

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 6TH DAY OF NOVEMBER, NINETEEN HUNDRED EIGHTY-NINE, AT 7:03 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 - October 23, 1989

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

Mr. Norment 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).

Mr. Mahone encouraged all County citizens to participate in the election being held Tuesday, November 7, 1989.

Mr. Mahone expressed the Board's appreciation to Ms. Sandra E. McPherson for her leadership and service to the County during the past seven years. The Board wished her success in future endeavors and noted that she would be missed.

Mr. Norman introduced the new Economic Development Coordinator, Keith A. Taylor.

Mr. Taylor stated that he looked forward to a long and beneficial relationship with the County.

The Board extended its welcome to Mr. Taylor.

C. CONSENT CALENDAR

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

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

Mr. Morton requested changing the word ... "general" warranty ... in the second paragraph of the Deed for the Landfill on Jolly Pond Road (Route 611) in Item No. 2 to read ... "special" warranty....

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

1. Virginia Power Easement at County Landfill

R E S O L U T I O N

VIRGINIA POWER EASEMENT - COUNTY LANDFILL

WHEREAS, Virginia Power is acquiring right-of-way to accommodate improvements by the Virginia Department of Transportation to Jolly Pond Road (Route 611); and

WHEREAS, Virginia Power requires a 30-foot by 80-foot overhead power easement at the entrance to the James City County Landfill as shown on Virginia Power Plat No. 28-88-0293.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that its Chairman and Clerk are hereby authorized and directed to execute that certain deed conveying the required easement to Virginia Power as shown on Virginia Power Plat No. 28-88-0293.

2. Right-of-Way for Improvements to Jolly Pond Road (Route 611)

R E S O L U T I O N

RIGHT-OF-WAY FOR IMPROVEMENTS TO JOLLY POND ROAD

WHEREAS, the Virginia Department of Transportation (VDOT) is acquiring right-of-way for improvements to Jolly Pond Road, (Route 611), under VDOT Project No. 0611-047-137, M-501; and

WHEREAS, Right-of-way Parcels 001, 006 and 008 as shown on Sheets 3, 4 and 5 of the plans for Route 611 State Highway Project 0611-047-137, M-501 are on land owned by James City County; and

WHEREAS, James City County desires to convey Right-of-Way Parcels 001, 006 and 008 to VDOT in fee simple for improvements to Route 611.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it does hereby authorize and direct its Chairman and Clerk to the Board, respectively, to execute that certain deed conveying Route 611 Right-of-Way Parcels 001, 006 and 008 to the Commonwealth of Virginia.

3. Chesapeake and Potomac Telephone Company of Virginia Easements on County Landfill Property

R E S O L U T I O N

LANDFILL PROPERTY EASEMENTS TO C & P TELEPHONE COMPANY

WHEREAS, the Chesapeake and Potomac Telephone Company of Virginia has requested a 5-foot wide easement along the frontage of James City County Tax Map Parcels (30-1)(1-4), (30-2)(1-1) and (30-2)(1-2) for the relocation of buried cable and appurtenances in conjunction with the Virginia Department of Transportation improvements to Jolly Pond Road (Route 611); and

WHEREAS, James City County is the Owner of James City County Tax Map Parcels (30-1)(1-4), (30-2)(1-1) and (30-2)(1-2), identified on the Chesapeake and Potomac Telephone Company of Virginia plats as Parcel 001, Permit No. BC 334456 R and Parcel 006, Permit No. BC 334459 R; and

WHEREAS, James City County desires to grant the requested easements to the Chesapeake and Potomac Telephone Company of Virginia to facilitate planned improvements to Jolly Pond Road.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it does hereby authorize and direct its Chairman and Clerk to execute the easement documents conveying a 5-foot wide easement on Parcels 001, Permit No. BC 334456 R and Parcel 006, Permit No. BC 334459 R to the Chesapeake and Potomac Telephone Company of Virginia.

D. PUBLIC HEARINGS

1. Case No. Z-12-89. L.A. & G. Corporation

Mr. Marvin Sowers, Jr., Director of Planning, stated that Mr. Louie A. Galanos had requested deferment of the case until the November 20, 1989, Board of Supervisors' meeting.

Mr. Mahone opened the public hearing.

By consensus, the Board agreed to postponement of Case No. Z-12-89 to allow the applicant to submit proffers.

2. Case No. Z-16-89. Lewis C. and Pauline F. Waltrip

Mr. Sowers stated that Mr. Lewis C. and Ms. Pauline F. Waltrip have applied to rezone approximately 2.6 acres from A-2, Limited Agricultural to R-1, Limited Residential, located at 3391 Foxridge Road and further identified as Parcels (1-3) and (1-4) on James City County Real Estate Tax Map No. (47-1).

In accordance with staff recommendation, the Planning Commission unanimously recommended approval of the rezoning case.

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 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

CASE NO. Z-16-89. LEWIS C. AND PAULINE F. WALTRIP

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-16-89 for rezoning approximately 2.6 acres from A-2, Limited Agricultural to R-1, Limited Residential on property identified as Parcel (1-3) and (1-4) on James City County Real Estate Tax Map No. (47-1); and

WHEREAS, the Planning Commission following its public hearing on unanimously recommended approval of Case Z-16-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-16-89 and accepts the voluntary proffers.

3. Case No. Z-18-89. Woodrow W. Sirois

Mr. Sowers stated that Mr. Vernon Geddy, III, on behalf of Mr. Woodrow W. Sirois, had applied to rezone approximately 2.026 acres from A-1, General Agricultural, to B-1, General Business, with proffers, located at 7151 Richmond Road south of the intersection of Nina Drive and Richmond Road in Norge, and further identified as Parcel (1-47) on James City County Real Estate Tax Map No. (23-2).

In accordance with staff, the Planning Commission unanimously recommended approval of Case No. Z-18-89.

Mr. Mahone opened the public hearing.

1. Vernon Geddy, III, Esq., representing Woodrow W. Sirois, asked Mr. Sirois to explain the proposed plans.

2. Mr. Woodrow Sirois, applicant, described the proposed buildings for medical personnel and other professionals, entrances and off-street parking.

3. Mr. Kenneth Axtell, President, Williamsburg Community Hospital, spoke in favor of the application.

Mr. Mahone closed the public hearing.

Mr. DePue 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

#### CASE NO. Z-18-89. WOODROW W. SIROIS

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-18-89. for rezoning approximately 2.026 acres from A-1, General Agricultural to B-1, General Business on property identified as Parcel (1-47) on James City County Real Estate Tax Map No. (23-2); and

WHEREAS, the Planning Commission following its public hearing on unanimously recommended approval of Case Z-18-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-18-89 and accepts the voluntary proffers.

#### 4. Case No. SUP-29-89. W.A. Slater Estate/Tower

Mr. Sowers stated that Mr. Alvin P. Anderson on behalf of W.A. Slater Estate had applied for a special use permit to allow a tower 125 feet in height on 245 acres of land zoned A-1, General Agricultural, located on the east side of Diascund Road approximately 1,150 feet south of King's Corner, further identified as Parcel (1-17) on James City County Real Estate Tax Map No. (10-2).

In accordance with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

Mr. Mahone opened the public hearing.

1. Alvin Anderson, Esq., representing the W.A. Slater estate, stated the application had staff support, no public opposition, and unanimous Planning Commission approval.

Mr. Mahone closed the public hearing.

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

#### CASE NO. SUP-29-89. W.A. SLATER ESTATE/TOWER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing, unanimously recommended approval of Case No. SUP-29-89, to permit a tower in the A-1, General Agricultural District on property identified as Parcel (1-17) on James City County Real Estate Tax Map No. (10-2).

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-29-89 as described herein with the following conditions.

1. The operation of the tower shall not interfere with operation of the County's communication system. The applicant shall be responsible for assuring that the signal(s) for this equipment shall not interfere with the County's radio communication system. Upon notice from the County that interference is being received, the applicant shall terminate such interference immediately.
2. If construction of the tower and accessory structures has not begun within 18 months of the date of issuance of the special use permit, the permit shall be void.
3. Prior to placement of additional equipment on the tower, the applicant shall submit to the County a certification from a professional engineer, licensed by the Commonwealth of Virginia which indicates that the tower can safely support the loads caused by the placement of additional equipment on the tower. The applicant shall secure all necessary permits prior to altering, constructing or modifying any portion of the tower.
4. The applicant shall secure all required permits and approvals from State and Federal agencies prior to construction of the facility.

5. Clearing of existing trees shall be limited to only that which is necessary to allow access and construction of the facility. A clearing plan shall be approved by the Planning Director as a part of site plan approval.
6. The lot to be subdivided for the tower shall be large enough in size to contain the tower in the event of tower failure as determined by the Zoning Administrator, and shall be located as shown on the attached site location map.
7. All structures on the site shall be set back at least 100 feet from Diascund Road.

5. Case No. SUP-31-89. J. & J. Associates

Mr. Sowers stated that Mr. John E. Dodson on behalf of the Jane P. Hoar estate had applied for a special use permit to allow the sale of automobiles on .99 acres zoned B-1, General Business, located at 7293 Richmond Road and further identified as Parcel (1-40) on James City County Real Estate Tax Map NO. (23-2).

In accordance with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions as listed in the resolution.

Mr. Mahone opened the public hearing.

1. Mr. John Dodson, owner of Williamsburg Honda, requested Board approval of the application.

Mr. Mahone closed the public hearing.

Mr. DePue 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

CASE NO. SUP-31-89. J & J ASSOCIATES

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing, unanimously recommended approval of Case No. SUP-31-89 to permit an automobile dealership in the B-1, General Business District on property identified as Parcel (1-40) on James City County Real Estate Tax Map No. (23-2).

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-31-89 as described herein with the following conditions.

1. If construction has not commenced on this project within a period of 18 months from the date of issuance, it shall become void.
  2. The southern lot line of the site shall be extinguished.
  3. No entrances on Richmond Road shall be permitted. Parking areas on this site shall be separated from the Richmond Road right-of-way by a landscaped strip of at least 35 feet in depth.
  4. As part of the site plan, a landscape plan designed by a landscape architect for this site shall be submitted. The site plan and landscape plan shall be reviewed and approved by the Development Review Committee. Particular emphasis shall be placed on buffering and screening the auto storage areas from Richmond Road and adjacent properties.
  5. Facilities on the site shall not receive any Certificate of Occupancy until landscaping is placed on the site in accordance with the approved site plans as determined by the Zoning Administrator.
6. Case No. Z-19-89 and Case No. S-91-89. Zoning and Subdivision Ordinance Amendments

Mr. Sowers stated that the amendments were housekeeping items due to recent changes to the State code.

In accordance with staff, the Planning Commission unanimously recommended approval of the ordinance amendments.

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

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

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

7. Adoption of Chapter 6, Fire Prevention and Protection

Mr. Larry W. Davis, Assistant County Attorney, stated that the State adopted a Statewide Fire Prevention Code in 1988, which allows localities to adopt and modify that Code provided that no modification is less restrictive.

The Board discussed fireworks and fireworks display permits, and requirements of smoke detectors in single-family dwellings.



Mr. Mahone opened the public hearing.

1. Mr. Doug Johnson asked whether one or more smoke detectors were required.

Mr. Davis responded that the number depended on State code and building code.

Mr. Mahone closed the public hearing.

Mr. Norment made a motion to approve the ordinance.

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

8. Repeal of Chapter 6A, Smoke Detectors

Mr. Davis stated that the requirements of Chapter 6A have been incorporated into Chapter 6, and recommended approval of the repeal.

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

Mr. Depue made a motion to approve the repeal of the ordinance.

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

9. Amendments to Chapter 9, Licenses

Mr. Davis stated that the amendments proposed that no business license tax be levied against businesses with gross receipts of less than \$4,000 and that no business licenses be issued for businesses operating in violation of the Zoning Ordinance, effective January 1, 1990.

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

Mr. Mahone made a motion to approve the ordinance.

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

10. Amendment to Chapter 11, Motor Vehicles

Mr. Davis stated that the proposed ordinance changed the references in Title 46.2 effective October 1, 1989.

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

Mr. Mahone made a motion to approve the ordinance.

