit for both a well and septic system for a small area near the reservoir.

Mr. Murphy said the Health Department will do an inspection before the septic lines are covered.

Mr. Edwards opened and closed the public hearing.

Mr. Taylor made a motion to approve Special Use Permit 10-87.

Mr. Edwards remarked that the lot was an unusually small parcel.

Mr. Murphy stated this was a nonconforming lot and that current zoning requires lots of one acre or more to meet setback and Health Department requirements.

Mr. Taylor commented that there was a 200-foot buffer zone purchased by the Newport News Waterworks to the rear of the property.

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

RESOLUTION

CASE NO. SUP-10-87. ERCRUTE TRAVERS

WHEREAS, it is understood that 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 that a Special Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Ercrute Travers
Real Estate Tax Map ID: (22-1)
Parcel No.: (1-36)
Address: 3108 Chickahominy
District: Stonehouse
Zoning: A-1

Conditions:

1. The mobile home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufacturer's Home Construction and Safety Standards.
2. The number of bedrooms shall not exceed three.
3. The applicant shall submit an exact description with identification of the mobile home prior to the placement of the mobile home. This permit is valid only for the mobile home provided for in that description. If the mobile home is removed then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised, it shall become void one year from the date of approval.
4. The applicant shall maintain the easement of right-of-way to the property in an all-weather surface.

G. CONSENT CALENDAR

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

Mr. Taylor requested that Item 8 be removed.

Mr. Edwards made a motion to approve the Consent Calendar with Item 8 removed.

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

1. FY 88 Highway Safety Grant

R E S O L U T I O N

FY 88 HIGHWAY SAFETY GRANT

WHEREAS, the Federal Government has made funds available to support Local Highway Safety Programs; and

WHEREAS, the Board of Supervisors of James City County desires Federal funds to help improve pedestrian safety in James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that it authorizes its Chairman and Clerk to sign the grant application entitled "Application for Highway Safety Project Grant."

2. Litter Control Program Grant

R E S O L U T I O N

1987-88 LITTER CONTROL GRANT APPLICATION

WHEREAS, the James City County Board of Supervisors recognizes the existence of a litter problem within the boundaries of James City County; and

WHEREAS, the Virginia Litter Control Act of 1987 provides, through the Department of Waste Management Division of Litter Control and Recycling, for the allocation of public funds in the form of Grants for the purpose of enhancing local litter control programs; and

WHEREAS, having reviewed and considered the Regulations and the Application covering administration and use of said funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses and supports such a program for James City County as is indicated in the attached application Form LC-G-1; authorizes the County Administrator to plan, budget, and apply for a Grant, which if approved, will be used to fund said Program; and requests the Department of Conservation and Economic Development, Division of Litter Control, to consider and approve said Application and Program, said Program being in accord with the Regulations governing use and expenditure of said funds.

3. Code Violation Liens

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Office of Code Compliance has certified to the Board of Supervisors of the County of James City that the following bill for service rendered is delinquent and remains unpaid; and

WHEREAS, such unpaid and delinquent charges constitute a lien against the real property on which the service was performed and for which charges were imposed.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 7-4 of the Code of the County of James City, the Board of Supervisors directs that the following delinquent charges for service rendered shall constitute a lien against such property to wit:

Mowing grass and weeds:

ACCOUNT NO.:

Mr. Suresh P. Gharse
102 King Henry Way
Williamsburg, VA 23185

DESCRIPTION OF PROPERTY: 114 Lands End Drive
Powhatan Shores Subdivision
Tax Map No. (47-3) Parcel (5-66)
Deed Book #227, page 795

AMOUNT DUE: Labor and Equipment \$60.00

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Office of Code Compliance has certified to the Board of Supervisors of the County of James City that the following bill for service rendered is delinquent and remains unpaid; and

WHEREAS, such unpaid and delinquent charges constitute a lien against the real property on which the service was performed and for which charges were imposed.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 7-4 of the Code of the County of James City, the Board of Supervisors directs that the following delinquent charges for service rendered shall constitute a lien against such property to wit:

Mowing grass and removing trash and debris:

ACCOUNT NO.: Mr. Winfred Fowler, Jr.
23 Wallace Road
Williamsburg, VA 23185

DESCRIPTION OF PROPERTY: 23 Wallace Road
Tax Map No. (50-2) Parcel (1-26)
Deed Book #210, page 713

AMOUNT DUE: Labor and Equipment \$500.00

4. Amendments to the Personnel Policies and Procedures Manual

R E S O L U T I O N

AMENDMENT OF THE JAMES CITY COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, changes in Federal and State law necessitate the amendment of the James City County Personnel Policies and Procedures Manual; and

WHEREAS, Section 5.11, Retirement, is now in conflict with Federal and State law; and

WHEREAS, Section 8.4, Management Responsibilities, is required by State law to be amended effective July 1, 1987.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends and reenacts the Personnel Policies and Procedures Manual by amending Section 5.11, Retirement, effective upon adoption, and Section 8.4, Management Responsibilities, effective July 1, 1987, said Sections being attached hereto and incorporated herein by reference.

5. Welstead Street Improvements

R E S O L U T I O N

IMPROVEMENT AND DEDICATION OF WELSTEAD STREET IN TEMPLE HALL ESTATES

WHEREAS, Section 33.1-72.1(C-1) of the Code of Virginia authorizes rural additions to the secondary system of the State Highways; and

WHEREAS, the James City County Board of Supervisors recommends that Welstead Street, more particularly described below, be taken into the secondary system of State Highways as a rural addition to the secondary system of the County; and

WHEREAS, neither the original developer, the developers, nor successive developers retain a speculative interest in property abutting Welstead Street.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, in accordance with the above-referenced recommendation, that the Virginia Department of Transportation is hereby requested to construct and include the following street in the secondary system of State Highways as a rural addition pursuant to Section 33.1-72.1(C-1) of the Code of Virginia:

Welstead Street
From: State Route 756 (Norman Davis Drive)
To: Intersection of Louise Lane
Distance: 760 feet (0.14 miles)

An unrestricted right-of-way of 50 feet, along with drainage easements, is guaranteed as evidenced by Plat of The 2nd Subdivision of Temple Hall Estates, recorded May 7, 1963, in Plat Book 20, Page 47, and Deeds of Record recorded in Deed Book 263, Page 455, dated January 4, 1985; Deed Book 274, Page 182, dated June 3, 1985; and Deed Book 342, Page 705, dated January, 19, 1987, in the Clerk's Office of James City County, Virginia.

