

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 19TH DAY OF JUNE, NINETEEN HUNDRED EIGHTY-NINE, AT 1:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas D. Mahone, Chairman, Jamestown District  
Stewart U. Taylor, Vice-Chairman, Stonehouse District

Jack D. Edwards, Berkeley District  
Perry M. DePue, Powhatan District  
Thomas K. Norment, Jr., Roberts District  
David B. Norman, County Administrator  
Frank M. Morton, III, County Attorney

B. MINUTES - June 5, 1989

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

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

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

C. HIGHWAY MATTERS

Mr. Frank Hall, Resident Engineer for Virginia Department of Transportation, was available for questions.

Mr. Mahone requested the status of Longhill Connector Road.

Mr. Hall responded delay was due to inclement weather.

Mr. Norment asked that trimming be done on the right-of-way at 138 Ron Springs Road.

Mr. Hall replied in the affirmative.

Mr. Norment asked when the 40 mph speed limit signs would be posted in the Carters Grove area.

Mr. Hall stated the signs should be posted within the next two weeks.

Mr. Taylor asked when Chickahominy Road would be completed.

Mr. Hall responded that work will resume once drier weather returns.

Mr. DePue asked the status of turn lanes for the new schools.

Mr. Hall replied the bids would be received in Richmond on June 27, 1989.

#### D. PRESENTATION

##### 1. Real Estate Assessments - William Brown

Mr. David Norman, County Administrator, introduced William Brown, Director of Real Estate Assessments, and reported that staff had requested the State Department of Taxation to review the County's assessment procedures.

Mr. Brown explained the Real Estate Assessment practices, the appeal process, the role and composition of the Board of Equalization, and Virginia Department of Taxation's annual audit of local assessment practices.

The Board complimented staff on the thorough report and the answering of questions presented by the concerned citizens. Some items of discussion were the adding of new houses to the tax list, area covered in comparing sale prices, no ceiling on assessment increases from year to year, the availability of Board and staff members to meet with the citizens, and the appeal process through the Board of Equalization.

By Board consensus, Ms. Jean Chestnutt was permitted to speak.

1. Ms. Jean Chestnutt, 100 John Twine, criticized the Real Estate Assessment report, stating that Fairfax Woods, Phase I, Kingsmill houses were unfairly assessed, and she cited several concerns.

#### E. PUBLIC HEARINGS

##### 1. Case No. AFD-2-86. The Croaker Agricultural and Forestal District

Mr. Marvin Sowers, Director of Planning, stated that Alvin P. Anderson, Esq., had applied on behalf of the Virginia French Winery to remove approximately 421.773 acres of land owned by Hankins Land Trust I, II, from the Croaker Agricultural and Forestal District, located approximately 1,300 feet northwest of the I-64 Croaker Road interchange at 8202 Croaker Road, further identified as Parcel (1-40) on James City County Real Estate Tax Map No. (14-3).

Staff recommended guidelines defining good and reasonable cause for withdrawal from the AFD, which is allowed under State Code if such is demonstrated by the applicant and the Board of Supervisors approve.

Mr. Sowers further noted that the Agricultural and Forestal District Advisory Committee recommended approval of the request by a 6-2 vote. The Planning Commission recommended denial of the request by an 8-3 vote. Staff concurred with that recommendation.

Mr. DePue asked that the rezoning portion of the issue be excluded from discussion at this time.

The Board discussed staff guidelines regarding withdrawal from AFD, benefit of developer installing public sewer and water and time limit for filing rezoning application.

Mr. Mahone opened the public hearing.

1. Mara Matthews, a lawyer with the firm of Anderson and Franck, stated the opportunity for such a development was unforeseen in 1986 when the parcel was placed in the AFD; the developer would pay for extension of public sewer and water from Lightfoot to the interchange; and, the Comprehensive Plan envisioned commercial residential development. She respectfully requested approval of the withdrawal of the acreage from the AFD.

Mr. Mahone closed the public hearing.

Mr. DePue made a motion to deny the request for withdrawal.

Discussion followed regarding good and reasonable cause for withdrawal, whether the withdrawal was beneficial to public or County, affect on future requests for withdrawal or addition of other parcels, and making decisions on merit of each request.

Mr. Morton requested a brief executive session.

Mr. Mahone recessed the Board to convene into executive session at 3:00 p.m. to discuss a legal matter pursuant to Section 2.1-344 (a)(7) of the Code of Virginia, 1950, as amended.

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

Mr. Mahone reconvened the Board into open session at 3:04 p.m.

Mr. DePue withdrew the motion to deny the request for withdrawal.

Mr. Norment made a motion to postpone for further review of economic impact of the request until the July 24, 1989, meeting.

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

Mr. DePue requested development input from the Economic Development Coordinator on this and future rezoning cases.

2. Case No. SUP-13-89. Maranatha Christian Fellowship

Mr. Allen Murphy, Jr., Principal Planner, stated Mr. Michael D. Patterson had submitted an application for a special use permit to allow the replacement of a manufactured home on 1.79 acres, which Maranatha Christian Fellowship owns, located at 8826 Richmond Road, zoned A-1, General Agricultural, identified as Parcel (1-43) on James City County Real Estate Tax Map No. (11-2).

Staff recommended approval with the seven conditions listed in the resolution.

Mr. Mahone opened the public hearing.

1. Mr. Michael Patterson, pastor of the Maranatha Christian Fellowship, stated that he was unaware of Condition 7 and had cleared a portion of the vegetation on the property, and planned to install a short section of privacy fence.

Mr. Mahone closed the public hearing, and made a motion to approve the special use permit.