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

11. Amendment to Chapter 18, Taxation

Mr. Davis stated the amendment proposed to increase real estate tax exemption for qualifying elderly citizens from \$350 to \$400; to make it unlawful for a person to fail to pay personal property tax; to make the penalty provision for failing to comply with the transient lodging tax consistent with the penalty for other tax violations and to comply with State guidelines; to increase the number of members on the Board of Equalization from 3 to 5; and to levy a one percent tax on daily rental property, all effective January 1, 1990.

Discussion followed regarding the one percent tax on daily rental property, which would affect only a few businesses in the County.

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

Mr. Mahone made a motion to postpone the amendment to receive further information until the November 20, 1989, meeting.

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

E. PUBLIC COMMENT - None

F. BOARD CONSIDERATIONS

1. Centerville Road Sidewalks

Mr. John T. P. Horne, Manager, Development Management, stated that a request was being made that the Board authorize sidewalk right-of-way acquisition and construction costs from Montague Elementary School to Longhill Road, which is No. 2 on the 1989 Sidewalk Plan priority list, as part of the Centerville Road Improvements Project with an encumbrance of \$33,000 from FY 90 Sidewalk CIP funds.

Mr. Edwards 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 NCENTERVILLE ROAD SIDEWALKS

WHEREAS, the Virginia Department of Transportation is drawing plans for improvements to Route 614, Centerville Road; between Routes 633 and 612; and

WHEREAS, the Virginia Department of Transportation requires a commitment from the James City County Board of Supervisors to participate in the cost of sidewalk construction as outlined in the Virginia Department of Transportation Policy memorandum DPM 8-6, Section 1.02 and 1.03; and

WHEREAS, the 1989 Sidewalk Plan recommends a sidewalk on Centerville Road from Montague Elementary School, James City County Real Estate Tax Map No. (30-4)(1-3), to Longhill Road, Route 612, a distance of approximately 2,000 linear feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation include the construction of sidewalks in the Centerville Road, Route 614, Improvements Project from Montague Elementary School to Longhill Road, Route 612.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby commit to participate in the cost of sidewalk construction from the Montague Elementary School site to Longhill Road, Route 612, a distance of approximately 2,000 linear feet, as outlined in the Virginia Department of Transportation Policy Memorandum DPM 8-6, dated November 1, 1978, Sections 1.02 and 1.03.

2. Case No. Z-2-88. Appeal of Proffer Determination Regarding James and Helen McCormick

Mr. Bernard M. Farmer, Jr., Zoning Administrator, stated that Alvin Anderson, Esq., representative for James and Helen McCormick, had appealed the proffers attached to Case No. Z-2-88, the Zoning Administrator's interpretation of the issue being whether the term "landscape buffer" permitted parking within such an area. Mr. Farmer's interpretation of the term "landscape buffer" was that it was not synonymous with the term "setback line" as defined in the Zoning Ordinance and thus parking would not be permitted in the area.

Mr. Farmer further stated that Mr. Anderson maintained that the terms "landscape buffer," used in the proffers, and "setback line" were the same, but that County staff maintained the Zoning Ordinance definitions that "landscape buffer" meant an area of trees, plantings and grass that provided screening and excluded buildings, parking areas and structures, and "setback line" described the closest points a building or structure could be placed to a property line.

1. Alvin Anderson, Esq., representative for James and Helen McCormick, reviewed the issue with dates, correspondence, and maps.

After a lengthy discussion among the Board, staff, and Mr. Anderson, Mr. Norment made a motion to uphold the Zoning Administrator's determination.

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

G. REPORTS OF THE COUNTY ADMINISTRATOR - None

## H. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor asked staff to investigate a citizen report of alleged wood cutting during night time hours at Upper County Park.

Mr. DePue requested staff to review County's position on flood insurance.

Mr. Mahone mentioned that the election results would be carried on government channel Cable 36 on Tuesday, November 6, 1989.

Mr. Norment made a motion to go into Executive Session pursuant to Section 2.1-344 (a)(7) of the Code of Virginia to consult with legal and staff members on a specific legal matter, and pursuant to Section 2.1-344 (a)(3) of the Code of Virginia to consider the disposition of publicly held property, at 9:50 p.m.

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 10:15 p.m.

Mr. Mahone made a motion to approve the executive session.

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

MEETING DATE: NOVEMBER 6, 1989

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

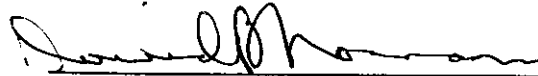
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. DePue made a motion to adjourn.

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

The Board adjourned at 10:18 p.m.



David B. Norman  
Clerk to the Board

1166w

Exempted from recordation taxes  
under Sections 58.1-811 (A) (3),  
58.1-811 (C) (4) and 25-249

This Deed, made this 6<sup>th</sup> day of November, 1989 by and between JAMES CITY COUNTY, a Political Subdivision of the Commonwealth hereinafter designated as Grantor (even though more than one), and the COMMONWEALTH OF VIRGINIA, Grantee:

Witnesseth: In consideration of the sum of \$1.00 paid by the Grantee to the grantor, receipt of which is hereby acknowledged, the said grantor hereby grants and conveys unto said grantee in fee simple, with ~~general~~ <sup>special</sup> warranty, the land located in Powhatan Magisterial District, in James City County, and described as follows:

Parcels 001 and 006 - Being as shown on Sheets 3, 4 and 5 of the plans for Route 611 State Highway Project 0611-047-137, M-501, and lying on the South right side of and adjacent to the South existing right of way line of present Route 611 from a point in the lands of the grantor opposite approximate construction centerline Station 138+00, to a point in the lands of the grantor opposite approximate Station 144+94 and lying on the South right side of and adjacent to the Southeast existing right of way line of present Route 611 from the lands now or formerly belonging to Delmarva Properties, Inc., a Virginia Corporation opposite approximate construction centerline Station 171+40 to a point in the lands of the grantor opposite approximate Station 175+50 and lying on the Southeast right side of and adjacent to the South existing right of way line of present Route 611 from a point in the lands of the grantor opposite approximate construction centerline Station 175+69 to a point in the lands of the grantor opposite approximate Station 185+25 and also lying on the south right side of and adjacent to the South existing right of way line of present Route 611 from a point in the lands of the grantor opposite approximate construction centerline Station 190+50 to a point in the lands of the grantor opposite approximate Station 210+00, and containing 3.686 acres, more or less, land.

Parcel 008 - Being as shown on Sheet 5 of the said plans for Route 611 and lying on the Northwest left side of and adjacent to the Northwest existing right of way line of present Route 611 from a point in the lands of the grantor opposite approximate construction centerline Station 209+55, to the Southwest existing right of way line of relocated Route 632 opposite approximate Station 212+60 including connection with present Route 632, said connection being further described as follows: Lying on both sides of

and adjacent to the survey centerline of relocated Route 632 from a point in the lands of the grantor at approximate Station 10+50 to the existing Southwest right of way line of relocated Route 632 at approximate Station 12+00; thence lying on the South left side of said centerline and adjacent to the South existing right of way line of relocated Route 632 from the last said Station to a point in the lands of the grantor opposite approximate Station 13+50; and containing 0.623 acre, more or less, land, and being a part of the same land acquired by the landowner from R. L. Whitfield and Jennie B. Whitfield and Evelyn M. Harris, by deed dated February 25, 1982, and recorded in Deed Book 221, Page 162, in the office of the Clerk of the Circuit Court of James City County.

Parcels 001, 006 and 008 together contain 4.309 acres, more or less, land.

For a more particular description of the land herein conveyed, reference is made to photo copy of said Sheets 3, 4 and 5 showing outlined in RED the land conveyed in fee simple, which photo copy is hereto attached as a part of this conveyance and recorded simultaneously herewith in the State Highway Plat Book Number , Page .

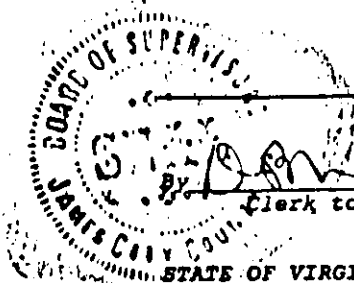
The grantor by the execution of this instrument acknowledges that the plans for the aforesaid project as they affect its property have been fully explained to its authorized representative.

The said grantor covenants that it is seized of the land in fee simple herein conveyed; that it has the right to convey the said land to the grantee; that it has done no act to encumber the said land; that the grantee shall have quiet possession of the land, free from all encumbrances, and that it will execute such further assurances of the said land as may be requisite.

The said grantor covenants and agrees for itself, its successors and assigns, that the consideration hereinabove mentioned and paid to it shall be in lieu of any and all claims to compensation for land, and for damages, if any, to the remaining lands of the grantor which may result by reason of the use to which the grantee will put the land to be conveyed, including such drainage facilities as may be necessary.

IN TESTIMONY WHEREOF, the James City County Board of Supervisors  
has caused this deed to be executed by Thomas D. Mahon, its  
Chairman, said officer being thereunto duly authorized by resolution of

its Board of Supervisors, copy of which is attached hereto, all of the day, 460-797  
month and year first hereinabove written.



STATE OF VIRGINIA,

County of James City, To-wit:

I, Mari Lee Smith, a Notary Public in and for the State of Virginia, at large, do certify that Thomas D. Mahone and David B. Marmen, whose names are signed to the foregoing writing, bearing date on the 6<sup>th</sup> day of November, 19 89, have acknowledged the same before me in the County aforesaid.

My term of office expires February 8, 1993.

Given under my hand this 6<sup>th</sup> day of November, 19 89.

Mari Lee Smith  
Notary Public

VIRGINIA: City of Williamsburg, County of  
James City, to  
In the Clerk's office of the Circuit Court of the  
City of Williamsburg and County of James City the  
29 day of Dec, 19 89. This Bill  
was presented with certificate annexed and  
admitted to record at 6:48 o'clock

Teste: Helene S. Ward, Clerk

by [Signature]  
Deputy Clerk

FILED RECORDED IN  
STAY 6 PAGE 77-79



2.8 93000 161

108



VIRGINIA POWER

BOOK 464 PAGE 175

# Right Of Way Agreement - Individual Overhead Easement

COR 16-10-04

THIS AGREEMENT, Made this 6th day of November, 1989, between

BOARD OF SUPERVISORS, JAMES CITY COUNTY, VIRGINIA

of James City County, Virginia, hereinafter called "Owner" ("Owner" wherever used herein being intended to include the grantors whether one or more or masculine or feminine), and Virginia Electric and Power Company, a Virginia corporation, hereinafter called "Company."

## WITNESSETH:

That for the sum of One Dollar (\$1.00) and other valuable considerations, the receipt whereof is hereby acknowledged, Owner grants unto Company, its successors and assigns, the right, privilege and easement of right of

way thirty (30) feet in width to construct, operate and maintain a pole line for transmitting and distributing electric power, including all wires, poles, attachments, ground connections, equipment accessories and appurtenances desirable in connection therewith (hereinafter referred to as "facilities") and including all telephone wires and attachments of any other company and for communication purposes. The Company shall have the right to assign or transfer, without limitation, all or any part of the perpetual right, privilege and easement of

right of way granted herein, over, upon and across the lands of Owner, situated in James City County, Virginia, as shown on Plat No. 28-88-0293, hereto attached and made a part of this agreement; the location of boundary of said right of way being shown in broken lines on said plat.

The facilities erected hereunder shall remain the property of Company. Company shall have the right to inspect, rebuild, remove, repair, improve, relocate on the right of way above described, and make such changes, alterations, substitutions, additions to or extensions of its facilities as Company may from time to time deem advisable, including the right to increase or decrease the number of wires.

Company shall at all times have the right to trim, cut and keep clear all trees, limbs, undergrowth and other obstructions inside and outside the boundaries that may endanger the safe and proper operation of its facilities. All trees and limbs cut by Company at any time shall remain the property of Owner. Trees cut by Company with merchantable trunks six inches or more in diameter will be cut into lengths of not less than four feet when requested by Owner and will be placed in piles separate from other trees, limbs and undergrowth cut by Company.