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

6. Vacation of Second Avenue - Ordinance

7. Case No. Z-3-87. St. George's Center

Staff recommends that the request of withdrawal for rezoning of a 400,000 square foot shopping center at the southeast corner of Five Forks be approved.

8. Contest Procedure for Setoff Debt Collection

Mr. Taylor asked if the proposed procedure would replace court action.

Mr. Morton replied that if an individual is displeased with the outcome of the administrative process, he or she has the ability to appeal that decision to Circuit Court.

Mr. Taylor asked if persons would go before the panel before going to court.

Mr. Morton replied in the affirmative.

Mr. Taylor asked if other jurisdictions were using this procedure.

Mr. Morton replied in the affirmative.

Mrs. Burcham stated that there were pending contested claims which precipitated the action request and that the Treasurer was requesting the appointment of the panel as soon as practical.

Mrs. Betty Pettengill, Assistant Treasurer, stated that this procedure applies to personal property tax only.

Mr. Edwards made a motion to approve the contest procedure for setoff debt collection.

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

RESOLUTIONADOPTION OF CONTEST PROCEDURE
FOR SETOFF DEBT COLLECTION

WHEREAS, the County of James City desires to collect debts owed to the County through the collection procedure created by the Setoff Debt Collection Act; and

WHEREAS, said Act requires a hearing procedure for debtors to contest the validity of the debt prior to the State offsetting the debt from the tax refund; and

WHEREAS, the Treasurer recommends the adoption of the attached Contest Procedure For Setoff Debt Collection.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Contest Procedure For Setoff Debt Collection, attached hereto, and incorporated by reference.

H. BOARD CONSIDERATIONS

1. Case No. Z-5-87. Zoning Ordinance Amendments

Mr. Edwards asked whether Mr. Brown's concerns with this Ordinance amendment had been answered by the Attorney's Office.

Mr. Brown replied in the affirmative. Mr. Brown stated that he felt the amendment would not end all of the problems, but that he supported it.

Mr. Taylor said he was in favor of some of the amendments, but could not support Section 20-405(f).

Mr. Morton suggested possibly removing the last sentence of Section 20-405(f), taking out the penalty for failure of an owner to file an application. The letter could state return of the questionnaire was voluntary.

Mr. DePue asked the purpose of the questionnaire.

Mr. Morton replied that the questionnaire would gather information and make the County aware of changes in nonconforming uses.

Mr. Mahone stated that staff felt that the procedure would save inspection time and remind property owners to check on nonconforming uses before building.

Mr. Edwards asked Mr. A. G. Bradshaw, member of the Planning Commission who was in the audience, if the Planning Commission concerns were with the penalty clause or the entire Section 20-405(f).

Mr. Bradshaw recalled dissent concerning the entire section.

Mr. Brown inquired as to whom would receive the questionnaires.

Mr. Larry Davis, Assistant County Attorney, said the mailing would be sent to persons who have verified nonconforming uses as provided in the nonconforming uses section. The questionnaire will be mailed every two years from a permanent list of these persons who have verified nonconforming uses.

Mr. DePue felt the current procedure should be continued and citizens notified when a violation occurs.

Mr. Edwards made a motion to delete paragraph 20-405(f).

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

Mr. Edwards made a motion to approve the Zoning Ordinance Amendment.

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

2. Case Nos. Z-11-86 and Z-18-86. Midlands/Harris

Mrs. Gussman stated that the zoning cases were deferred by the Board of Supervisors on November 3, 1986. A question raised by the Board concerned the configuration of Strawberry Plains Road in the vicinity of John Tyler Highway when Route 199 is extended.

Staff retains its recommendation of approval of the zoning cases with the proffers, which limits the uses that can be developed on the property.

Mr. Brown inquired if the parcels would be involved with right-of-way for Route 199.

Mrs. Gussman replied that the parcels were not involved.

Mr. DePue mentioned the major concern was with the highway and configuration of Strawberry Plains Road.

Mr. Mahone stated he was concerned about the house on less than a third of an acre that was not rezoned.

Mr. Edwards noted that the two cases should be separately discussed.

Mr. Brown stated his concern for the land being zoned as a neighborhood business zone. He felt that Route 199 would likely be built within the next five years, and if so, this property would be in an out-of-the-way location. He was uncertain that business zoning would be appropriate for this property.

Mr. Taylor said he supported the rezoning.

Mr. Edwards stated he felt the rezoning with restrictions was a better choice than some alternatives.

Mr. DePue said there would be no direct link with Route 199 and that he concurred with Mr. Edwards' statement that limited business zoning would be more appropriate.

Mr. Mahone stated that the applicant did a traffic analysis study that showed the necessity for a traffic light at Strawberry Plains and Ironbound Road because of the proposed development. He concluded that the limited business setback requirements protects the community and makes that land use a better choice.

Mrs. Gussman said the Highway Department has indicated that the traffic light is needed now, and she expected that the traffic signal would be added to the six-year plan.

Mr. DePue made a motion to approve rezoning Case No. Z-11-86.

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

Mr. Edwards made a motion to approve rezoning Case No. Z-18-86.

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

R E S O L U T I O N

CASE NO. Z-11-86. MIDLANDS, SECTIONS 1 & 3

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on Zoning Case No. Z-11-86 for rezoning approximately 8 acres from A-2, Limited Agricultural, to LB, Limited Business, on property identified as parcels (15-1), (15-2), (15-3) and (15-4) on James City County Real Estate Tax Map No. (38-4) and a portion of parcel (1-29) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on May 27, 1986, voted on September 23, 1986 to recommend approval of Zoning Case No. Z-11-86 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-11-86 and accepts the voluntary proffers.