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

R E S O L U T I O N

CASE NO. SUP-13-89. MARANATHA CHRISTIAN FELLOWSHIP

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 manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant:	Michael D. Patterson
Real Estate Tax Map ID:	(11-2)
Parcel No.:	(1-43)
Address:	8826 Richmond Road
District:	Stonehouse
Zoning:	A-1

## Conditions:

1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall 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.
2. The existing double-wide manufactured home shall be removed from the site within 30 days of placement of the new manufactured home approved by this special use permit.
3. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
4. The number of bedrooms shall not exceed three.
5. The identification number of the manufactured home shall be provided to the Planning Division prior to the placement of the manufactured home on the property.
6. The proposed manufactured home shall be set back at least 300 feet from Richmond Road.
7. Existing vegetation shall be maintained within 20 feet of all property lines except where clearing is required for utilities and necessary entrances.

3. Case No. SUP-15-89. Matthew B. Meekins

Mr. Murphy stated that Mr. Matthew B. Meekins had submitted an application for a special use permit to allow the replacement of a manufactured home on 0.91 acres, which he owns, at 141 Turner's Neck Road, zoned A-1, General Agricultural, further identified as Parcel (3-1) on James City County Real Estate Tax Map No. (21-4).

Staff recommended approval with the conditions as listed in the resolution.

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

Mr. Taylor made a motion to approve the special use permit.

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

R E S O L U T I O N

CASE NO. SUP-15-89. MATTHEW B. MEEKINS

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 manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Matthew B. Meekins

Real Estate Tax Map ID: (21-4)

Parcel No.: (3-1)

Address: 141 Turner's Neck Road

District: Stonehouse

Zoning: A-1

- Conditions:
1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall 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.
  2. The existing single-wide manufactured home shall be removed from the site within 30 days of placement of the new manufactured home approved by this special use permit.
  3. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
  4. The number of bedrooms shall not exceed two.

5. Existing vegetation shall be maintained within 20 feet of all property lines except where clearing is required for utilities and necessary entrances.

E. CONSENT CALENDAR

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

Mr. Mahone asked that Item No. 3 be removed, and made a motion to approve Items 1, 2, 4 and 5 on the Consent Calendar.

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

1. Lease/Patsy S. Dubay and Ann M. Peterson

R E S O L U T I O N

LEASE - PATSY S. DUBAY AND ANN M. PETERSON

WHEREAS, the Board of Supervisors held a public hearing on the 3rd day of April, 1989, to consider the matter of leasing five acres; more or less, of the Richardson-Meadows tract.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby authorizes and directs Thomas D. Mahone, Chairman, and David B. Norman, Jr., Clerk, to execute that certain deed dated June 19, 1989, by and between James City County, Lessor and Patsy S. Dubay and Ann M. Peterson, Lessees, which lease is attached hereto and made a part hereof.

2. Hicks Island Road - Dirt Street Program - Award of Construction Contract

R E S O L U T I O N

AWARD OF CONSTRUCTION CONTRACT FOR HICKS ISLAND ROAD DIRT STREET PROJECT

WHEREAS, funds were appropriated in the FY 89 Budget for dirt street improvements in the County; and

WHEREAS, right-of-way has been acquired and plans for the extension of Hicks Island Road have been reviewed and approved by the Virginia Department of Transportation; and

WHEREAS, bids for the extension of Hicks Island Road were received on June 8, 1989, with Joe Shouse Construction Company, Inc., of Williamsburg, submitting the lowest bid in the amount of \$56,567.00.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the award of the Hicks Island Road Extension construction contract to Joe Shouse Construction Company, Inc., on the basis of their low bid of \$56,567.00 and authorizes the County Administrator to execute a contract between James City County and Joe Shouse Construction Company, Inc., for this project.

4. Resolution of Appreciation - Kenneth E. Smith, Jr. and James Byrd

R E S O L U T I O N

CERTIFICATION OF APPRECIATION

WHEREAS, Mr. Kenneth E. Smith, Jr., has served since 1981 as the Berkeley District representative on the Williamsburg/James City County School Board; and

WHEREAS, Ken brought to the School Board a caring, concerned educational philosophy that was devoted to the needs of the students in our schools; and

WHEREAS, during a period of school growth and expansion, Ken has been keenly involved in guiding the School Board in its policies and processes and has devoted his attention and energies to curriculum improvements in the schools; and

WHEREAS, during his term, Ken served as Chairman of the School Board between 1985 and 1988, as a member of the Board of Trustees of New Horizons, and has concentrated his efforts to improving the schools music programs and served on the site selection committee for the schools building program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses its deepest gratitude to Kenneth E. Smith, Jr., for his many contributions as a member of the Williamsburg/James City County School Board for the last eight years and would wish for him the very best in his future endeavors.

R E S O L U T I O N

CERTIFICATION OF APPRECIATION

WHEREAS, Mr. James Byrd has served since 1980 as the Roberts District representative on the Williamsburg/James City County School Board; and



WHEREAS, Jim brought to the School Board a caring, concerned educational philosophy that was devoted to the needs of the students in our schools; and

WHEREAS, during a period of school growth and expansion, Jim has been keenly involved in guiding the School Board in its policies and processes and has devoted his attention and energies to curriculum improvements in the schools; and

WHEREAS, during his term, Jim served as Chairman of the School Board between 1983 and 1984, as a member of the Board of Trustees of New Horizons, and has concentrated his efforts to improving the Local and Regional Vocational Educational Program, and served on the Minority Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses its deepest gratitude to James Byrd for his many contributions as a member of the Williamsburg/James City County School Board for the last eight years and would wish for him the very best in his future endeavors.

5. Job Training Services - FY 90 Funding

R E S O L U T I O N

J O B T R A I N I N G S E R V I C E S

WHEREAS, the Board of Supervisors of James City County has been regulated to participate in a Job Training Services program; and

WHEREAS, a six-month commitment in the amount of \$5,538 has been requested; and

WHEREAS, funds exist in the current Social Service General Relief budget to provide these funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes \$5,538 for a Job Training Services program for Social Services for the 1990 fiscal year and designates \$5,538 in FY 1989 General Relief funds as a continuing appropriation to provide the funds.