For the purpose of constructing, inspecting, maintaining or operating its facilities, Company shall have the right of ingress to and egress from the right of way over the lands of Owner adjacent to the right of way and lying between public or private roads and the right of way in such manner as shall occasion the least practicable damage and inconvenience to Owner.

Company shall repair damage to roads, fences or other improvements and shall pay Owner for other damage done in the process of the construction, inspection, or maintenance of Company's facilities, or in the exercise of its right of ingress and egress; provided Owner gives written notice thereof to Company within thirty days after such damage occurs.

BOOK 464 PAGE 176



VIRGINIA POWER

# Right Of Way Agreement - Individual Overhead Easement

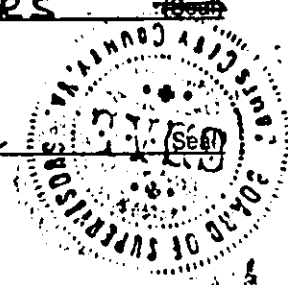
COR 18-10-04

Owner covenants that he is seised of and has the right to convey the said easement of right of way, rights and privileges; that Company shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement of right of way, rights and privileges, and that Owner shall execute such further assurances thereof as may be required.

WITNESS the following signature(s) and seal(s):

BOARD OF SUPERVISORS  
JAMES CITY COUNTY

Thomas D. Mahone



STATE OF VIRGINIA

County OF James City

To-wit:

Mari Len Smith

City aforesaid:

County aforesaid,

a Notary Public in and for the State of Virginia at Large,

whose commission expires on the 8th day of February, 1993, do hereby certify that

Thomas D. Mahone

whose name is signed to the foregoing writing dated the 6th day of November, 1989

acknowledged the same before me in the County aforesaid this 6th day of November, 1989.

VIRGINIA: City of Williamsburg and County of

James City, to Wit

In the Clerk's office of the Circuit Court of the

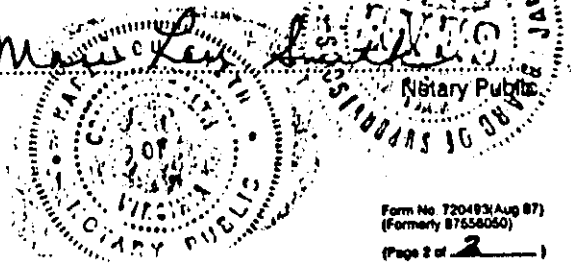
City of Williamsburg and County of James City the

21 day of Jan, 1990. This R/W

was presented with certificate annexed and

admitted to at 1:40 o'clockTeste: S. Ward, Clerkby Delores Ward

Deputy Clerk

Form No. 7204(83) (Aug 87)  
(Formerly 87556050)

(Page 2 of 2)

PL. T. 1  
DB. NO. 464 PAGE 177

STATE PROJECT DB11-047-137, MS01  
SHEET NO. 3

BOOK 464 PAGE 177

COR 18

002  
N/F  
MARTHA W. HIDE, EST.

001  
BOARD OF SUPERVISORS  
JAMES CITY COUNTY, VA.  
BY THOMAS D. MAHONEY

N/F  
OLD DOMINION HUNT  
CLUB INC.

Legend

— — — — — Location Of Boundary Lines Of Right-Of-Way  
30' IN WIDTH.



VIRGINIA POWER

Plat To Accompany  
Right-Of-Way Agreement

Virginia Electric and Power Company

OVERHEAD

District <b>WILLIAMSBURG</b>		
District-Township-Borough <b>JAMES CITY COUNTY</b>	County-City <b>VA</b>	State <b>VA</b>
Office <b>NW FOIK</b>	Plat Number <b>28-22-0293</b>	
Estimate Number <b>28-RID-00142</b>	Grid Number <b>M1638</b>	
Date <b>11-6-89</b>	By <b>Robert Roe</b>	

BC 334459 R

BOOK 475 PAGE 441

1232  
4820

42-103 - (10-86)

BURIED CABLESheet 1 of 7

Received of THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA One Dollar (\$1.00) in consideration of which the undersigned hereby grant and convey unto said Company, its successors, assigns, lessees and agents, a right of way and easement to construct, operate, maintain, replace and remove a communication system consisting of such buried cables, buried wires, posts, terminals, location markers, and other appurtenances, as the grantees may from time to time require, upon under, across, and over the land which the undersigned own or in which the undersigned have any interest; said land being located in the \_\_\_\_\_ of \_\_\_\_\_, County of James City, and State of Virginia, and upon, under, along and over the roads, streets and highways adjoining the said land, together with the following rights: Of ingress and egress over, under and across the lands of the undersigned to and from said systems for the purpose of exercising the rights herein granted; to open and close fences, cut down and keep cut down all trees and undergrowth within five feet of said system; and to carry in said system the wires, cables, circuits and appurtenances of any other Company; including all electric wires. Said easement being located and described on said land as follows:

Borders on the north by RTE 611, on the west by Chesapeake Corp., on the east by Phillip Richardson Corp.

Deed Book 387, Pg. 495 PARCEL 006 OWNED BY James City County

The company will pay for damage to fences and growing crops arising from the construction and maintenance of the aforesaid system.

Witness \_\_\_\_\_ hand and seal this 6<sup>th</sup> day of November, 1989.

Owner

Thomas D. Mahone

Owner

State of Virginia, County of James City, To Wit:

I, Mari Lee Smith, a Notary Public of the State of Virginia in and for the \_\_\_\_\_ County, aforesaid, do hereby certify that Thomas D. Mahone whose name is signed to the within writing bearing date on the 6<sup>th</sup> day of November, 1989 has acknowledged the same before me in my \_\_\_\_\_ County and State aforesaid.

Given under my hand \_\_\_\_\_ this 6<sup>th</sup> day of November, 1989.  
Mari Lee Smith  
Notary Public

My commission expires 8<sup>th</sup> day of February, 1993.  
In the Clerk's Office of the \_\_\_\_\_ City of Williamsburg and County of \_\_\_\_\_ State of Virginia.  
29 May, 1989. This \_\_\_\_\_  
was presented with certificate annexed and  
admitted to record at 10:32 o'clock

Teste: Hon. \_\_\_\_\_ Ward, Clerk  
by Donald  
Deputy Clerk

PLAT NO. \_\_\_\_\_  
DEED NO. 48 PAGE 442-447

CHESAPEAKE CORP.

BOOK 475 PAGE 442

MARTHA W. HIDE. EST.

RTE 611

PROP R/W 7

5'

5'

EVELYN MAYNARD HARRIS

CHESAPEAKE CORP.

006

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N. NEWS DISTRICT

DISTRICT

COUNTY

JAMES CITY

PERMIT NO.

BC 334459 R

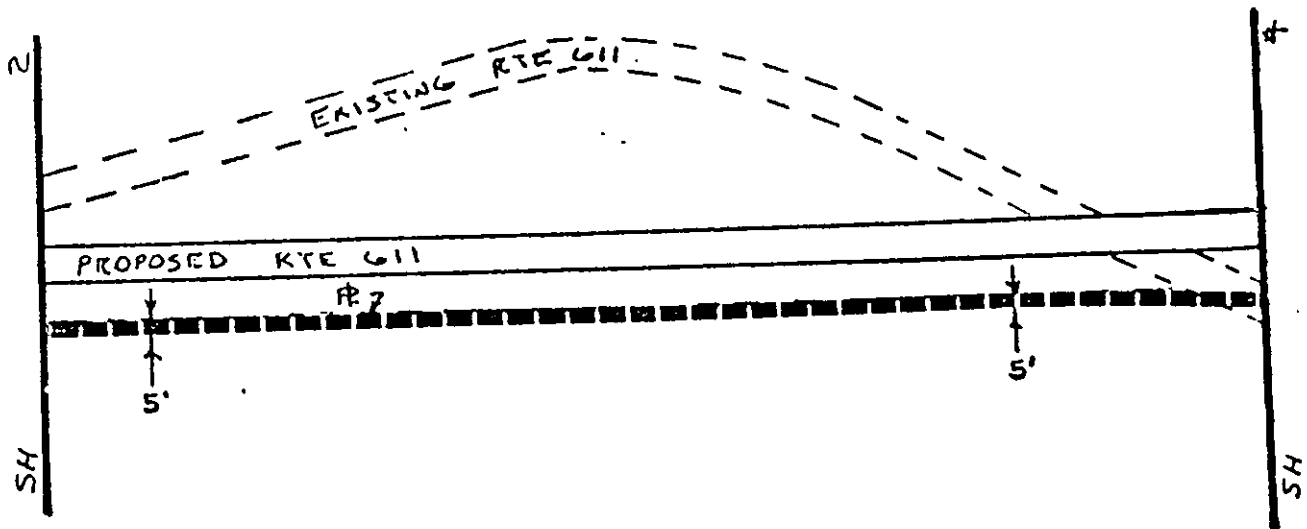
NOTES LOCATION OF RIGHT OF WAY

OF 7

Form 678V

BOOK 475 PAGE 443

MARTHA W. HIDDEN, EST.



EVELYN MAYNARD HARRIS



--- DENOTES LOCATION OF RIGHT OF WAY

SHEET 3 OF 7

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENTN. NEWS DISTRICT

DISTRICT

COUNTY

JAMES CITY

PERMIT NO.

BC 334450 R

Form 678V

BOOK 475 PAGE 444

MARTHA W HIDDEN. EST.

CHESAPEAKE CORP.

PROPOSED RTE 611

EXISTING

R/W 7

EVELYN MAYNARD HARRIS

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N. NEWS DISTRICT

DISTRICT

JAMES CITY  
COUNTY

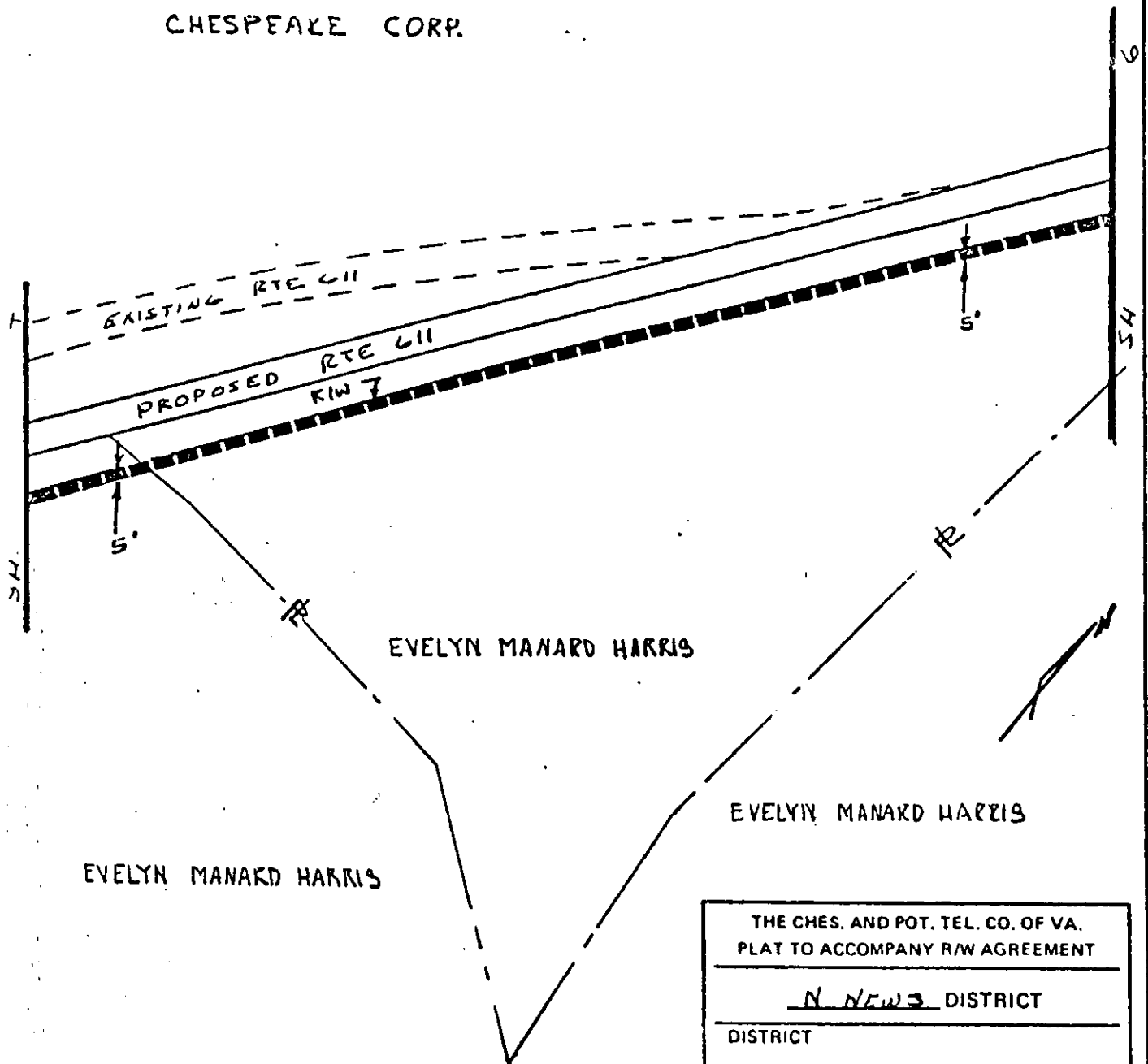
PERMIT NO.