R E S O L U T I O N

CASE NO. Z-18-86. WILLIAM E. HARRIS

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on Zoning Case No. Z-18-86 for rezoning approximately .25 of an acre from A-2, Limited Agricultural, to LB, Limited Business, on property identified as parcel (1-34) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on September 23, 1986, voted to recommend approval of Case No. Z-18-86 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-18-86 and accepts the voluntary proffers.

3. The James Water Supply Plan

Wayland Bass, Director of Public Works, stated that The James Water Supply Plan was prepared by the Virginia Water Control Board staff as directed by State Water Control Law. The Water Control Law requires the water supply planning activities to 1) estimate current water uses, 2) project future water withdrawal, 3) evaluate ability of existing water sources to meet current and future demands, and 4) protect instream uses by providing for minimum instream flows ("flow by" requirements).

Mr. Bass further commented that during the fifty-year period, 1980-2030, the increase in water demand will be thirty-one percent basin-wide, and sixty percent in the York-James Peninsula Subarea.

He stated that staff was in general agreement to: 1) withholding comment on groundwater availability and minimum instream flow, 2) commending State Water Control Board for very good water planning effort, and 3) urging the State to develop plans for making water available during a water shortage.

Mr. DePue made a motion to approve the resolution.

Mr. Edwards asked if paragraph 6 of the resolution could be deleted.

Mrs. Burcham replied that endorsing the effort put into the plan was important, and any withholding any endorsement might discourage the State from assuming its appropriate role in development of a management plan for water resources. She commented that each locality had been asked to provide a resolution of endorsement by mid-May.

Mr. Mahone said another concern is maintaining the instream flow. A certain amount has to be maintained for quality of river natural wildlife. He further stated that the availability of groundwater is vital for our future, and we should encourage the State to continue to look for ways to maintain the instream flow and draw high quality groundwater.

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

R E S O L U T I O N

JAMES WATER SUPPLY STUDY

WHEREAS, the Virginia Water Control Board is developing water supply studies for each river basin in the State; and

WHEREAS, the legislation, enacted by the General Assembly in 1981, directed the Board to "prepare plans and programs for the management of the water resources in this State in such a manner as to encourage, promote and secure the maximum beneficial use and control thereof"; and

WHEREAS, the Virginia Water Control Board has developed a draft of the James River Basin Water Supply Study; and

WHEREAS, James City County has had the opportunity to provide input and comments into the study process through local representatives on an advisory committee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, recognizes this study as a vitally important first step, necessary to identify State and regional water needs and water supply options.

BE IT FURTHER RESOLVED that the Board of Supervisors endorses for the most part the analysis, recommendations and conclusions of the James River Basin Water Supply Plan, as they pertain to the James-York Peninsula, while reserving comment on minimum Instream Flow and availability of groundwater until further study and/or recommendations are available.

BE IT FURTHER RESOLVED that the Board of Supervisors urges the State to build on this first step with the development of further plans, policies and programs to assure that adequate water supplies can be provided in areas where water shortages are projected.

BE IT FURTHER RESOLVED that the staff of the Water Control Board is commended for its efforts and dedication in the coordination, drafting and preparation of this study.

I. PUBLIC COMMENT

Mr. Gilbert Bartlett, attorney for Virginia International Finance and Development, Inc., asked for approval of Phase I of the Warhill rezoning since the amended proffers, the amended homeowners' association regulations, and a revised Master Plan were received by the County deadline.

Mr. Bartlett stated that the proffers reduced the square footage of the commercial development, reduced the number of residential units to 410 in Phase I, with 110 units having access from Longhill Road and the other 300 units having access from Centerville Road. He also stated that the developer will wait 120 months to develop within the Route 199 right-of-way, and is willing to work with the County and the Highway Department in developing the 199 corridor intersection with Route 60. He concluded by stating that any further delay of approval will cause serious economic problems for the applicant.

Mr. Edwards said that he had asked Mr. DePue to serve on a subcommittee to study the rezoning. He further stated that he was reluctant to approve Phase I without time to make unhurried decisions.

Mr. Taylor said he favored approval of Phase I.

Mr. DePue strongly emphasized that the Board was not responsible for the delay in approval of this case. Staff must review all materials and present it to the Board. The subcommittee will look at the case fairly and work on it in good faith. Technical questions are to everyone's advantage.

Mr. DePue asked if the Highway Department had sent a response.

Mrs. Gussman replied that she had sent a letter, but had received no response from the Highway Department to date.

Mr. DePue said that he was unwilling to make decisions without the Highway Department traffic analysis.

Mr. Edwards asked Board members if there was a recommendation to review only Phase I.

Mr. Morton commented that Joe Phillips had asked to discuss the technical problems, but that discussion has not taken place yet.

Mr. Morton continued that the County had legitimate concerns as the proffers have not sufficiently addressed the private roads issue, and the legal staff will continue to recommend denial of the case based on the current proffers.

Mr. DePue asked for thoughts about whether the subcommittee should deal with only Phase I as opposed to the entire project.

Mr. Brown said the proposal must be finalized, clearly stated, and received so that the Board can make a decision with staff recommendations. Such documentation has not been seen to date and he felt the Board could not vote without the traffic analysis.

Mr. DePue said that the Gorove/Slade representative at the last meeting reported that a traffic analysis was not requested for Longhill Road south from Olde Towne Road. Staff had replied that this analysis was requested. Mr. DePue submitted that the representative had eliminated a critical part of the analysis.

Mr. Edwards stated that the subcommittee would be willing to work with the latest proffers, and the Board would have to have the results in writing before making a decision.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman said he had no report.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Brown mentioned that the beautification project was moving forward and he wanted to encourage the persons involved to continue.