3. Secretarial Position for Circuit Court Judge

Mr. William Person, who has been appointed Circuit Court Judge, has requested that the Board establish a clerical position to support his office. Information regarding former services available to the Circuit Court Judge, the need for and duties of the requested position, an increased workload, and approval of its share of the funding by the City of Williamsburg was presented to the Board.

Mr. Mahone made a motion to approve the resolution.

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

## R E S O L U T I O N

### SECRETARIAL POSITION

WHEREAS, Mr. William Person has been appointed Circuit Court Judge for Virginia Ninth District Court; and

WHEREAS, Mr. Person has determined that his new responsibilities will necessitate the establishment of a secretarial position to provide clerical support for his new responsibilities and has requested James City County and City of Williamsburg to establish and fund the position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County authorizes the establishment of the position requested by Mr. Person and agrees to provide 50% of the costs for establishing the position and associated expenses.

BE IT FURTHER RESOLVED that the additional monies needed for the new position be provided from FY 1990 Contingency Fund.

#### F. BOARD CONSIDERATIONS

##### 1. Mill Creek Landing - Crossing Over Dam

Mr. Morton's memorandum reiterated the information given at the Board of Supervisors meeting on May 15, 1989, regarding the four-party Deed and Agreement of the road crossing over a dam in the Mill Creek subdivision.

Mr. Norment noted that the documents requested by him had been received and that Mr. Victor Woodson was available for a brief presentation on the durability of the dam.

1. Mr. Woodson explained that likelihood of the dam failing was remote, either from a 50-year storm of 4.8 inches of rain per hour, or a 100-year storm of 5.1 inches of rain per hour.

Mr. Edwards made a motion to approve entering into the agreement.

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

##### 2. Smoking Policy

Mr. Larry Foster, Assistant County Administrator, stated that the smoking policy was developed at the Board's request to prohibit smoking within County-owned and operated facilities, effective September 1, 1989, and would offer smoking cessation programs for County employees.

Mr. Norment made a motion to approve the resolution.

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

## R E S O L U T I O N

### SMOKING POLICY

WHEREAS, numerous studies have concluded that smoking adversely affects the health of persons who are actively and passively exposed to tobacco smoke; and

WHEREAS, the James City County Board of Supervisors is interested in protecting the health and well being of employees and citizens who use County facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the attached policy prohibiting smoking within County facilities effective September 1, 1989.

The Board agreed that staff should begin the process with private sector participation in discussions of an ordinance for regulating smoking in public places.

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, requested an executive session for discussion of appointments to Boards and Commissions.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor asked staff to verify that all restaurants have the meals tax information.

Mr. Norman asked whether the Health Department had a list of places serving meals.

Mr. John McDonald, Manager of Financial and Management Services, replied that the State code mandates that carryout food be exempt from the meals tax, and the Health Department was responsible for inspecting food licenses.

Mr. Norment referenced a memorandum in the Reading File from Mr. Morton, County Attorney, regarding the School Board Selection Committee, stating that upon the request of the governing body, the Selection Committee may be composed of one member appointed from each election district. Mr. Norment commended the current three member committee for doing a fine job in making difficult selections. Mr. Norment made a motion to approve the resolution.

Mr. DePue made an amendment to the motion to add the language, "one from each election district" after the words "three to five members" in the NOW, THEREFORE BE IT RESOLVED paragraph.

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

## R E S O L U T I O N

### SCHOOL BOARD SELECTION COMMISSION

WHEREAS, Section 22.1-35 of the Code of Virginia, 1950, as amended provides that the Board of Supervisors of James City County, may request the Circuit Court Judge to expand the membership of the School Board Selection Commission from its current number of three to correspond with the number of election districts in the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby requests that the Judge of the Circuit Court for the City of Williamsburg and County of James City expand the School Board Selection Commission for the County from three to five members, one from each election district, so as to correspond with the number of County election districts.

Mr. Mahone asked staff to advise need of nominations for appointment to the Board of Equalization at the appropriate time.

Mr. Mahone mentioned the letter in the Reading File regarding a City/County study of the operations of the current Regional Library and recommendations for expansion.

Board discussion of participants of City/County/Library team, the cost of the study, and whether to include the issue of recommending changes to the existing library operations contract followed.

Mr. Norment made a motion to delete No. 2 in the last paragraph of the first page of the letter.

On a roll call, the vote was: AYE: Norment, Edwards, Mahone (3). NAY: Taylor, DePue (2).

Mr. Mahone requested staff to advise the Board 60 days prior to the School Board Selection Committee expiration terms.

Mr. Mahone stated that he had attended the opening of the Grove ABC Child Care Center on Saturday and was pleased to welcome the facility to the community.

Mr. Mahone announced the dinner meeting being held at 6:30 p.m. at the Recreation Center for retiring School Board members, and the Board agreed an executive session would not be held due to time limitation.

Mr. Mahone recessed the Board for a James City Service Authority meeting at 4:15 p.m.

Mr. Mahone reconvened the Board for a work session with the Housing Commission at 4:45 p.m.

Members present from the Housing Commission were William O'Donovan, Kenneth Kissinger, Alma White and Willafay McKenna. Staff members present were Anthony Conyers, Jr. and Richard Hanson.

Mr. William O'Donovan, on behalf of the Commission, presented recommendations regarding the key issue areas of innovation, funding, counseling, and blight removal. Recommendations related to the planning, legal framework and staffing needs necessary to promote the development of affordable housing in the County were also made.

No formal action was taken by the Board.