BC 339950-P

— DENOTES LOCATION OF RIGHT OF WAY

SHEET 4 OF 7

CHESPEAKE CORP.



--- DENOTES LOCATION OF RIGHT OF WAY  
SHEET 5 OF 7

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N NEWS DISTRICT

DISTRICT

COUNTY

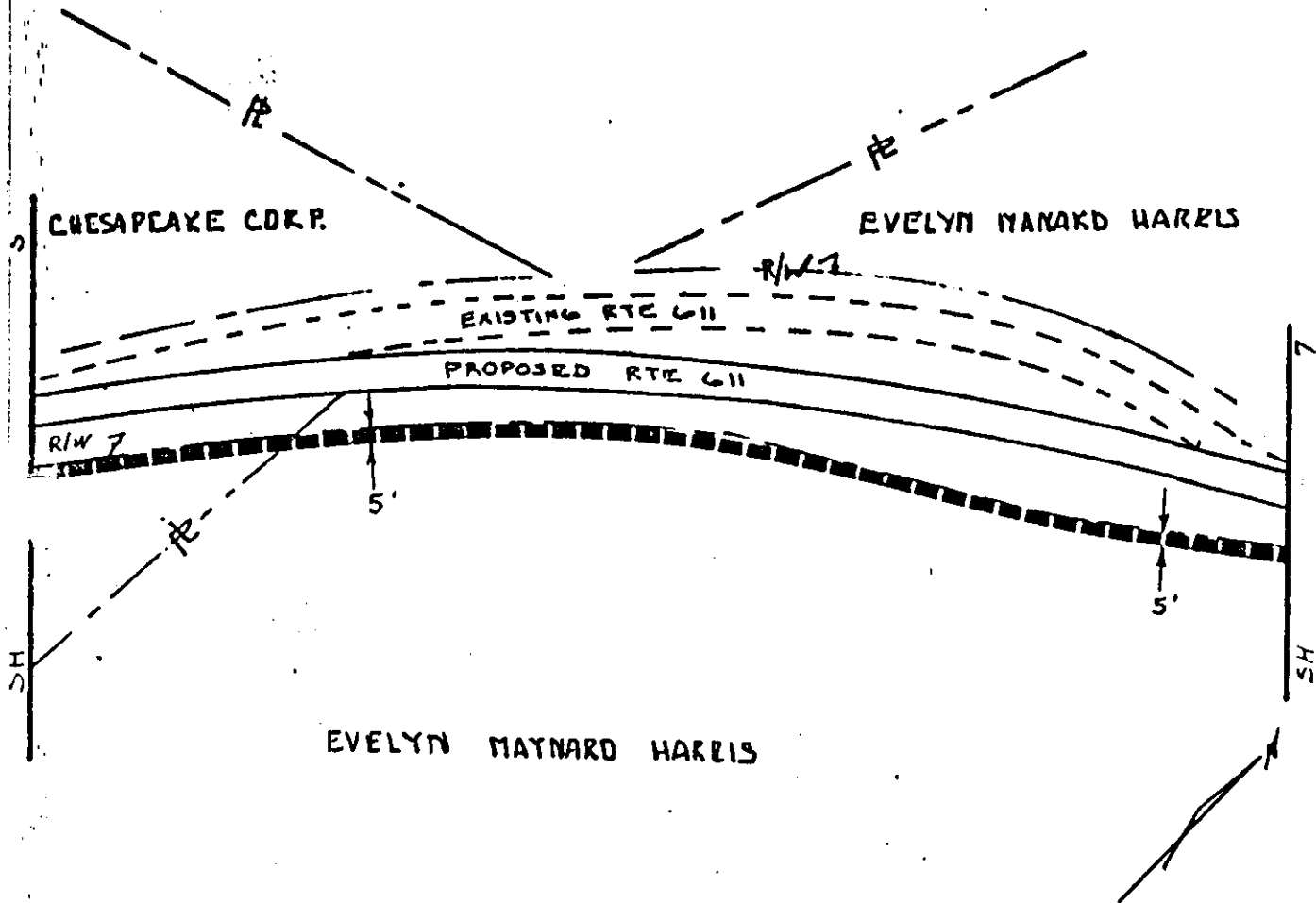
JAMES CITY

PERMIT NO.

BC 334450 R



TOANO FISH & HUNT CLUB



EVELYN MAYNARD HARRIS

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N. News DISTRICT

DISTRICT

COUNTY

JAMES CITY

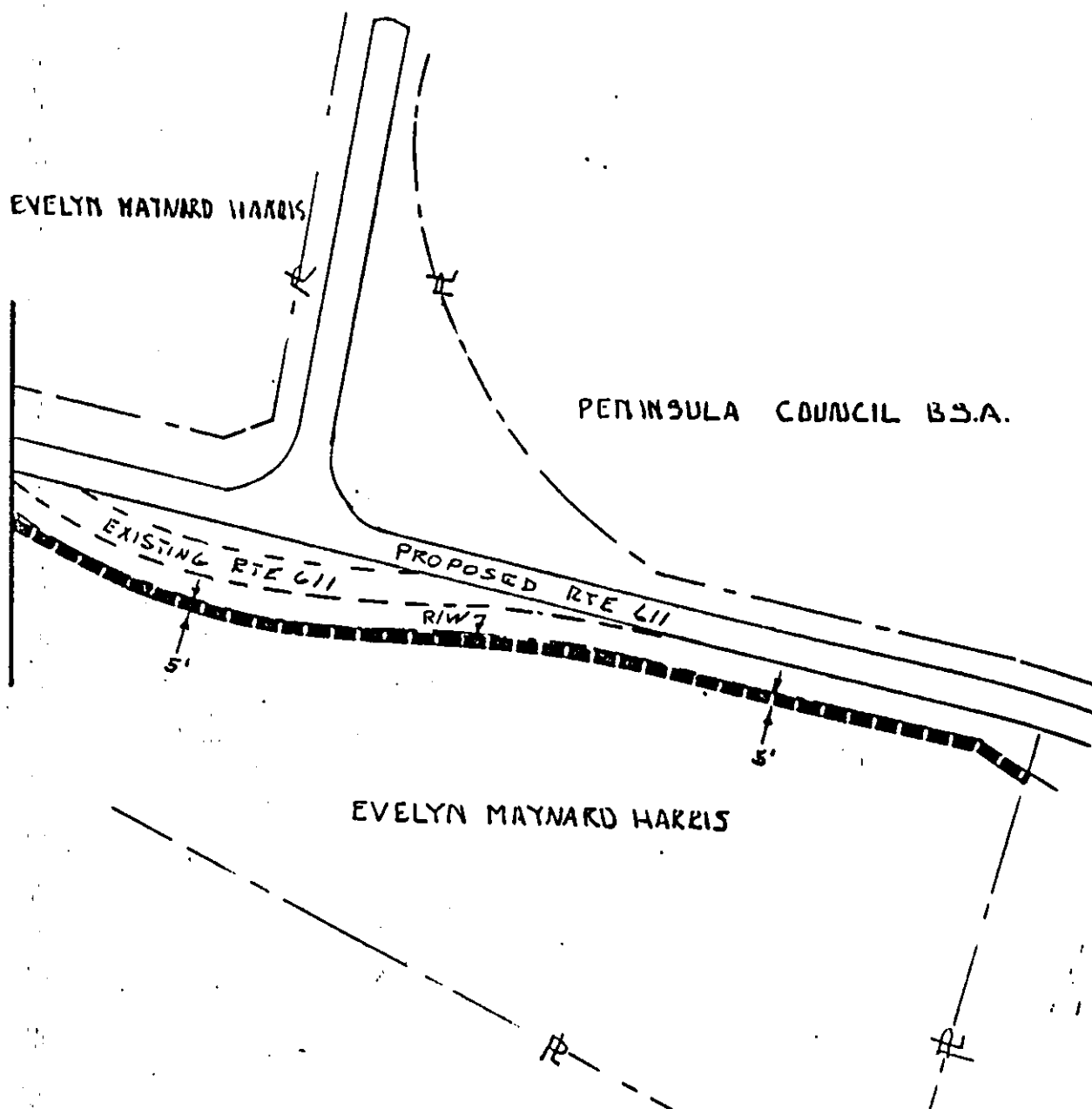
PERMIT NO.

BC 33 9930 R

--- DENOTES LOCATION OF RIGHT OF WAY

6 OF 7

BOOK 475 PAGE 447



--- DENOTES LOCATION OF RIGHT OF WAY

SHEET 7 OF 7

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N. NEWS DISTRICT

DISTRICT

COUNTY

JAMES CITY

PERMIT NO.

BC 334952 R

Form 678V

BC 334456 R

BOOK 475 PAGE 448

42-103 - (10-86)

BURIED CABLE

Sheet 1 of 2

Received of THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA One Dollar (\$1.00) in consideration of which the undersigned hereby grant and convey unto said Company, its successors, assigns, lessees and agents, a right of way and easement to construct, operate, maintain, replace and remove a communication system consisting of such buried cables, buried wires, posts, terminals, location markers, and other appurtenances, as the grantees may from time to time require, upon under, across, and over the land which the undersigned own or in which the undersigned have any interest; said land being located in the \_\_\_\_\_ of \_\_\_\_\_, County of James City, and State of Virginia, and upon, under, along and over the roads, streets and highways adjoining the said land, together with the following rights: Of ingress and egress over, under and across the lands of the undersigned to and from said systems for the purpose of exercising the rights herein granted; to open and close fences, cut down and keep cut down all trees and undergrowth within five feet of said system; and to carry in said system the wires, cables, circuits and appurtenances of any other Company; including all electric wires. Said easement being located and described on said land as follows:

Borders on the north by RTE 611, on the east by property of Old Dominion Hunt Club Inc. Deed Book 221, Pg. 162 PARCEL 001 OWNED BY JAMES CITY COUNTY

The company will pay for damage to fences and growing crops arising from the construction and maintenance of the aforesaid system.

Witness \_\_\_\_\_ hand and seal this 6<sup>th</sup> day of November, 1989.