Mr. Brown also reported that several builders of single family houses had asked about the Newport News Waterworks connection fee of \$1,000. He asked for a formal inquiry as to the purpose of the fee, and whether the fee is applicable system-wide. He further stated that when a builder gets a building permit he has to pay the sewer and connection fees, as well as a \$200 fee, in the event the City of Newport News should have to repair the road for water line cuts. The \$200 fee is supposed to be refunded if not used, but refunds have not been received, nor have streets been repaired.

Mr. Norman said he would inquire and make a report.

Mr. Mahone mentioned that the County has a litter problem, and asked staff to encourage the police to continue to cite people for litter violations as well as report on the judicial disposition of such cases.

Mr. Edwards stated that he had met with representatives of the Farmer's Market committee and that they are progressing. Site selection is considered the key to acquiring bank financing. The committee prefers the Richardson Meadows tract on Route 5, but is willing to accept the Strawberry Plains site if the Board agrees. A Zoning Ordinance amendment is also necessary.

Mr. Brown stated he was pleased with the farmers' progress and is agreeable to proceeding with the Strawberry Plains site.

Mr. DePue said the Strawberry Plains site might present a traffic problem.

Mr. Mahone said the parcel was appropriate and compatible, because it is next to limited business zoning and college property, which should produce few complaints about noise, etc.

Mr. Edwards made a motion to approve the Strawberry Plains site for use by the Farmer's Market.

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

Mr. Edwards inquired as to the procedure the Board wished to follow for naming the Contest Procedure for Setoff Debt Collection panel.

Mr. Brown asked whether the selection should be advertised.

Mrs. Burcham replied that staff supplied Frances Whitaker, Treasurer, with the names of applicants who had been appointed to other boards and commissions, but no current applicant pool existed. She said there was a staff recommendation for the appointments.

Mr. Edwards asked if the vacancies could be advertised on the government cable channel.

Mr. Taylor wanted to know if the panel members would be compensated.

Mr. Morton replied in the negative.

Mr. Edwards stated that the appointments should be made at the next meeting, after advertisement on the government channel, and the Board has received a list of persons.

Mrs. Burcham stated that meetings would be mostly from February to mid-May and that individuals with financial backgrounds would be desirable.

Mr. Edwards commented that Board members should also pursue finding persons for the panel.

Mr. Mahone reported that the Williamsburg Regional Commission on Growth is moving forward and making progress with an October deadline. The Growth Commission is asking persons to help in the research. Mr. Mahone relayed his appreciation to Mrs. Burcham for doing an outstanding job serving on a panel recently. He also commended staff members, Victoria Gussman, Kay Robertson, and Wayland Bass for their presentations to the group.

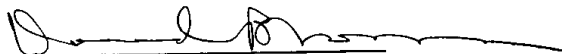
Mr. Edwards noted the six-year plan material in the reading file and requested Board members call Mrs. Gussman with their questions.

Mrs. Gussman said that she felt confident speakers would attend the public hearing, and she would appreciate individual ideas, problems, and comments before the next meeting.

Mr. Edwards made a motion to adjourn.

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

The Board adjourned at 3:15 p.m.


David B. Norman
Clerk to the Board

Section 5.11 Retirement

- A. VSRS - The County participates in the Virginia Supplemental Retirement System (VSRS).
- B. Eligibility for Membership - Full-time permanent and limited term employees are eligible for membership in VSRS. (Rev. 7-1-87)
- C. Cost - The County pays the full cost of the VSRS contribution for the employee.
- D. Eligibility for Retirement with Benefits from VSRS
 - 1. Service Retirement - An employee is eligible for service retirement if he is:
 - a) A VSRS member, at least 55 years of age, and has at least five years of contributions in VSRS, or
 - b) Aged 60 or older.
 - 2. Disability Retirement - A member may apply for disability retirement when the member:
 - a) Has at least five years of VSRS covered service or if the cause of the disability is compensable under Workmen's Compensation;
 - b) Becomes mentally or physically unable to perform present duties;
 - c) Is under age 65; or is under age 60 and covered under special benefits for law enforcement officers and firefighters; and
 - d) The disability is total and likely to be permanent.
- E. Retirement Benefits - Amount of retirement benefits vary based on such factors as years of covered service, age upon retirement, and salary. Employees may contact the Personnel Office for information regarding their estimated retirement benefits. Employees planning retirement should contact the Personnel Office six (6) months prior to retirement to facilitate the application for all retirement benefits.

Management shall be the Board of Supervisors and its Designees who establish the Operating Policies for James City County. Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, the following complaints are not grievable:

- (a) establishment and revision of wages or salaries including performance evaluations and concomitant pay raises, position classifications or general benefits;
- (b) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- (c) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- (d) failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;
- (e) the methods, means and personnel by which work activities are to be carried on;
- (f) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (Rev. 7-1-87)
- (g) the hiring, promotion, transfer, assignment, and retention of employees within the County service; and
- (h) the relief of employees from duties of the County in emergencies.

In any grievance brought under the exception to Section 8.4(f), the action shall be upheld upon a showing by the County that: (i) there was a valid business reason for the action, and (ii) the employee was notified of such reason in writing prior to the effective date of the action. (Rev. 7-1-87)

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT ENTITLED, "PLAT OF COLONIAL TERRACE, JAMES CITY DISTRICT, JAMES CITY COUNTY, VIRGINIA," DATED SEPTEMBER 18, 1931, AND RECORDED IN PLAT BOOK 5, PAGE 27, AND MORE PARTICULARLY DESCRIBED AS THAT 50' RIGHT-OF-WAY NAMED SECOND AVENUE.

WHEREAS, application has been made by Mr. Roger Leclere, on behalf of the Colonial Williamsburg Foundation to vacate certain lines, words, numbers and symbols on a plat more particularly described below; and

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

WHEREAS, the Board of Supervisors did consider such application on the 17th day of November, 1986, pursuant to such notice and were of the opinion that such vacation would not result in any inconvenience and is in the interest of the public welfare.