Mr. Mahone declared adjournment of the Housing Commission work session, and reconvened the Board into a work session with the James City Service Authority on the proposed ordinance to regulate refuse removers at 5:20 p.m. Mr. DePue was absent.

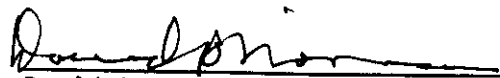
David Clark, Solid Waste Engineer, summarized the ordinance and stated he would review possible alternatives with the County Attorney's office.

By consensus, the Board approved advertising of the proposed ordinance for a public hearing at the August 7, 1989, Board of Supervisors meeting, and also agreed to a work session on Solid Waste Franchising for the August 21, 1989, Board of Supervisors meeting.

Mr. Mahone made a motion to adjourn.

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

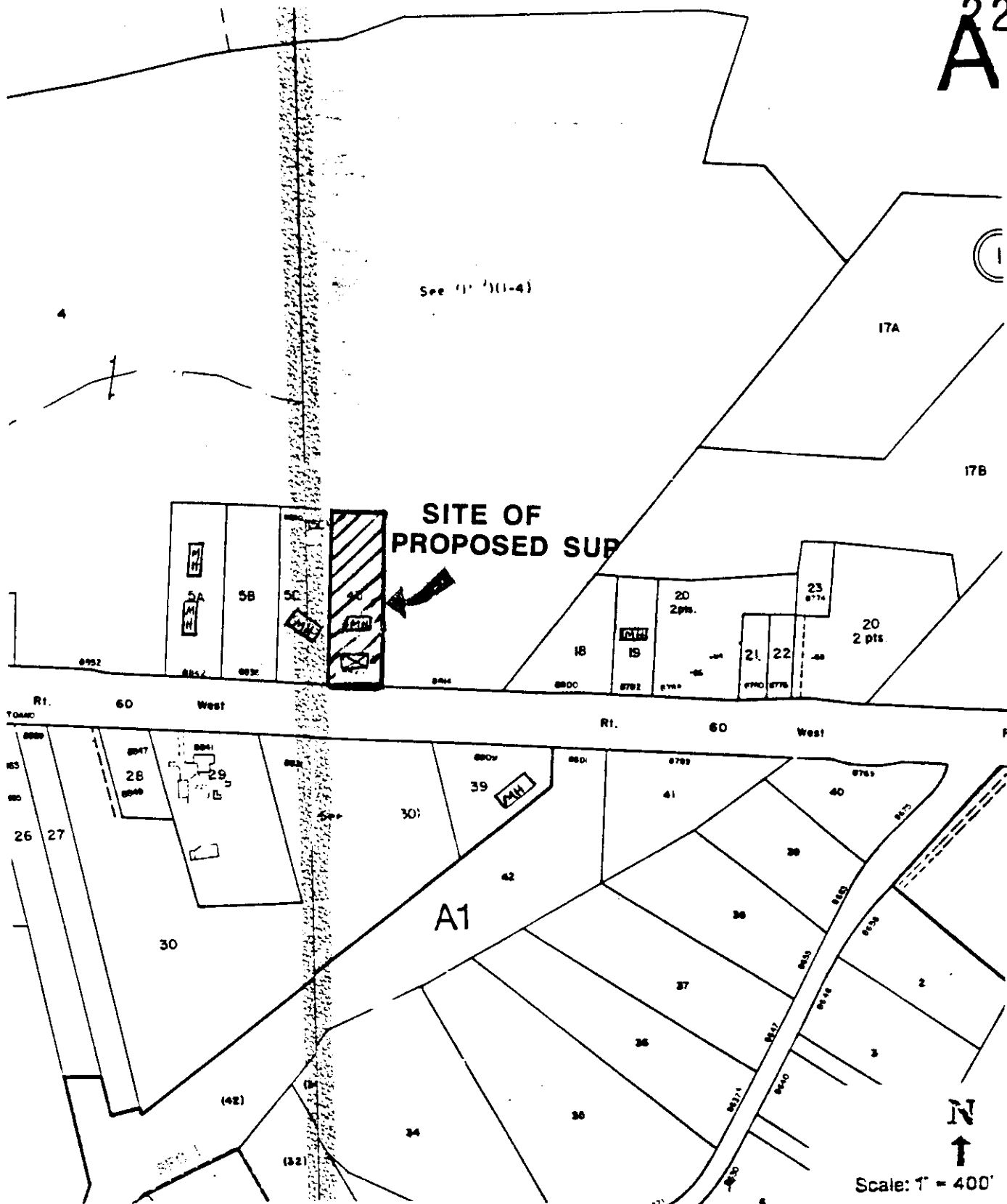
The Board adjourned at 5:55 p.m.