Owner

Thomas D. Mahone

Owner

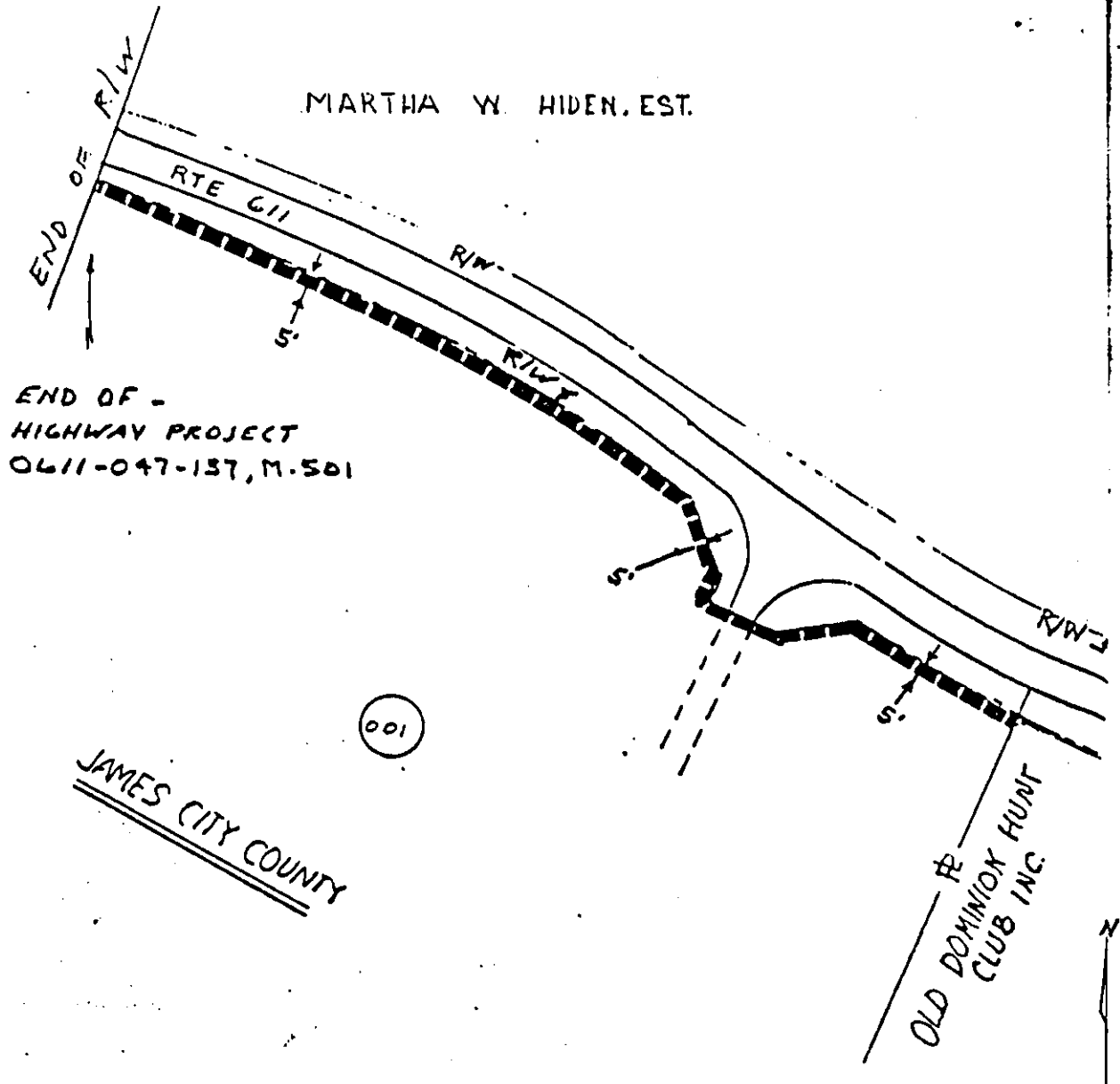
State of Virginia, County of James City, To Wit:

I, Masi Lee Smith, a \_\_\_\_\_ of the State of Virginia in and for the \_\_\_\_\_ County aforesaid, do hereby certify that Thomas D. Mahone whose name is signed to the within writing bearing date on the 6<sup>th</sup> day of November, 1989 has acknowledged the same before me in my \_\_\_\_\_ and State aforesaid.

Given under my hand \_\_\_\_\_ this 6<sup>th</sup> day of November, 1989.  
Masi Lee Smith  
Notary Public

VIRGINIA: City of Williamsburg and County of James City,  
My commission expires 8<sup>th</sup> day of February, 1993.  
In the Clerk's office of the \_\_\_\_\_ of the  
City of Williamsburg and County of James City the  
\_\_\_\_\_ day of May, 1990. This \_\_\_\_\_  
\_\_\_\_\_ was presented with certificate annexed and  
admitted to record at 10:33 o'clock  
Teste: Helene S. Ward, Clerk  
by Howard  
Deputy Clerk

PLAT 1  
Pg. NO. 475 PAGE 449



--- DENOTES LOCATION OF RIGHT OF WAY

SHEET 2 OF 2

THE CHES. AND POT. TEL. CO. OF VA.  
PLAT TO ACCOMPANY R/W AGREEMENT

N. NEWS DISTRICT

DISTRICT

COUNTY

JAMES CITY

PERMIT NO.

BC 334456-R

30

Form 1

AGREEMENT

12912  
WHEREAS, Lewis C. WALTRIP and Pauline F. WALTRIP, husband and wife are the owners of certain real property in the County of James City, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All those certain lots, pieces or parcels of land situate in James City County, Virginia, more fully shown and described on a plat entitled "PLAN OF DEVELOPMENT 'A-2 TO R-1' REZONING REQUEST, TAX PARCELS (47-1)(1-3) & (47-1)(1-4), STANDING IN THE NAME OF LEWIS C. WALTRIP & PAULINE F. WALTRIP, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" made by James H. Bennett, Professional Engineer, of AES, A Professional Corporation, Williamsburg, Virginia, dated August 30, 1989, said plat being attached hereto and made a part hereof.

WHEREAS, the Owner has applied for rezoning of the property from Limited Agricultural District, A-2, to the Limited Residential District, R-1; and

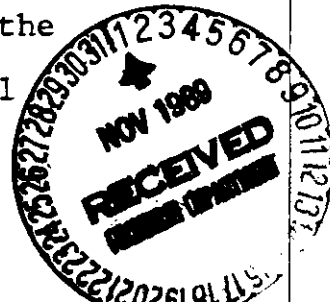
WHEREAS, the County of James City may be unwilling to rezone the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1, because the Limited Residential District, R-1, Provisions of the Zoning Ordinance, of James City County may be deemed inadequate for the orderly 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 Residential District, R-1.

LAW OFFICES  
ART D. SPIRN

WILLIAMSBURG, VA  
23185



NOW, THEREFORE, this agreement

W I T N E S S E T H:

THAT for and in consideration of the County of James City, rezoning the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1, and pursuant to §15.1-491.1 et seq. of the Code of Virginia, 1950, as amended, and §20-15 et seq. of Chapter 20, of the Code of James City County, Virginia, the Owner agrees that in addition to the restrictions provided for in the Limited Residential District, R-1, of the Zoning Ordinance of the County James City, Virginia, but subject to the current limitations set forth in the aforesaid Codes, they will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. Prior to the approval of any subdivision of the property in question, the Owner shall be obligated to provide for the Construction of a common driveway improving the existing driveway shown on the plat to a width of sixteen (16) feet paved with a top surface of two (2) inch bituminous concrete of the S-5 Type and further be obligated to provide six inches of crusher run type base material for all pavement widening in said driveway. Said base material shall extend one (1) foot outside each edge of the paved driveway surface.
2. The subject property shall be subdivided into no more than four (4) residential lots.
3. The common access easement, shown as a hatched area on that plat entitled "PLAN OF DEVELOPMENT, 'A-2' TO 'R-1' REZONING REQUEST, TAX PARCELS (47-1)(1-3)&(47-1)(1-4), STANDING IN THE NAME OF LEWIS C. WALTRIP & PAULINE F. WALTRIP, BERKELEY DISTRICT, JAMES CITY COUNTY", prepared by AES, and dated August 30, 1989, which said plat is incorporated herein by reference, shall be limited in use to an easement for access to the lots subdivided from the subject property and there shall be no access permitted for the lots adjacent which are shown as Lots Numbered 46, 48, 49, and 50 as shown on that certain

plat entitled, "POWHATAN CROSSING, INC.(etc.)", a copy of which is of record in James City County Plat Book 49 at page 61. The common access easement shall be maintained as a responsibility of the lots subdivided from the subject property and the maintenance thereof shall be recorded as condition and/or restriction running with said land.

*Lewis C. Waltrip* (SEAL)  
Lewis C. Waltrip

*Pauline F. Waltrip* (SEAL)  
Pauline F. Waltrip

COMMONWEALTH OF VIRGINIA-at Large  
IN THE CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me the 31<sup>st</sup> day of October 1989 by Lewis C. Waltrip and Pauline F. Waltrip.

*[Signature]*  
Notary Public

My Commission Expires: April 6, 1992

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 30 day of Nov, 1989 This *deed* was presented with certificate annexed and admitted to record at 1:19 o'clock

Teste: Helene S. Ward, Clerk

by *[Signature]*  
Deputy Clerk

PLAT RECORDED IN

P.B. NO. 51 PAGE 68



12913

AGREEMENT

BOOK 458 PAGE 116

WHEREAS, the Estate of C. O. Rustad (hereinafter called the "Owner") is the owner of a certain parcel of real property in James City County, Virginia (hereinafter called the "Property") and more particularly described as follows:

All of that certain piece, parcel, or lot of land situate in Powhatan Magisterial District, James City County, Virginia, containing 2.026 acres as shown on a plat entitled, "Plat of Property Standing in the Name of C. O. Rustad Estate, James City County, Virginia", dated September 5, 1989, and made by Langley and McDonald, P.C., Engineers, Planners and Surveyors, a copy of said plat being attached hereto.

WHEREAS, the Owner has applied for rezoning of the Property from General Agricultural (A-1) (the "Existing Zoning") to General Business (B-1), with proffers, all pursuant to Sections 20-328 through 20-338 of the Zoning Ordinance of James City County, Virginia, (the "Proposed Zoning"); and,

WHEREAS, James City County may be unwilling to rezone the Property because the Proposed Zoning regulations may be deemed inadequate for the orderly development 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 Proposed Zoning regulations.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of James City County, Virginia, rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.2:1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulation provided in the Proposed Zoning, it shall meet and comply with all of the following conditions for the development of the Property:



## CONDITIONS:

1. The uses of the Property shall be limited to:
  - a. doctors, dentists and other medical clinics or offices;
  - b. corporate, business, governmental and professional offices;
  - c. banks and other financial institutions;
  - d. fitness and wellness centers;
  - e. drugstores, dry cleaners, barber shops, and diet centers;
  - f. secretarial and duplicating services;
  - g. photography studios and sales, artists and sculptor studios;
  - h. florist, picture framing, stamp and coin, travel bureau;
  - i. printing and publishing;
  - j. post office; and,
  - k. libraries.
2. The height of any structure constructed on the property shall not exceed 45 feet.
3. Access from Rt. 60 (Richmond Road) shall be limited to one entrance.
4. Access from Nina Drive shall be limited to one entrance.
5. A landscaping plan for the Property shall be developed by a professional landscaping architect. The plan shall include landscaping in the 10 foot perimeter landscaping at the rear and south side of the Property which shall be in excess of that required by the Zoning Ordinance. The landscaping in the 10 foot strip along rear property line shall consist of Leyland Cypress trees in the size, location and height as shown generally on the landscaped conceptual plan prepared by Karl Kohler & Associates submitted with this Zoning Application. The plan shall be submitted as a component of the site plan submitted for approval by the Development Review Committee. The Property shall be landscaped in accordance with the approved landscaping plan.

6. A traffic study shall be prepared by a professional traffic engineer and shall be submitted to the Director of Planning for his review and approval at the time the site plan is submitted.
7. Storm water management facilities shall be provided to produce a 10 year post development peak flow that shall not exceed the 10 year pre-development peak flow. Flow attenuation shall be achieved by infiltration to the maximum extent feasible; however, required attenuation in excess of that which can be infiltrated will be achieved by on-site detention.
8. All terms of this Agreement shall have the same meaning as provided in the Zoning Ordinance of James City County, Virginia.

ESTATE OF C. O. RUSTAD

By: Muriel R. Hunt  
Muriel R. Hunt

By: H. J. Hunt, Jr.  
H. J. Hunt, Jr.