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

1. That a portion of a certain subdivision plat entitled, "Plat of Colonial Terrace, James City District, James City County, Virginia," dated September 18, 1931, and recorded in Plat Book 5, Page 27, be vacated so as to permit the recordation of a new plat that will serve to remove certain lines, words, numbers and symbols as more specifically set forth in said plat and thereby vacating that 50' right-of-way named Second Avenue.
2. That a new plat entitled, "Plat for Vacation of Second Avenue Which Lies Entirely Between Various Properties of Colonial Williamsburg Foundation, James City County, Virginia," dated July 28, 1986, prepared by AES, A Professional Corporation, Williamsburg, Virginia, and approved by James City County, be put to record in the Clerk's Office of the Courthouse for the City of Williamsburg and County of James City, Virginia.
3. That said vacation shall be conditioned upon the purchase of the right-of-way by the Colonial Williamsburg Foundation for the sum of \$11,550, such value being agreed upon by the Colonial Williamsburg Foundation and James City County.

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



Jack D. Edwards
Jack D. Edwards, Chairman
Board of Supervisors

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

ATTEST:

David B. Norman
David B. Norman
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,
this 18th day of May, 1987.

0182U

VIRGINIA: City of Williamsburg and County of
James City, to wit:
In the Clerk's office of the Circuit Court of the
City of Williamsburg and County of James City the
176 day of July, 1987 This Ordinance
was presented with Certificate annexed and
admitted to record at 12:40 o'clock
Teste: Helene S. Ward Clerk
by David B. Norman
Deputy Clerk

JAMES CITY COUNTY

CONTEST PROCEDURE FOR SETOFF DEBT COLLECTION

JAMES CITY COUNTY

SUMMARY OF

SETOFF DEBT COLLECTION PROCEDURE

TREASURER - Delivers magnetic tape or manual tape to Department of Taxation by November 1. Updated tape for corrections and reductions due January 5.

DEPARTMENT OF TAXATION - Mails the Treasurer a notice of Setoff match and notifies Debtor all or part of refund is held.

TREASURER - Sends letter to Debtor within 10 days of notice of match by Department of Taxation.

DEBTOR - Has 30 days to respond to Treasurer's letter if the claim is contested.

TREASURER - Submits RED copy of "Notice of Claimant Agency" form which was furnished by Department of Taxation if the claim is contested within the 30 days. If Debtor does not contest claim, Treasurer submits GREEN copy to Department of Taxation and State remits payment to County.

JAMES CITY COUNTY

SUMMARY OF

CONTEST PROCEDURE FOR SETOFF DEBT COLLECTION

LOCAL GOVERNING BODY - Approves an appeals procedure and appoints a 3-member panel to hear appeals.

DEBTOR - Granted a hearing with appeals panel to determine validity of any timely contested claim.

TREASURER - Reports to Department of Taxation all contested claims every 30 days until final determination, if finalization is not made within 60 days.

TREASURER - Makes arrangements for the hearing and notifies the Debtor. Debtor and local claimant representatives present their case to Appeals Panel. An attorney for the County may be present at the hearing. A record of the proceedings shall be made.

APPEALS PANEL CHAIRMAN - Files decision in writing with Treasurer and Debtor within 10 days after hearing.

DEBTOR - May appeal decision by commencing action in the Circuit Court within 10 days.

TREASURER - Certifies debt to the Department of Taxation within 20 days after final determination of the debt.

STATE - Submits payment to the County.

Contest Procedure For Setoff Debt Collection**I. Definitions**

Debtor - Any individual having a delinquent debt or account with the County which has not been adjudicated, satisfied or set aside by court order, or discharged in bankruptcy.

Delinquent debt - Any liquidated sum due and owing the county, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law or any other legal theory, regardless of whether an outstanding judgment exists for that sum which is legally collectible and for which a collection effort has been or is being made.

Department - The Department of Taxation or the Tax Commissioner of the Commonwealth of Virginia.

Refund - Any individual's Virginia income tax refund payable pursuant to Section 58.1-309 of the Code of Virginia, including any refund belonging to a debtor resulting from the filing of a joint income tax return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under Section 58.1-324(B)(2) of the Code of Virginia.

II. Notification to the debtor

- A. Within ten (10) days of receipt of notification from the Department that a debtor is entitled to a refund, the County shall mail a written notification to the debtor at his or her last known address which shall inform the debtor of the County's intention to direct the Department to apply the refund against the debt. The County shall send a copy of the notification to the Department.
- B. For the Department to be obligated to continue holding refunds until receipt of certification of the debt, if any, pursuant to Section 58.1-528, the copy of the County's notification must be received by the Department within fifteen (15) days of the date of the Department's mailing to the County the notification of the debtor's entitlement to a refund.
- C. The written notification to the debtor shall clearly state:
 1. the basis of the County's claim;
 2. the intention to apply the refund against the debt owed the County;
 3. the debtor's opportunity to give written notice of intent to contest the validity of the claim within thirty (30) days of the date of the mailing of the notice;
 4. the mailing address to which the application for a hearing must be sent;
 5. the fact that failure to apply for a hearing in writing within thirty (30) days of the date of the mailing of the notice by the County will be deemed a waiver of the opportunity to contest the claim and shall cause final setoff by default.

III. Application for a Hearing

- A. Within thirty (30) days of the date of the mailing to the debtor by the Treasurer of James City County of the notice of intention to assert to the debtor's income tax refund, the debtor may give written notice to the Treasurer of intent to contest the validity of the claim.
- B. The debtor's written application for a hearing shall be effective upon mailing the application postage prepaid to the address specified in the County's written notification.
- C. Failure to apply for a hearing in accordance with these requirements shall be deemed a waiver of the opportunity to contest the claim causing final setoff by default.

IV. Hearing Procedure

- A. Upon receipt of written application of the debtor's intent to contest, the County shall grant a hearing to determine the validity of the claim upon which the intended setoff is based. It shall be determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.
- B. No action shall be taken in furtherance of collection through the setoff procedure pending final determination of the validity of the debt.
- C. No issue may be considered at the hearing which has been previously litigated.