David B. Norman  
Clerk to the Board

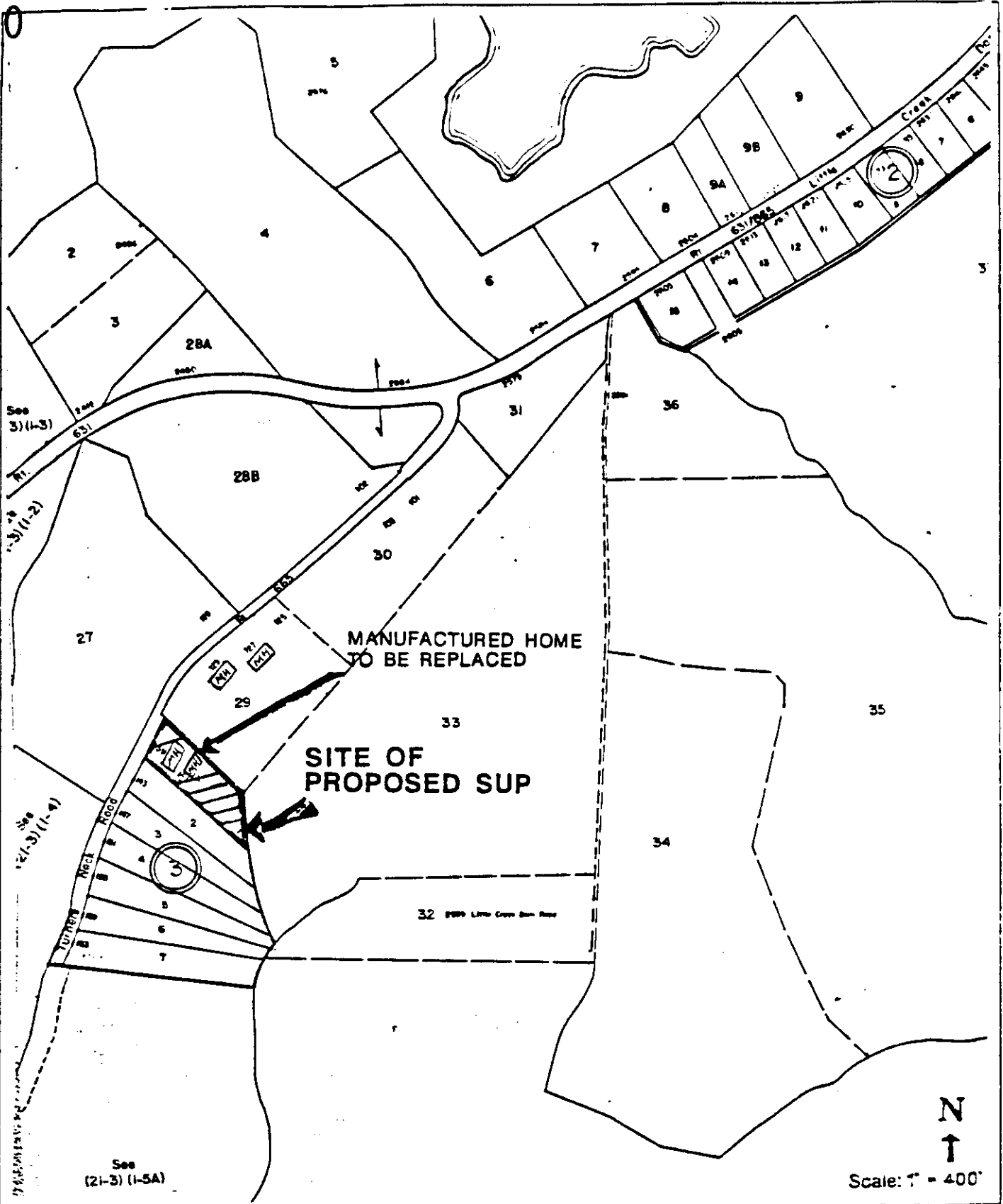
See 11-1(1-4)

**SITE OF PROPOSED SUP**



Case #: **SUP-13-89**

Name: **MARANATHA CHRISTIAN FELLOWSHIP**



Case #: **SUP-15-89**

Name: **MATTHEW B. MEEKINS**

## LEASE

THIS LEASE is made this 19<sup>th</sup> day of June, 1989,  
between JAMES CITY COUNTY, VIRGINIA, Lessor, and PATSY S. DUBAY and ANN M.  
PETERSON, Lessees.

WITNESSETH

That the Lessor, for and in consideration of the sum of TEN DOLLARS (\$10.00) paid by the Lessees to the Lessor, the receipt of which is hereby acknowledged, and in further consideration of the lessees performing certain services more fully described herein, hereby demises unto the Lessees the following unimproved property, to-wit:

Five (5) acres of the Richardson-Meadows Tract, James City County tax map parcel (38-4) (1-38), located North of John Tyler Highway (Route 5) at Strawberry Plains Road (Route 616), said parcel being more particularly described as that property beginning at a point 150 feet Northwest of the southwesterly property corner of tax map parcel (38-4) (1-38) measured along the westerly property line; thence 590 feet in a northwesterly direction along the westerly property line to a point; thence 370 feet in a northeasterly direction to a point on the westerly boundary of the proposed Route 199 right-of-way; thence 590 feet in a southeasterly direction along the westerly boundary of the proposed Route 199 right-of-way to a point; thence 370 feet in a southwesterly direction to the point of beginning; said parcel being 590 feet by 370 feet and containing 218,300 square feet or 5.01 ± acres.



The hereinabove described property is to be leased to Lessees for purposes of grazing horses.

This lease shall commence on the 19<sup>th</sup> day of June, 1989, and shall continue as a month-to-month lease. The parties hereto agree that the lease may be terminated by either party upon thirty (30) days written notice.

The Lessees covenant and agree:

1. To keep the leased property mowed and to trim around any fence.
2. To maintain liability insurance in an amount not less than \$300,000 with James City County named as an additional insured and to provide the County Attorney with evidence of such coverage. If the policy is cancelled for any reason, Lessees agree to give the County notice of cancellation and to provide a substitute policy so as to provide uninterrupted coverage.
3. That for good and valuable consideration, the receipt of which is hereby acknowledged by the signing of this Lease, Lessees hereby bind themselves and their successors to indemnify, defend, and save harmless the County of James City, its agents or employees from all suits and actions of every name and description brought against it or them, and all costs or damages to which it or they may be put, on account of, or by reason of any injury or alleged injury to the person or property of another, resulting from negligence or carelessness in the maintenance of the demised property or the performance of the work, or by, or on account of any act or omission of the County, its officers, employees or their agents stemming from or in any manner associated with or caused by the lease of the property described herein; and Lessees

further agree to indemnify and save harmless said County employees and James City County, against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against it by reason of any injury sustained by any County employee performing work on the property described herein, under and pursuant to the provisions of the Workmen's Compensation Act or any amendments thereto.