By: Llewellyn R. Smith  
Llewellyn R. Smith

By: Louis C. Smith  
Louis C. Smith

Being all of the Heirs of the Estate of  
C. O. Rustad

STATE OF VIRGINIA  
COUNTY OF JAMES CITY, to-wit:

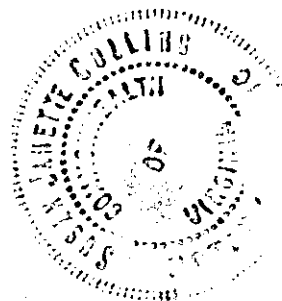
The foregoing instrument was acknowledged before me on this 23rd  
day of October, 1989, by Muriel R. Hunt & H. J. Hunt, Jr.

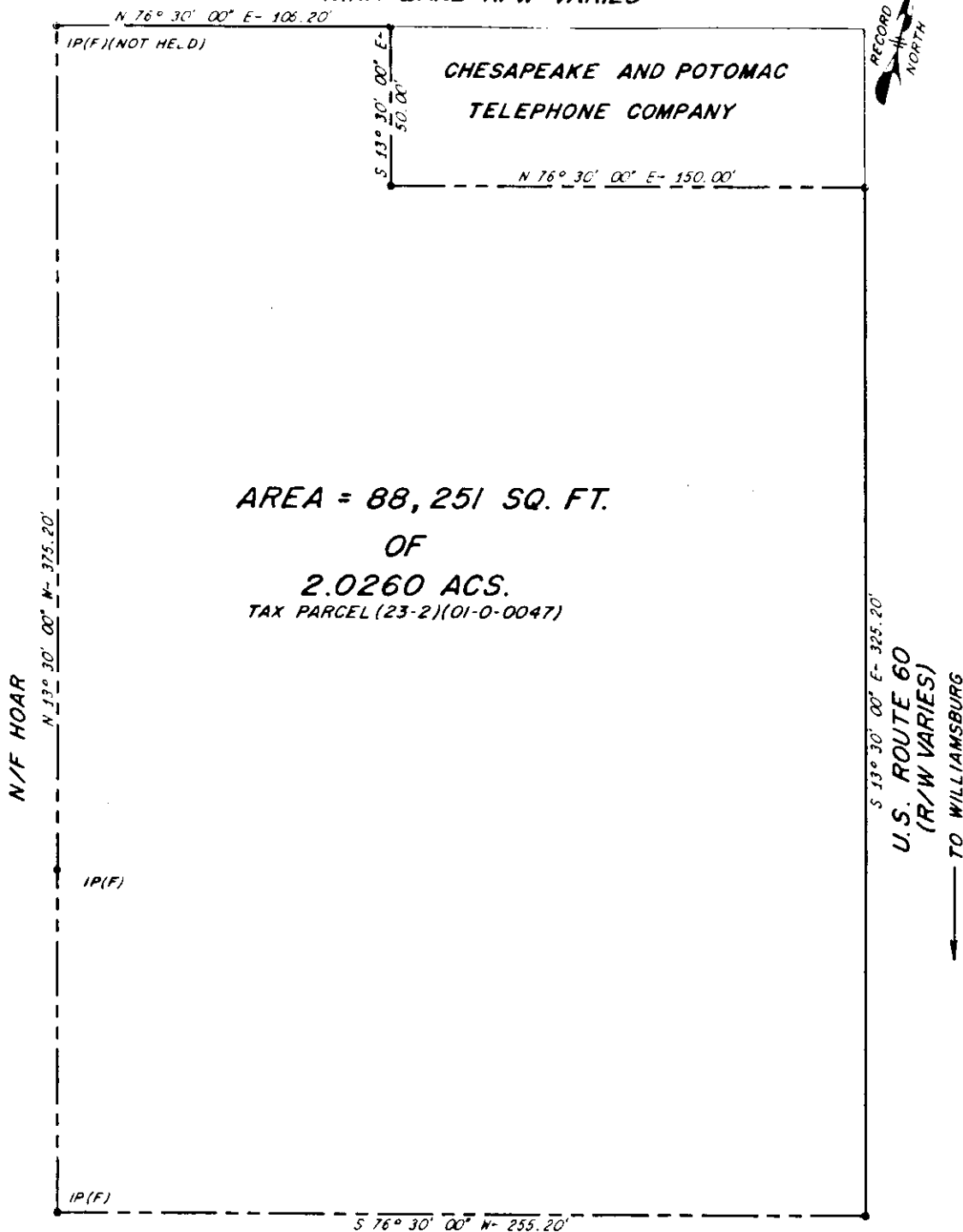
My Commission

Expires: 10-16-92

Aileen Janette Collins  
Notary Public  
VIRGINIA: City of Williamsburg and County of  
James City, to-wit:

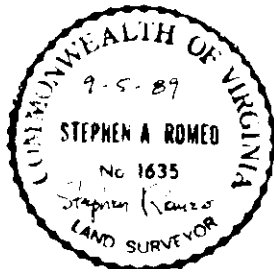
In the Clerk's office of the Circuit Court of the  
City of Williamsburg and County of James City the  
30 day of Nov, 1989. This Agreement  
was presented with certificate annexed and  
admitted to record at 1:23 o'clock  
Teste: Helene Ward, Clerk  
by Helene Ward  
Deputy Clerk





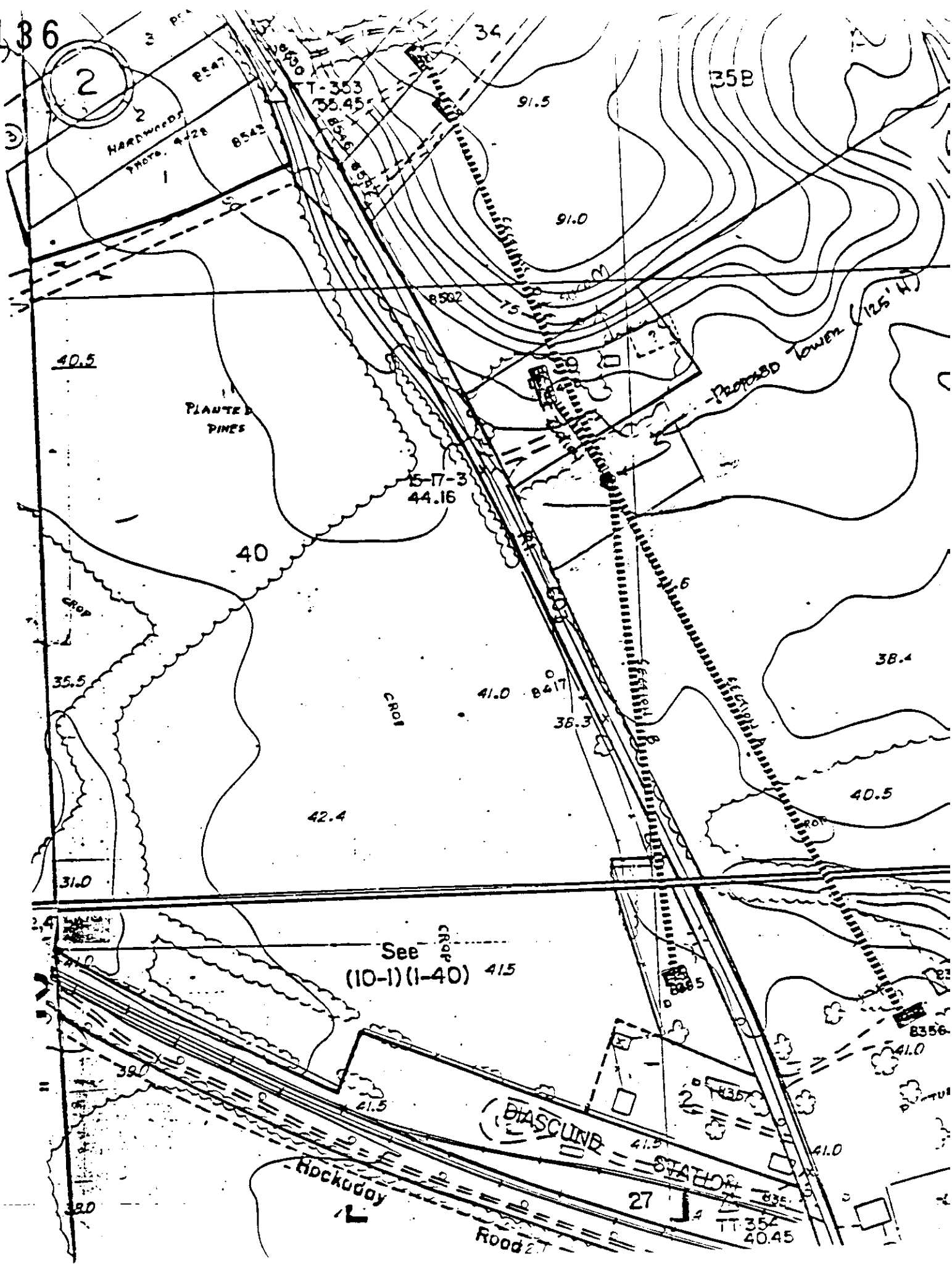
N/F ANDERSON

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF  
THIS PLAT IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES  
AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS,  
PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND CERTIFIED LANDSCAPE ARCHITECTS



THIS PLAT WAS PREPARED WITHOUT  
BENEFIT OF A TITLE REPORT

PLAT OF PROPERTY  
STANDING IN THE NAME OF  
C.O. RUSTAD ESTATE  
D.B. 40, PG. 442  
JAMES CITY COUNTY, VIRGINIA  
DATE: 9/5/89 SCALE: 1" = 40'  
Langley and McDonald, P.C.  
ENGINEERS PLANNERS SURVEYORS  
VIRGINIA BEACH & WILLIAMSBURG, VIRGINIA  
DWG. 3391W



NOV 8 1989

ORDINANCE NO. 31A-116

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, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-8. SPECIAL USE PERMITS; ARTICLE V, NONCONFORMITIES, SECTION 20-401. PERMITTED CHANGES OF NONCONFORMING USES.

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 amending Section 20-8. Special Use Permits; and Section 20-401 (a)(11). Permitted changes of nonconforming uses.

#### Chapter 20.

#### Article I. In General

#### Section 20-8. Special Use Permits.

In order to provide for good zoning practices, the purpose the Zoning District seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, Special Use Permits, limited as to location by the District regulations are permitted as set forth under the terms of this Chapter. In considering an application for a Special Use Permit in those Districts allowing them, the Planning Commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed exception. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant. The Planning Commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent

property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the District or adjacent Districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this Chapter. After a public hearing if the Planning Commission determines the above considerations have been protected, the Planning Commission shall recommend to the Board of Supervisors that the Special Use Permit be granted. The Board of Supervisors shall consider the recommendation of the Planning Commission and after a public hearing and a determination that the above considerations have been protected shall grant the Special Use Permit. In those instances where the Planning Commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the imposition of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and-or hours of operation, in addition to those expressly stipulated in this Chapter and the Commission may make their recommendation or the Board of Supervisors may grant the Special Use Permit contingent upon the imposition of such special requirements or conditions. An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied.

#### Article V. Nonconformities

##### Section 20-401. Permitted changes of nonconforming uses.

(a) (11). Nonconforming mobile homes or manufactured homes in any agricultural or residential district may be replaced with manufactured homes upon issuance of a special use permit. For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements which was:

- a. Located in the county prior to April of 1969, or any replacement thereof;
- b. Located pursuant to a conditional use permit, either with or without an expiration date;
- c. Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- d. A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

*Thomas D. Mahone*

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:

*David B. Norman*

David B. Norman  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

0592A

NOV 8 1989

ORDINANCE NO. 30A-16

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 17, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 17-22. PROCEDURES FOR REVIEW OF MINOR SUBDIVISIONS, TOWNHOUSE OR CONDOMINIUM SUBDIVISIONS; SECTION 17-23. PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS; SECTION 17-27. PRELIMINARY PLAN - SUBMITTAL REQUIREMENTS; AND SECTION 17-28. SAME - TOWNHOUSE AND CONDOMINIUM SUBDIVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City County, Virginia, that Chapter 17, Subdivisions is hereby amended and reordained by amending Section 17-22. Procedures for review of minor subdivisions, townhouse or condominium subdivisions; Section 17-23. Procedure for preliminary plan review for major subdivisions; Section 17-27. Preliminary plan - submittal requirements; and Section 17-28. Same - Townhouse and condominium subdivisions.