V. Appeal Panel

- A. An appeal shall be heard before the County's appeal panel consisting of one County employee and two County citizens who shall be appointed by the Board of Supervisors.
- B. No person hearing the debtor's application contesting the County's claim shall have been involved in the prior circumstances which have culminated in such dispute. No deputy or employee of the Treasurer's Office, Commissioner of Revenue's Office or the Assessor's Office shall be appointed to the appeals panel.
- C. The panel members shall not receive compensation for their activities as appeals panel members.
- D. A person appointed to the panel shall continue to serve at the pleasure of the Board of Supervisors until they resign or are removed.
- E. The panel shall conduct the hearing in accordance with the following procedures:
 1. Private Hearing - The hearing shall be in private, unless the debtor requests that the hearing be open to the public prior to commencement of the hearing.
 2. Representation - Both the debtor and the County may be represented by representatives or legal counsel at the hearing, and both may call upon appropriate witnesses, and may cross-examine the opposing side's witnesses. Each party shall bear all costs in employing representatives or legal counsel, and all costs of preparing and presenting their case.
 3. Burden of Proof - The debtor shall bear the ultimate burden of proving by a preponderance of the evidence that the claim, or a portion thereof, is invalid.
 4. Opening Statement - The debtor shall proceed first in the hearing. Each side shall be allowed fifteen (15) minutes prior to the presentation of evidence within which to make an opening statement.
 5. Exhibits - Exhibits, when offered by either side, may be received as evidence by the panel upon proper authentication if such exhibits are deemed by the panel to be relevant and material to the issue of the validity of claim. When exhibits are received by the panel, they shall be marked for identification and made a part of the record.
 6. Evidence - The appeals panel shall be the judge of the relevancy, materiality and weight of all evidence offered at the hearing.
 7. Closing Summation - When both sides have indicated that their evidence has been fully presented in accordance with these rules, the chairman shall permit each party to present a closing summation which shall not exceed fifteen (15) minutes in duration. Upon the conclusion of the presentation of the closing summations, the panel shall declare the hearing closed. Once closed, the hearing may not be reopened.

8. Transcript - The County shall make a verbatim record of the hearing on recording tape, from which a transcript of the hearing shall be prepared and certified, for filing with the court in the event of an appeal from the panel decision. The cost of one copy of such recording and transcript shall be borne by the County, although the County may prepare additional tapes or transcripts for its own use.
9. Panel Decision - After a full hearing on the merits of the contested claim, the majority decision of the panel shall be filed in writing by the panel chairman with the County Administrator not later than ten (10) working days after completion of the hearing. A copy of the decision shall be transmitted forthwith to the debtor and his legal counsel. The written decision shall contain findings of fact and shall state the reasons for the decision. The panel shall determine in its decision whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.

VI. Appeals from hearings

- A. Within ten (10) days after the final decision of the County after a hearing, the debtor may appeal such decision by commencing an action in the Circuit Court of the County of James City.
- B. The petition shall name the County as defendant, state the grounds for review and shall be served upon the County Administrator.

VII. Certification of debt

Upon final determination of the debt or upon the debtor's default for failure to comply with Section III, the County shall within twenty (20) days certify the debt to the Department.

VIII. Credit to debtor

Upon receipt of proceeds collected on the County's behalf by the Department, the County shall credit the debtor's obligation.

IX. Confidentiality

The information obtained by the County pursuant to the exemption of Section 58.1-533 of the Code of Virginia shall only be used in pursuit of the County's debt collection duties and practices. Any current or former County employee who discloses any such information for any purpose, except as authorized by Section 58.1-3 of the Code of Virginia, shall be guilty of a Class 2 misdemeanor.

0181U

MAY 18 1987

BOARD OF SUPERVISORS
JAMES CITY COUNTY,
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE V, NONCONFORMITIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by repealing and replacing Section 20-399. Continuation, Section 20-400. Changes in zoning district boundaries, Section 20-401. Expansion or enlargement, Section 20-402. Nonconforming lots, and Section 20-403. Restoration or replacement; and by adding Section 20-399. Nonconforming uses, Section 20-400. Continuation of nonconforming uses, Section 20-401. Permitted changes of nonconforming uses, Section 20-402. Restoration of a nonconforming use damaged by casualty, Section 20-403. Expansion of nonconforming uses, Section 20-404. Use of nonconforming lots, and Section 20-405, Verification of nonconforming uses.

Chapter 20. Zoning

Article V. Nonconformities

Section 20-399. Nonconforming uses.

(a) The purpose of this article is to regulate nonconforming uses in a manner consistent with sound planning and zoning principles. The general intent is that, over time, nonconforming uses will be discontinued in favor of uses conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses need not be entirely static, and that under certain circumstances, nonconforming uses may change, according to law and the provisions of this chapter.

(b) The term "nonconforming use" shall mean any use, lot or structure that was lawful on the date of enactment of this chapter, or amendment thereto, which has been continued although otherwise unlawful by such enactment or amendment. Any use, lot or structure that was unlawful on the date of enactment of this chapter, or amendment thereto, shall remain unlawful and shall not be a "nonconforming use."

(c) The nonconforming status of any nonconforming use shall adhere solely to the use of the land, and not to the owner, tenant, or other holder of any legal title to the property or the right to make use thereof.

(d) A use that is accessory or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.

(e) No use accessory to a principal nonconforming use shall be continued after nonconforming status is lost for the principal use. (Ord. No. 31A-88, Section 20-103, 4-8-85)

Section 20-400. Continuation of nonconforming uses.

(a) A nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be changed, altered, repaired, restored, replaced, relocated or expanded in any manner, including the addition of new accessory or incidental uses, except as provided for in section 20-401 et seq. of this chapter.