Notwithstanding the foregoing paragraph, Lessees shall not save harmless nor indemnify any County employee or James City County in the case of gross negligence or willful misconduct of said County employee or James City County.

WITNESS, the following signatures:

LESSOR

Thomas D. Mahone  
Thomas D. Mahone, Chairman  
Board of Supervisors

LESSEES

Patsy S. Dubay  
Patsy S. Dubay

Ann M. Peterson  
Ann M. Peterson

SMOKING POLICY  
JAMES CITY COUNTY

Purpose:

The following establishes a policy for smoking in buildings owned and/or controlled by James City County. The policy is designed to improve the overall quality of County buildings and offices and to assure the health and safety of County employees and the visiting public. The policy attempts to recognize the rights, needs and concerns of all employees and citizens visiting County buildings.

The policy is established with consideration of the effects of "passive" tobacco smoke on non-smokers. Smokers and their needs are recognized by the designation of smoking areas. Designation of smoking areas is provided for those who choose to smoke; and permit smokers to do so conveniently with minimal effect on productivity.

Definition:

Smoking is defined as the holding, carrying, lighting, inhaling or exhaling of a lighted cigar, cigarette, pipe or any other lit tobacco product.

Policy:

This policy will apply to all County owned and/or controlled buildings and reflects the following provisions:

- 1) Generally, smoking is prohibited, unless specifically approved, in open areas such as; open office space, meetings and conference rooms, corridors, lobbies and restrooms.
- 2) The County Administrator, or his designee, shall designate smoking areas. Consideration will be given to the views of the employees affected and the health issues involved.
- 3) Smoking areas, to the extent possible, will be designated in areas that are convenient, do not negatively impact productivity and do not infringe on employees who do not smoke.
- 4) Smoking should be held to an absolute minimum in areas where there are non-smokers.
- 5) Appropriate signs will be installed informing employees and the public that "Smoking is prohibited except in designated areas."

Effective date:

This Policy shall take effect on July 1, 1989.

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10514

THIS DEED AND AGREEMENT, dated this 3rd day of June, 1991, by and between John Grier Construction Company, a Virginia corporation, party of the first part (hereinafter "Developer"); the Commonwealth of Virginia, Virginia Department of Transportation, party of the second part; the County of James City, Virginia, a body politic, party of the third part (herein "County"); and Mill Creek Landing Homeowners Association, Inc., a Virginia corporation, party of the third part (herein "Homeowners Association");

WHEREAS, Developer is the developer of certain real property called Mill Creek Landing, Sections 1 through 8, James City County, Virginia, which property is shown on certain plats recorded in the Clerk's Office of James City County; and

WHEREAS, said plats show certain areas dedicated as streets and roadways; and

WHEREAS, in accordance with Section 15.1-478 of the Code of Virginia, the recordation of the above-described plats operates to transfer, in fee simple, to the County of James City, Virginia, the portion of those premises platted which are dedicated as streets and roadways, but the Developer with the concurrence of the County, has reserved a certain area of land over which Bridgewater Drive is constructed, which crosses the dam for Mill Creek Landing Pond, as shown on the plat for Section 8, Mill Creek Landing; and

WHEREAS, the County of James City has approved Sections 1 through 8 of Mill Creek Landing pursuant to Article 7, Chapter 11, of Title 15.1 of the Code of Virginia, and the James City County Subdivision Ordinance as evidenced by the County's approval of the above-described plats of subdivision; and

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WHEREAS, the Developer is desirous of reaching certain agreements with the parties of the second, third and fourth part regarding the portion of Bridgewater Drive shown as the shaded area on that certain plat described below and recorded contemporaneously herewith, so that Developer can grant an easement across said area to the Virginia Department of Transportation and so that the Developer and Homeowners Association can also assume the responsibilities and obligations of the terms of this Agreement;

NOW, THEREFORE, THIS DEED AND AGREEMENT

W I T N E S S E T H:

That for and in consideration of the acceptance by the Developer and the Homeowners Association of the terms of the Agreement contained herein and of the Developer's dedicating the shaded area on that certain plat described below, and recorded contemporaneously herewith, as an easement to the Virginia Department of Transportation; and also in consideration of the County's agreement that the roadway over said shaded area shall be maintained as part of the Commonwealth's secondary road system; and further, that for and in consideration of the acceptance by the Virginia Department of Transportation of responsibility for maintenance of the hereinafter described roadway easement, the Developer, in turn, hereby grants unto the Virginia Department of Transportation the perpetual right, privilege and easement in and to the same following described property, to-wit:

JIMMIE A. ANDREJANIK, P.C.  
1148 PROFESSIONAL DRIVE  
GOVERNOR BERKELEY  
PROFESSIONAL CENTER  
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All that certain area shown and designated as "SHADED AREA FOR DEDICATION AS EASEMENT" on that certain plat entitled: "MILL CREEK LANDING PLAT OF EASEMENT TO: VIRGINIA DEPARTMENT OF TRANSPORTATION, JAMES CITY COUNTY, VA.," made by L. V. Woodson & Associates, Inc., Engineers, Surveyors & Planners, dated December 22, 1987, revised December 22, 1988 and February 23, 1989, which plat is made a part hereof and is recorded contemporaneously herewith.

FURTHER WITNESSETH:

That for and in consideration of those matters recited above, the parties hereto agree as follows:

1. All parties hereto agree that the Virginia Department of Transportation will have all rights necessary to maintain the base, surface, shoulders and guard rails of said roadway, but that approval of the expenditure of State funds for such purposes shall in no way constitute approval for expenditure of State funds to maintain the dam over which said roadway passes. The Virginia Department of Transportation assumes no obligation for any maintenance, repair or replacement of the dam across which said roadway is constructed. Further, entry into this Agreement by the Virginia Department of Transportation shall not be construed to create in the Developer or the Homeowners Association any contractual right to a degree, standard or term of maintenance any greater than that allowed them as citizens by law or by the Virginia Department of Transportation policy adopted pursuant to law, either as it now exists or as it may be altered or amended in the future.