#### Chapter 17

#### Article II. Procedures and Documents to be filed.

#### Section 17-22. Procedure for Review of Minor Subdivisions, Townhouse or Condominium Subdivisions.

The subdivider shall submit to the agent one reproducible copy plus five prints of a final plan for a minor, townhouse, or condominium subdivision. If a preliminary plan is submitted the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal the subdivider shall pay the appropriate subdivision plan review fee.



Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the County and State as deemed necessary by the agent. The agent shall transmit County staff review comments to the subdivider within thirty days. The agent shall within ninety days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with Section 17-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify such modifications or corrections as will permit approval of the plan.

Section 17-23. Procedure for Preliminary Plan Review for Major Subdivisions.

The subdivider shall submit to the agent nine copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plat review fee.

Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the County and State as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this Chapter and the Zoning Ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the Development Review Committee when it meets to make its recommendation to the Commission.

The Commission shall consider the plan and either grant preliminary approval or disapprove it within ninety days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the Commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify such modifications or corrections as will permit approval of the plan.

Section 17-24. Procedure for Preliminary Plan Review for Major Subdivisions of Fewer Than Fifty Lots.

Major subdivisions of fewer than fifty lots may, at the agent's discretion, be reviewed under the procedures set forth in Section 17-22.

Section 17-27. Preliminary Plan - Submittal Requirements.

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be one hundred feet to the inch except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow and scale. If true north is used, the method of determination shall be shown.
- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals two thousand feet showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A boundary survey, or existing survey of record, providing a closure with an accuracy of not less than one in twenty-five hundred, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines.
- (d) All existing, platted and proposed streets, including their names, numbers, and widths; existing and proposed utility or other easements, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage calculations shall be submitted with a drainage area map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage area map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

- (f) An Erosion Control Plan showing the location, type, and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the Erosion and Sedimentation Control Ordinance and shall be provided at a scale of one hundred feet to the inch except in cases where

the Director of Code Compliance approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than five feet.

- (g) Cross sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, side ditches and other features of the proposed streets.
- (h) Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets, together with proposed connecting grade lines therewith.
- (i) Size and location of existing sanitary sewer and water facilities, location and method of proposed connections to existing sewer and water facilities, size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and clean-outs, grinder pump locations, profile views of water and sewer mains with manhole rim and invert elevations and percent of slope, sewage pump station location, design and details, and water well facility location, design, and details.

Alternate means of proposed sewage disposal and water supply if public sewer or water is not available, with well type, classification, and locations; specific on-site sewage system locations and soils information as required by the Health Department regulations.

#### Section 17-28. Preliminary Plan - Townhouse and Condominium Subdivisions.

The preliminary plan for a townhouse or condominium subdivision shall be on a blue-line or black-line print. The scale shall be one hundred feet to the inch, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow and scale. If true north is used, the method of determination must be shown.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals two thousand feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A boundary survey, or existing survey of record, providing a closure with an accuracy of not less than one foot in twenty-five hundred feet, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place

of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines.

- (d) All existing, platted and proposed streets, including their names, numbers, and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data.
- (e) All parcels of land to be dedicated for public use and conditions of such dedication.

0591A

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

ATTEST:

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

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

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

0591A

NOV 6 1989

ORDINANCE NO. 9A-3

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF SECTION 6-1 THROUGH SECTION 6-6 OF CHAPTER 6, FIRE PREVENTION, BY REPEALING AND REPLACING SAID SECTIONS WITH NEW SECTIONS 6-1 THROUGH 6-5.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Section 6-1 through Section 6-6 are hereby repealed and replaced by enacting and reordaining new Chapter 6, Fire Prevention and Protection, Article I. Fire Prevention Code, Section 6-1. Adoption of Virginia Statewide Fire Prevention Code; Section 6-2. Definitions; Section 6-3. Amendments; Article II. Smoke Detectors, Section 6-4, Definitions; and Section 6-5. Owner's responsibilities in residential buildings.

#### Chapter 6. Fire Prevention and Protection

##### Article I. Fire Prevention Code

##### Section 6-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to Section 27-97 of the Code of Virginia, the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this Article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the "Fire Prevention Code." The Fire Department shall enforce the Fire Prevention Code under the direction of the fire official.

Section 6-2. Definitions.

The following words and terms used in the Fire Prevention Code shall have the definitions ascribed to them in this section:

- (a) Jurisdiction shall mean the County of James City, Virginia.
- (b) Fire official shall mean the Fire Marshal of the County or his duly authorized representative.
- (c) Legal counsel of the jurisdiction shall mean the County Attorney or an attorney appointed by the Board of Supervisors to represent the County in legal matters.

Section 6-3. Amendments.

The Fire Prevention Code is hereby amended, modified and changed as set out in the following subsections of this section.

- (1) Section F-104.2. Permits required is hereby amended to read as follows:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the Board of Supervisors.

- (2) Section F-105.1. Local appeals is hereby amended to read as follows:

- (a) The James City County Building Board of Appeals is hereby constituted as, and shall serve as the James City County Fire Prevention Code Appeals Board.

- (b) The chairman and secretary of the James City County Building Board of Appeals shall serve in that same capacity for the James City County Fire Prevention Appeals Board. A majority of the members of the Board shall constitute a quorum. The Board shall operate in accordance with the applicable provisions of the Administrative Process Act set forth in Section 9-6.14 of the Code of Virginia. All Board hearings shall be open to the public.

- (c) The fire official shall provide clerical support to the Board within personnel and budgeting limits.

- (d) Appeals to the Board may be made by any person aggrieved by any decision or interpretation of the fire official made under the provisions of this code. The Board shall meet within thirty (30) days of receipt of an appeal application by the Board.

(3) Section F-301.2. Allowable burning is hereby amended to read:

Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of leaves, twigs and household debris, except garbage, in small and contained quantities; provided, however, pursuant to Section 10.1-1142 of the Code of Virginia, that:

(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

(b) During the period beginning March 1 and end ending May 15 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful, in this county, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris, or field containing dry grass or other inflammable material capable of spreading fire, located in or within three hundred feet of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on rights-of-way of railroad companies by their authorized employees.

(c) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within one hundred and fifty feet of any woodland, brushland, or field containing dry grass or other inflammable material, shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.

(d) Any person violating any of the provisions of subsections a), b), or c) of this section shall be guilty of a Class 3 misdemeanor for each separate offense.

(4) Section F-2700.2. Permit required is hereby amended to read:

A permit shall be obtained from the county administrator for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any organization or group of individuals to the county administrator, a permit may be issued for the display of fireworks provided that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall be made at least 15 days in advance of the date of display or discharge of the fireworks, and shall include a description of the types of fireworks to be displayed and the location to be used to ensure the

safety of those in attendance. The permittee shall furnish a bond in the amount required by Section F-2701.2 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the county administrator to any organizations or association or group of individuals unless the county administrator is satisfied that the display will be held at an appropriate site. A member of the fire department shall prior to the issuance of such a permit inspect the scene for its appropriateness for the display of fireworks and make a recommendation to the county administrator. The county administrator or an authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section, and the display shall thereupon be immediately stopped.

(5) Section F-2700.4. Definition is hereby amended to read:

Fireworks shall mean and include any item known as a firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

Article II. Smoke Detectors

Section 6-4. Definitions.

As used in this article, the following words and terms shall have the meanings respectively ascribed:

(a) Smoke detectors shall mean any mechanical device powered by batteries or alternating current capable of sensing visible or invisible particles of combustion and capable of sounding an audible alarm.

(b) Owner shall mean the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendor in possession, assignee of rents, receivers, executor, trustee, or other person, firm or corporation in control of a building.

(c) Dwelling unit shall mean any single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Section 6-5. Owner's responsibilities in residential buildings.

(a) The owner shall install smoke detectors in the following structures or buildings: (i) any building containing one or more dwelling units, (ii) any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons, and



Ordinance to Amend and Reordain  
Chapter 6. Fire Prevention and Protection  
Page 5

(iii) rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations. Smoke detectors installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code. Smoke detectors may be either battery operated or AC powered units.

(b) The owner of any unit which is rented or leased, at the beginning of each tenancy and at least annually thereafter, shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order.

A copy of all such certificates shall be available for inspection by the county building inspector, or his duly authorized representative.

(c) Except for smoke detectors located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair, or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement.

(d) Any building containing fewer than four dwelling units which was not in compliance with this section on July 1, 1984, shall be exempted from the requirements of this section until such time as that building or any dwelling unit therein is sold or rented to another person.

State law reference, Code of Virginia, Section 15.1-29.9.

Ordinance to Amend and Reordain  
Chapter 6. Fire Prevention and Protection  
Page 6

*Thomas D. Mahone*

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:



David B. Norman  
Clerk to the Board

SUPERVISOR	VOTE
NORMENT	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

NOV 6 1989

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF CHAPTER 6A, SMOKE DETECTORS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.


BE IT ORDAINED by the Board of Supervisors of the County of James City Virginia, that Chapter 6A of the Code of the County of James City, Virginia, is hereby repealed and declared null and void and of no effect.

Ordinance to Repeal  
Chapter 6A. Smoke Detectors  
Page 2

*Thomas D. Mahone*

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:

  
David B. Norman  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

0265U

NOV 6 1989

## ORDINANCE NO. 16A-16

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses, is hereby amended and reordained by adding Section 9-3.1. Exemptions; and Section 9-3.2. Duty of applicant to ascertain zoning.

## Chapter 9. Licenses

## Article. I. In General

## Section 9-3.1. Exemptions

No license tax shall be assessed or charged to any person prosecuting any business or businesses in which the aggregate gross receipts are four thousand dollars (\$4,000.00) or less in any license tax year; provided, however, all such persons shall provide the commissioner of the revenue, on a form provided by him, all information otherwise required to apply for a license as specified in Section 9-3. This exemption shall apply only to those businesses upon which taxes are imposed based upon gross receipts and shall specifically not apply to businesses upon which taxes are imposed by Sections 9-28, 9-47, 9-59, 9-99, 9-106, 9-120.1 or 9-131.

## Section 9-3.2 Duty of applicant to ascertain zoning.

It shall be the duty of every person applying for a business license to ascertain whether the location for the conducting of such business, trade or occupation is properly zoned and has all necessary use permits before making application for such business license as may be required. The commissioner of the revenue, in any case where he suspects the location is not properly zoned for the type of business, trade or occupation proposed by the applicant, shall refuse to issue such business license until a certificate is issued by the zoning administrator stating that the location is properly zoned

and the necessary use permits, if any, have been granted. The issuance of a business license by the commissioner shall not be deemed to be approval by the county of compliance with the zoning ordinance or any other local law or regulation.

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

ATTEST:

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

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

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

0263U

NOV 6 1989

ORDINANCE NO. 66A-26

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 11-7. ADOPTION OF STATE LAW; SECTION 11-11. SAME-DRIVING THROUGH FUNERAL OR OTHER PROCESSIONS; MANNER OF DRIVING IN FUNERAL PROCESSIONS; SECTION 11-20. DISPLAY OF STATE LICENSE PLATES REQUIRED; SECTION 11-21. STATE INSPECTION STICKER REQUIRED; SECTION 11-25. SECURITY OF CARGOS; SPILLING, LEAKING, SCATTERING FROM VEHICLES PROHIBITED; SECTION 11-27. PENALTIES NOT ELSEWHERE PROVIDED FOR CERTAIN VIOLATIONS WHICH ALSO CONSTITUTE MISDEMEANORS UNDER STATE MOTOR VEHICLE LAW; ARTICLE III, STOPPING, STANDING AND PARKING, SECTION 11-40.1. PARKING SPACES RESERVED FOR HANDICAPPED; SUMMONS FOR UNAUTHORIZED USE; PENALTY; SECTION 11-43. FLARES AND OTHER SIGNALS WHEN VEHICLE DISABLED IN HIGHWAY AFTER DARK; SECTION 11-46. KEEPING OF INOPERATIVE AUTOMOBILES IN RESIDENTIAL, COMMERCIAL OR LIMITED AGRICULTURAL, A-2, ZONES; SECTION 11-52. PRESUMPTION WHERE VEHICLE ILLEGALLY PARKED; ARTICLE IV. VEHICLE DECALS, SECTION 11-53. DECAL REQUIRED; AND SECTION 11-54. EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-7. Adoption of State law; Section 11-11. Same-Driving through funeral or other processions; manner of driving in funeral processions; Section 11-20. Display of State license plates required; Section 11-21. State inspection sticker required; Section 11-25. Security of

cargos; spilling, leaking, scattering from vehicles prohibited; Section 11-27. Penalties not elsewhere provided for certain violations which also constitute misdemeanors under State motor vehicle law; Section 11-40.1. Parking spaces reserved for handicapped; summons for unauthorized use; penalty; Section 11-43. Flares and other signals when vehicle disabled in highway after dark; Section 11-46. Keeping of inoperative automobiles in residential, commercial or limited agricultural, A-2, zones; Section 11-52. Presumption where vehicle illegally parked; Section 11-53. Decal required; and Section 11-54. Exemptions.