(b) If any nonconforming use is discontinued for a period of two years, it shall lose its nonconforming status, and any further use shall conform to the provisions of this chapter. 235

(c) For the purposes of this section, cessation of a nonconforming use for the aforesaid period shall be conclusively presumed to establish discontinuance.

(d) Operation of only an accessory or incidental use to the principal nonconforming use during the two-year period shall not operate to continue the principal nonconforming use. (Ord. No. 31A-88, Section 20-106, 4-8-85)

Section 20-401. Permitted changes of nonconforming uses.

(a) A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this article, and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval under this chapter) otherwise required by law.

- (1) A nonconforming use may change to a conforming use.
- (2) A nonconforming use may change to a more restricted nonconforming use, as set forth in section 20-401(b) of this chapter.
- (3) A nonconforming use may be repaired, provided such repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming.
- (4) A nonconforming use damaged by casualty may be restored in accordance with the provisions of section 20-402 of this chapter. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.
- (5) Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses may be permitted, subject to the following standards:
 - (i) Such changes shall not increase the land area occupied by any aspect of the nonconforming use, and shall not increase the gross floor area of any nonconforming structure; and,
 - (ii) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located, or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict; and
 - (iii) All signs associated with the nonconforming use shall be brought into full compliance with the current zoning ordinance requirements for the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process.
- (6) Except for signs, nonconforming uses other than buildings (such as, but not limited to, underground storage tanks, private sewage disposal systems, and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.
- (7) A nonconforming use may expand in accordance with the provisions of section 20-403 of this chapter.
- (8) A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity, provided that current parking requirements shall be adhered to upon such extension.

- (9) No structure used as a part of a nonconforming use shall be moved to any other lot unless such lot is properly zoned to permit the use, nor shall such a structure be moved within the lot on which it exists, unless a relocation is specifically provided for in section 20-399 et seq. of this chapter.

(b) A nonconforming use may change as a matter of right to a more restricted nonconforming use, upon issuance by the zoning administrator of an approval for such a change. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with section 20-405 of this chapter, shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use. If the zoning administrator determines the proposed use is not "more restricted" than the existing nonconforming use, the application for a change to a more restricted nonconforming use shall be denied. An appeal from such a determination shall be to the board of zoning appeals as provided by section 20-432 of this chapter.

(c) In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

- (1) Whether the proposed use will change the size and scope of the existing use, and the magnitude of such change; and,
- (2) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, noise, and similar impacts; and,
- (3) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and,
- (4) How the quantum effect of the factors evaluated in preceding subsections (c)(1), (c)(2) and (c)(3) relate to the purpose, policies and objectives of this chapter.

(d) Upon the issuance of an approval to change to a more restricted nonconforming use, site plan approval, as set forth in this chapter, shall be required. (Ord. No. 31A-88, Section 20-107, 4-8-85; Ord. No. 31A-89, 9-9-85)

Section 20-402. Restoration of a nonconforming use damaged by casualty.

(a) A nonconforming use that is damaged by any casualty may be restored to its condition prior to the casualty, provided such restoration is begun within twelve (12) months of the date of the casualty and completed within twenty-four (24) months of the date of the casualty.

(b) Such restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes unless approved under the provisions of section 20-401(a)(5) of this chapter, nor shall such restoration include any expansion unless approved under the provisions of section 20-403 of this chapter. Such restoration may include changes that make the use less nonconforming than it was prior to the casualty.

(c) Prior to any restoration permitted by section 20-402 of this chapter, the nonconformance of the structure shall be verified as set forth in section 20-405 of this chapter.

(d) For all structures except a one-family dwelling, restoration of a nonconforming structure shall require site plan approval as set forth in this chapter. (Ord. No. 31A-88, Section 20-108, 4-8-85)

Section 20-403. Expansion of nonconforming uses.

(a) Nonconforming uses may expand only in accordance with the provisions of this section. Any permitted expansion shall occur only on the lot occupied by the nonconforming use, and no area of any lot not originally devoted to the nonconforming use shall be utilized for any aspect of such expansion.

(b) For a nonconforming one-family dwelling use, the dwelling may be expanded without limitation, except as provided for in this section. In addition, new or expanded residential accessory structures and uses (such as a storage shed, garage, swimming pool, etc.) may be permitted subject to the provisions of this chapter. Expansion of the dwelling and new or expanded accessory structures and uses shall meet all current zoning requirements, including height, yard and setbacks, for the zoning district in which located, or the R-1 zoning district if such dwelling is not located in a zoning

district where a residential use is permitted. In no case shall a nonconforming one-family dwelling be modified to accommodate additional dwelling units.

237

(c) For lots in any Business or Industrial district where the use is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.

(d) Expansion of a use pursuant to Section 20-403(c), above, meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.

(e) Prior to the approval of expansion of a nonconforming use under section 20-403 of this chapter, the nonconforming use shall be verified as set forth in section 20-405 of this chapter. (Ord. No. 31A-88, Section 20-109, 4-8-85)

Section 20-404. Use of nonconforming lots.

(a) Any unimproved lot of record, existing on the effective date of this chapter, located in any district that is nonconforming as to the lot area, lot width, or lot depth, or combination thereof, required in the zoning district in which the lot is located may be used for any permitted use in such zoning district, unless specifically prohibited, provided all other requirements of the zoning district are met or the board of zoning appeals establishes setbacks, side, and rear yards in accordance with section 20-419(c).

(b) In addition to the changes that may be allowed to nonconforming lots by section 20-401 et seq. of this chapter, nonconforming lots may change as follows:

- (1) A nonconforming lot may be increased in lot size, lot width, or both, to make the lot less nonconforming.
- (2) The boundaries of a lot that is nonconforming as to lot size or lot width, or both, may be adjusted along with the boundaries of any contiguous conforming lot, provided such adjustment does not make the conforming lot nonconforming and does not make the nonconforming lot more nonconforming.
- (3) When a nonconforming lot is changed as set forth in subsections (b)(1) and (b)(2), or when two (2) or more nonconforming lots are assembled to create a conforming lot, a plat of subdivision shall first be filed and approved in accordance with law.