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2. Developer, the Homeowners Association and their successors covenant and agree that they will be responsible for any maintenance, repair or replacement of said dam, and agree to indemnify and hold harmless both the Virginia Department of Transportation and the County as to any maintenance, repair or replacement of said dam. Developer's liability pursuant to this paragraph shall cease upon conveyance of all Common Areas in Mill Creek Landing to the Homeowners Association. Thereafter, all liability pursuant to this agreement shall be the sole responsibility of the Homeowner's Association. The provisions of this paragraph are binding on the successors and assigns of said Homeowners Association.

3. The Commonwealth of Virginia agrees that the Developer, the Homeowners Association and their successors, shall have such access to the roadway as is reasonably necessary to maintain, repair or replace said dam or portion thereof. The Developer (so long as it is responsible pursuant to the provisions of the previous paragraph), and The Homeowners Association and its successors, shall replace or repair damaged portions of the roadway base, surface, shoulders and guardrails resulting from work to the dam, to the satisfaction of the Department of Transportation. It is agreed and understood that all work is to be conducted to the satisfaction of the Virginia Department of Transportation, so as to minimize any interference with the flow of traffic or with the Virginia Department of Transportation's right to maintain the surface, base, shoulders and guardrails of said roadway.

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4. Developer and the Homeowners Association further agree that the Virginia Department of Transportation shall have such access to the dam and surrounding areas as is reasonably necessary for the purpose of maintaining the surface, base, shoulders and guardrails of the road crossing the dam.

5. Developer, the Homeowners Association and their successors agree to save harmless the Virginia Department of Transportation and the County from any and all liability for injury, damage or any expense whatever that results from the construction or failure to properly maintain, repair or replace said dam.

6. In the event that said dam is washed out or destroyed by any cause or is, in the opinion of the Commissioner of the Virginia Department of Transportation, so neglected or poorly maintained or repaired in such manner as to make ordinary and regular travel on said roadway unsafe, or the maintenance and repair of the surface, base, shoulders and guard rails of said roadway impractical, the Commonwealth Transportation Board may discontinue maintenance on the roadway over the dam to the extent the parties hereto have the right to authorize or permit such discontinuance from the time of, and on the sole basis of, the Commissioner's or the Virginia Department of Transportation's determination that such condition exists.

7. It is agreed that drainage of water from the roadway crossing the shaded area of the aforesaid plat to the lake and other areas not herein dedicated is an element of maintaining the surface, base, shoulders and guard rails of said roadway.



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8. The County joins in this Deed and Agreement to indicate its agreement that the roadway over the shaded area, as shown on the aforesaid plat, shall be maintained as part of the Commonwealth's secondary road system.

WITNESS the following signatures and seals:

JOHN GRIER CONSTRUCTION COMPANY,  
a Virginia corporation

By Joseph S. Terrell  
Joseph S. Terrell, Vice President

VIRGINIA DEPARTMENT OF  
TRANSPORTATION

By Ray D. Pickett  
Title COMMISSIONER

Legal (VDOT)

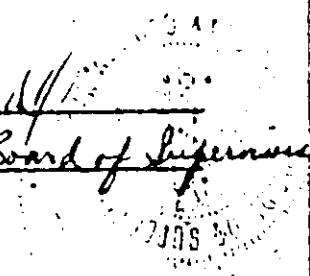
/s/ R. J. Walton, Jr.  
Approved Sept. 9, 1991

MILL CREEK LANDING HOMEOWNERS  
ASSOCIATION, INC.,  
a Virginia corporation

By Joseph S. Terrell  
Joseph S. Terrell, President

COUNTY OF JAMES CITY

By James K. Kennedy  
Title Chairman, Board of Supervisors



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STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMSBURG, to-wit:

On this 6<sup>th</sup> day of AUGUST, 1991, the foregoing instrument was acknowledged before me by Joseph S. Terrell, Vice President of John Grier Construction Company, a Virginia corporation, on behalf of said corporation.

*[Signature]*  
NOTARY PUBLIC

My commission expires: 12-4-92

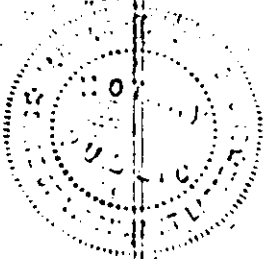
STATE OF VIRGINIA

CITY/COUNTY OF Richmond, to-wit:

On this 18<sup>th</sup> day of September, 1991, the foregoing instrument was acknowledged before me by Ray D. Pothol, Commonwealth Trans. Commissioner behalf of said Virginia Department of Transportation.

*[Signature]*  
NOTARY PUBLIC

My commission expires: 6/30/95



JOSEPH A. ARNELOK, P.C.  
1148 PROFESSIONAL DRIVE  
GOVERNOR BUREAU  
PROFESSIONAL CENTER  
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FAX (804) 229-6078

STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMSBURG, to-wit:

On this 6<sup>th</sup> day of AUGUST, 1991, the foregoing instrument was acknowledged before me by Joseph S. Terrell, President of Mill Creek Landing Homeowners Association, Inc., a Virginia corporation, on behalf of said corporation.

[Signature]  
NOTARY PUBLIC

My commission expires: 12-4-92

STATE OF VIRGINIA

~~CITY~~/COUNTY OF James City, to-wit:

On this 26<sup>th</sup> day of August, 1991, the foregoing instrument was acknowledged before me by Thomas K. Norment, Jr., Chairman, Board of Supervisors of James City County, VA.