## Chapter 11. Motor Vehicles and Traffic

### Article I. In General.

#### Section 11-7. Adoption of state law.

Pursuant to the authority of Section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, as amended, and in force on July 1, 1989, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the county. For law enforcement purposes only, all private roads and private streets located within any residential development containing 100 or more lots shall be designated highways as defined by Section 46.2-100 of the Code of Virginia, as amended. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia. (11-25-74; Ord. No. 66A-11, 8-8-83; Ord. No. 66A-16, 12-2-85; Ord. No. 66A-18, 7-7-86; Ord. No. 66A-20, 6-1-87; Ord. No. 66A-24, 6-5-89)

Section 11-11. Same-Driving through funeral or other processions; manner of driving in funeral processions.

No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession, except when otherwise directed by a police officer. This provision shall not apply to authorize emergency vehicles as defined in Section 46.2-920 of the Code of Virginia.

Each driver in a funeral procession shall drive as near to the right-hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.

Section 11-20. Display of state license plates required.

It shall be unlawful for any person to operate, or for the owner or person in control thereof to knowingly permit the operation of, upon a highway of the county, any motor vehicle, trailer or semitrailer without having displayed thereon the license plate or plates assigned thereto by the state division of motor vehicles for the current registration year, whenever such license plate or plates are required by Section 46.2-613 of the Code of Virginia.

Section 11-21. State inspection sticker required.

Except as otherwise expressly provided by state law, it shall be unlawful for any person to operate or cause or permit the operation of a motor vehicle, trailer or semitrailer upon the highways of this county, unless there is properly displayed thereon a valid state inspection sticker showing that such vehicle, trailer or semitrailer has been inspected and approved under the provisions of Sections 46.2-1157 to 46.2-1175.1 of the Code of Virginia.

Section 11-25. Security of cargos; spilling, leaking, scattering from vehicles prohibited.

No vehicle shall be operated or moved on any highway unless such vehicle is so constructed, maintained and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that no provision of this section shall apply to any:

- (1) Motor vehicle which is used exclusively for agricultural purposes and which is not operated on or over any public highway for any other purpose other than for the purpose of operating it across a highway or along a highway from one point of the owner's land to another part thereof irrespective of whether or not the tracts adjoin;
- (2) To any agricultural vehicle, tractor or other vehicle exempted from registration and licensing requirements pursuant to 46.2-663 to 46.2-674 of the Code of Virginia; or

- (3) To any motor vehicle transporting poultry or livestock. (Ord. No. 66A-16, 12-2-85)

State law reference - Similar provisions, Code of Virginia, Section 46.2-1156.

Section 11-27. Penalties not elsewhere provided for certain violations which also constitute misdemeanors under state motor vehicle law.

Any person convicted of an act or omission in violation of any provision of this chapter, which act or omission also constitutes a misdemeanor under any provision of Chapters 1 through 14, inclusive, of Title 46.2 of the Code of Virginia, and for which no other penalty is provided in this chapter or in Title 46.2 of the Code of Virginia, shall be deemed guilty of a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00). (Ord. No. 66A-5, 10-23-78).

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

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

- (1) A person possessing a special handicapped vehicle parking permit issued by the Commissioner of Motor Vehicles pursuant to Section 46.2-1238 of the Code of Virginia or a person transporting by passenger car, van or pickup truck the holder of any such permit, which permit shall be displayed in the window of the vehicle transporting the holder of the permit in order to permit the vehicle to park lawfully in a parking space reserved for the handicapped;
- (2) A handicapped person driving a motor vehicle displaying state license plates designated for handicapped persons or a state decal issued to handicapped persons and issued pursuant to Section 46.2-731 of the Code of Virginia, or a person transporting a handicapped person in a motor vehicle displaying such license plates or decals; or
- (3) A disabled veteran driving a motor vehicle displaying special license plates issued pursuant to Section 46.2-739 of the Code of Virginia or a person transporting a disabled veteran in a motor vehicle displaying such special license plates.

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



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

(d) The owner or duly authorized agent of a private parking space, or an agent of a public authority having control of a public space, which space is properly designated and marked for handicapped parking, shall have authority to have any vehicle not displaying handicapped parking permits or plates as described in paragraph (a) removed and stored. Possession may be regained by payment to the person who removed the vehicle of all reasonable costs for the removal and storage. The vehicle owner may contest the removal in the manner provided by Section 46.2-1238 of the Code of Virginia. (Ord. No. 66A-9, 5-10-82; Ord. No. 66A-11, 8-8-83)

Section 11-43. Flares and other signals when vehicle disabled on highway after dark.

Whenever any bus, truck, trailer, house trailer or mobile home is disabled and stops upon any portion of the traveled portion of any highway in this county, except within the corporate limits of cities or upon streets or highways which are artificially lighted at night, at any time during which lights are required upon motor vehicles by Section 46.2-1030 of the Code of Virginia, the operator of such bus, truck, trailer, house trailer or mobile home shall place or cause to be placed on the roadway three (3) red reflector flares or torches of a type approved by the superintendent of state police. One of the flares or torches shall be placed in the center of the lane of traffic occupied by the disabled bus, truck, trailer, house trailer or mobile home and not less than one hundred (100) feet therefrom in the direction of traffic approaching in that lane, one not less than one hundred (100) feet from such bus, truck, trailer, house trailer or mobile home in the opposite direction and one at the traffic side of such bus, truck, trailer, house trailer or mobile home not closer than ten (10) feet from the front or rear thereof; provided, that if such bus, truck, trailer, house trailer or mobile home is disabled within five hundred (500) feet of a curve or crest of a hill, or other obstruction to view, the flares or torches in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred (500) feet from the disabled vehicle. Red reflectorized triangular warning devices of a type approved by the superintendent of state police may be used in lieu of flares or torches.

The exception provided herein with respect to highways within the corporate limits of cities or upon streets or highways which are artificially lighted at night shall not apply to any portion of any interstate highway within the corporate limits of any city.  
(8-3-53, Section 45)

State law references - Similar state law, Code of Virginia, Section 46.2-111; lighted headlamps and illuminating devices required from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons or vehicles on the highway are not clearly discernible at a distance of 500 feet, Code of Virginia, Section 46.2-1030.

Section 11-46. Keeping of inoperative automobiles in residential, commercial or limited agricultural, A-2, zones.

It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or limited agricultural, A-2, purposes, any motor vehicle, trailer or semitrailer, as such is defined in Section 46.2-100 of the Code of Virginia, which is inoperative; provided, however, no more than one such inoperable vehicle may be kept outside of a fully enclosed building or structure if shielded or screened from view by covers. An inoperative motor vehicle shall mean any motor vehicle which is not in operating condition; or which for a period of sixty days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. The provisions of this act shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

The owners of property zoned for residential or commercial or limited agricultural, A-2, purposes shall, at such time as the county or its agent may prescribe, remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. If, after reasonable notice, the owner of the premises has failed to remove such vehicles, the county, through its own agent or employees, may remove them. The county, through its own agent or employees, may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the county as taxes and levies are collected. Every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs have been made to the county. (4-30-69; Ord. No. 66A-11, 8-8-83; Ord. No. 66A-16, 12-2-85; Ord. No. 66A-18, 7-7-86; Ord. No. 66A-25, 8-7-89)

Section 11-52. Presumption where vehicle illegally parked.

In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Chapter 6 of Title 46.2 of the Code of Virginia, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred. (Ord. No. 66A-16, 12-2-85)

State law reference - Similar state law, Code of Virginia, Section 46.2-1220.

Section 11-53. Decal required.

(a) Every person owning a motor vehicle, trailer or semitrailer normally garaged, stored or parked in the county shall pay a license fee by procuring an annual county motor vehicle decal.

In the event it cannot be determined where such motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs for the motor vehicle decal or license requirement shall be the domicile of the owner of such motor vehicle. For the purposes of this article, motor vehicle, trailer and semitrailer shall be defined in accordance with Section 46.2-100 of the Code of Virginia.

(b) Duty of person taking residence in county:

(1) A nonresident or nondomiciled owner of a motor vehicle, trailer or semitrailer shall, upon taking residence or becoming domiciled in the county, procure a county motor vehicle decal within thirty (30) days. There shall be no grace period between the original purchase of a state license and the purchase of a county motor vehicle decal, except that owners moving to the county from elsewhere in the state not requiring a local decal or license shall be entitled to a thirty (30) day period of grace.

(2) Owners moving to the county from elsewhere in the state where a local decal or license was required, who at the time of moving to the county had obtained a local decal or license from that jurisdiction for the current year, shall obtain a current county motor vehicle decal and display it in accordance with the provisions of this article. Upon proof of purchase of a current motor vehicle decal or license from such other jurisdiction, the office of the county treasurer shall provide those newly moving into the county with the one-time courtesy of a county motor vehicle decal free of charge for that decal year. Upon expiration of the aforesaid local decal or license from another jurisdiction, and in all successive years in which the owner remains a resident of or domiciled in James City County, unless otherwise excepted, a current county motor vehicle decal shall be obtained for each decal year in accordance with the provisions of this article.

(c) Every purchaser of a new or used motor vehicle, trailer or semitrailer which will be normally garaged, stored or parked in the county shall have ten (10) days from the date of purchase to procure a county motor vehicle decal.

Section 11-54. Exemptions.

(a) The county shall not require a county motor vehicle decal for any motor vehicle, trailer or semitrailer when:

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(1) A similar tax or license fee is imposed by the county, city or town wherein such motor vehicle, trailer or semitrailer is normally garaged, stored or parked;

(2) The motor vehicle, trailer or semitrailer is owned by a nonresident of the county and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in paragraph (3) of this subsection;

(3) The motor vehicle, trailer or semitrailer is owned by a nonresident and is used for transporting into and within the county for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream or eggs produced or grown by him, and not purchased by him for sale;

(4) The motor vehicle, trailer or semitrailer is owned by an officer or employee of the Commonwealth of Virginia who is a nonresident of the county and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;

(5) The motor vehicle, trailer or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;

(6) The motor vehicle, trailer or semitrailer is operated by a common carrier of persons or property operating between cities and towns in this Commonwealth and not in intercity transportation or between cities and towns on the one hand and points and places without cities and towns on the other and not in intracity transportation;

(7) The motor vehicle, trailer or semitrailer is owned by a governmental agency and operated solely within such governmental agency's business.

(b) The county shall provide, free of charge, a county motor vehicle decal for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Department of Motor Vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in Section 46.2-739 of the Code of Virginia.

(c) The county shall not require a county motor vehicle decal for any daily rental passenger car, the rental of which is subject to the tax imposed by Section 58.1-2402(A)(4) of the Code of Virginia.

(d) Every nondomiciliary member of the armed forces residing in this county in compliance with military or naval orders are exempt from the county motor vehicle decal fee requirement; provided, however, that all such military and naval personnel shall obtain, free of charge, a county motor vehicle decal in accordance with the provision of this article. (Ord. No. 66A-21, 9-14-87)

Thomas D. Mahone

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:

David B. Norman

David B. Norman  
Clerk to the Board

SUPERVISOR	VOTE
NORMENT	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,  
this 6th day of November, 1989.

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