Section 20-405. Verification of nonconforming uses.

(a) Prior to approval of any change in a nonconforming use permitted by section 20-401 et seq. of this chapter, the lawful status of the use shall be verified by the zoning administrator. The zoning administrator may also verify the lawful status of a nonconforming use not proposed to change, upon the request of the owner of the property on which the use is located, or upon the request of a neighboring property owner.

(b) In verifying the lawful status of a nonconforming use, the zoning administrator shall determine the following:

- (1) Whether the use is, in fact, a lawful nonconforming use as defined by this chapter, and, if so, then
- (2) The location and gross floor area (in square feet) of all buildings associated with the nonconforming use; and
- (3) The location, use and size of all structures other than buildings associated with the nonconforming use; and
- (4) The area of land (in square feet) devoted to all aspects of the nonconforming use (including buildings, parking, outside storage, travel ways, open spaces, etc.); and

- (5) A description of the principal use(s) and all accessory uses that make up the lawful nonconforming use as a whole.

(c) If such determination results in the use, or any portion, being verified as a lawful nonconforming use, the zoning administrator shall classify the overall nonconforming use based on the zoning district in which the use would be a permitted use. If the use would be permitted in more than one zoning district, the assigned classification shall be based on the zoning district that is the least intense of all districts where the use would be permitted. The assignment of such a zoning classification shall not operate to change the zoning of the property on which the nonconforming use is located, but shall be used only in determining the applicable criteria for change of the nonconformance use under section 20-401(a)(5) of this chapter.

(d) The decision of the zoning administrator under subsections (b) and (c) shall be final after thirty (30) days unless an appeal is filed to the board of zoning appeals in accordance with section 20-432 of this chapter.

(e) The decision of the zoning administrator shall be based on information provided by the owner of the property on which the nonconforming use is located, on information provided by other persons with knowledge of the property, and on any other information available to the zoning administrator as public record. Such information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and-or the property on which the use is located.


 Jack D. Edwards, Chairman
 Board of Supervisors

ATTEST:


 David B. Norman
 Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
TAYLOR	AYE
MAHONE	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
 this 18th day of May, 1987.

0176U

AGREEMENT

BOOK 346 PAGE 59

WHEREAS, Joseph S. Terrell, Essie G. Terrell, and Joseph S. Terrell, Inc. (hereinafter collectively called "the Owners") own certain real property in James City County, Virginia, (hereinafter called "the Property") and 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 (hereinafter called "The Plat").

WHEREAS, the Owners have applied for rezoning of the Property from the Limited Agricultural District, A-2, to the Limited Business District, LB; and

WHEREAS, the County of James City may be unwilling to rezone the Property from the Limited Agricultural District, A-2, to the Limited Business District, LB, because the Limited Business District, LB, zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

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

WHEREAS, the Owners are desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Business District, LB,

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the Limited Agricultural District A-2 to the Limited Business District, LB, and pursuant to Section 20-15 et seq of Chapter 20 of the Code of James City County, Virginia, the Owners agree that in addition to the regulations provided for in the Limited

Business District, LB, they will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

All buildings or structures to be erected shall be used solely for one or more of the following uses:

Banks and other financial institutions

Office Supply Stores, Secretarial and Duplicating Services

Business, governmental and professional offices

Doctors, dentist and other medical clinics or offices

Contractor's Offices without the storage of construction equipment or building materials

Off street parking as required

Joseph S. Terrell (SEAL)
JOSEPH S. TERRELL

Essie G. Terrell (SEAL)
ESSIE G. TERRELL

JOSEPH S. TERRELL

By Joseph S. Terrell (SEAL)
President

STATE OF VIRGINIA

COUNTY OF JAMES CITY, TO-WIT:

BOOK 346 PAGE 61

The foregoing was signed before me this 22nd day of July 1986, by Joseph S. Terrell, Essie G. Terrell, and Joseph S. Terrell, President of Joseph S. Terrell, Inc. on behalf of the said corporation.

Jeannette Louise Powers
Notary Public

My commission expires: June 2nd 1990



AGREEMENT

BOOK 348 PAGE 57

WHEREAS, William Harris, (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain lot, piece or parcel of land, now or formerly situate in Jamestown District, James City County, Virginia, more fully shown and described on a plat entitled "Plat Of Survey For Lot Containing .25 Acres A Part Of The Leonard Legum, et. ux. Property, James City County, Virginia, for William & Mildred Harris" dated December 16, 1960 and made by R. B. Cartwright, C.L.S., said plat being recorded in James City County Deed Book 78, Page 318.

WHEREAS, the Owner has applied for rezoning of the Property from the Limited Agricultural District, A-2, to the Limited Business District, LB; and

WHEREAS, the County of James City may be unwilling to rezone the Property from the Limited Agricultural District, A-2, to the Limited Business District, LB, because the Limited Business District, LB, zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

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

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Business District, LB,

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the Limited Agricultural District A-2 to the Limited Business District, LB, and pursuant to Section 20-15 et seq of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Limited

Business District, LB, he will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

All buildings or structures to be erected shall be used solely for one or more of the following uses:

Banks and other financial institutions

Office supply stores, secretarial and duplicating services

Business, governmental and professional offices

Doctors, dentist and other medical clinics or offices

Contractor's Offices without the storage of construction equipment or building materials

Off street parking as required

William E. Harris (SEAL)
WILLIAM HARRIS

STATE OF VIRGINIA

COUNTY OF JAMES CITY, TO-WIT:

The foregoing was signed before me this 22nd day of July, 1986, by William Harris.

Jeanette Louise Downe
Notary Public

My commission expires: June 2nd 1990

VIRGINIA: City of Williamsburg and County of James City, to-wit:

In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the 29th day of July, 1987 this Agreement was presented with certificate annexed and admitted to record at 2:48 o'clock

Teste: James E. Ward, Clerk
James E. Ward
Duplicating Clerk