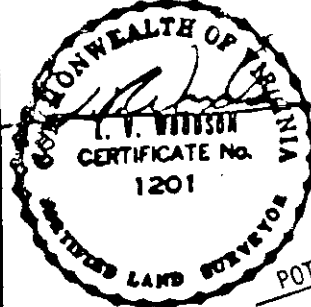
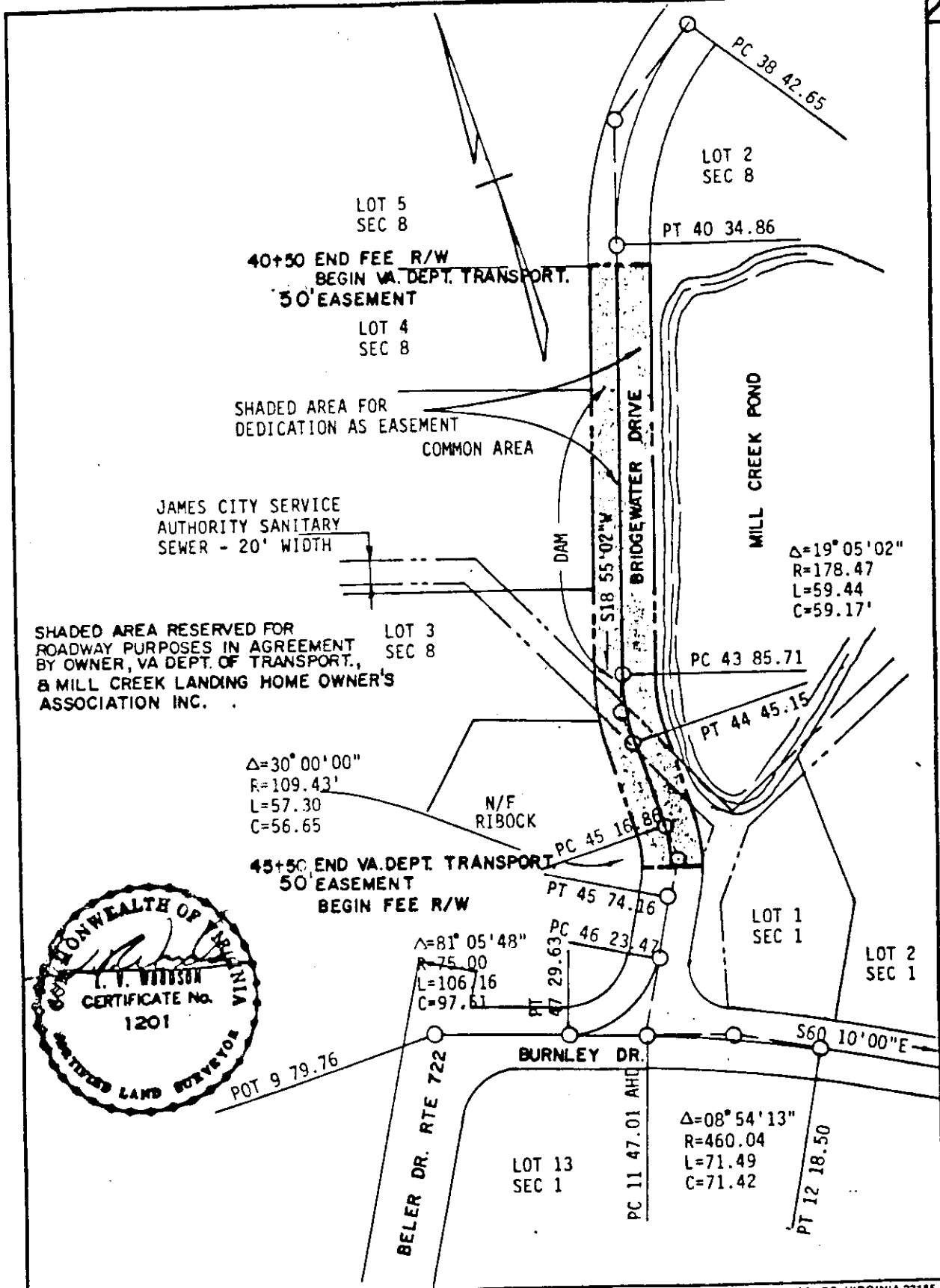
Mari Lou Smith  
NOTARY PUBLIC

My commission expires: Feb. 8, 1993

JIMMIE A. ARIZONIA, P.C.  
1146 PROFESSIONAL DRIVE  
GOVERNOR BEARLEY  
PROFESSIONAL CENTER  
WILLIAMSBURG VA 23185  
PHONE (804) 229-5510  
FAX (804) 229-8075

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 VA  
On this 6<sup>th</sup> day of August, 1991, the foregoing instrument was presented with certificate attached and admitted to record at 11:45 AM by [Signature] Deputy Clerk.

PLAY RECORDED IN  
BOOK NO. 531 PAGE 490



L. V. WOODSON & ASSOCIATES, INC. ENGINEERS, SURVEYORS & PLANNERS, P.O. BOX 613 WILLIAMSBURG, VIRGINIA 23185

LEGEND ○ = IP = IRON PIN, □ = MON = MONUMENT, — = PROPERTY LINE, - - - = CENTERLINE, ····· = EASEMENT LINE

MILL CREEK LANDING PLAT OF EASEMENT TO:  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
JAMES CITY COUNTY, VA.

SCALE: 1"=100' REF: DB 101/561 DATE: DECEMBER 22, 1987 AREA: -----

DB 186/291 DECEMBER 22, 1988 REVISED JO A3732  
FEBRUARY 23, 1989 REVISED