

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 3RD DAY OF MAY, NINETEEN HUNDRED NINETY-THREE, AT 7:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

Judith N. Knudson, Chairman, Jamestown District  
Stewart U. Taylor, Vice Chairman, Stonehouse District

Perry M. DePue, Powhatan District  
Jack D. Edwards, Berkeley District  
David L. Sisk, Roberts District  
David B. Norman, County Administrator  
Frank M. Morton, III, County Attorney

**B. PRESENTATION**

1. Historical Commission Update

Ms. Nancy Bradshaw, Cochairman of the James City County Historical Commission, summarized past achievements of the Commission and described future plans.

The Board thanked Ms. Bradshaw for the informative and attractive publications.

**C. MINUTES - April 15, 1993, Regular Meeting  
April 20, 1993, Budget Work Session  
April 22, 1993, Budget Work Session**

Ms. Knudson asked if there were corrections or additions to the minutes.

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

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

**D. CONSENT CALENDAR**

Ms. Knudson asked if any Board member wished to remove an item from the Consent Calendar.

Ms. Knudson made a motion to approve the Consent Calendar.

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

1. Mosquito Control Awareness Week

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

**MOSQUITO AND VECTOR CONTROL AWARENESS WEEK**

WHEREAS, the Governor of the Commonwealth of Virginia has officially recognized May 9-15, 1993, as MOSQUITO AND VECTOR AWARENESS WEEK as sponsored by the Virginia Mosquito Control Association; and

WHEREAS, James City County, a member in good standing of the Virginia Mosquito Control Association, supports the sponsorship of Mosquito and Vector Control Awareness Week as an effort to increase the public's awareness and support of mosquito and vector control agencies; and

WHEREAS, the Virginia Mosquito Control Association is expanding its programs to promote the public's education and participation in support of mosquito control agencies; and

WHEREAS, the public's support through backyard inspections and elimination of mosquito breeding sites is an important aspect of mosquito control efforts in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, recognizes May 9-15, 1993, as MOSQUITO AND VECTOR CONTROL AWARENESS WEEK and calls its significance to the attention of all our citizens.

**E. PUBLIC HEARINGS**

1. Case No. Z-5-91. American Retirement Corporation and Case No. SUP-6-92. Williamsburg Landing/American Retirement Corporation Amendment

Ms. Elizabeth R. Friel, Senior Planner, stated that Ms. Deborah S. Lenceski, of Langley and McDonald, had applied on behalf of American Retirement Corporation to rezone approximately 49.3 acres from R-8, Rural Residential, to PUD-R, Planned Unit Development Residential, to allow a 60-unit single-family residential development, located on the east side of Lake Powell Road at the northeast intersection of Lake Powell Road and Williamsburg Landing Road, further identified as the northern portion of Parcel No. (1-3) on James City County Real Estate Tax Map No. (48-2).

Ms. Friel further stated that Alvin Anderson, Esq., on behalf of Williamsburg Landing and American Retirement Corporation, had applied for a special use permit to delete Condition 12 in original SUP-5-82 for property located east of the property noted above for rezoning and further identified as Parcel (1-2) on James City County Real Estate Tax Map No. (48-2).

Ms. Friel indicated that the development site would be served by private streets which would access a single entrance to existing Williamsburg Landing Road; public water and sewer were available; proposed rezoning was generally consistent with the intent of the Comprehensive Plan; proposed deletion of Proffers 1 and 2, and Condition 12 would be consistent with Transportation Element of the Comprehensive Plan; and, proposed development was consistent with residential character of surrounding zoning and development.

In concurrence with staff, the Planning Commission unanimously recommended approval of Case No. Z-5-91 with proffers and binding Master Plan, and Case No. SUP-6-93, deletion of Proffers 1 and 2, Case No. Z-3-82, and deletion of Condition 12, Case No. SUP-5-82.

The Board discussed private streets built to Virginia Department of Transportation standards, maintenance responsibility of private streets, and reason for exception to 200 feet or greater of open space in this case was solely topography.

Ms. Knudson opened the public hearing.

1. Alvin P. Anderson, Esq., representing American Retirement Corporation, gave a brief background of Williamsburg Landing, described the application requests and asked the Board to approve the cases.

2. Mr. Martin Trueblood stated an area for recreation was planned for primarily an older homebuyer market.

Ms. Knudson made a motion to approve Case Nos. Z-5-91 and SUP-6-93 and authorize the Chairman to execute the proffer amendment, deleting the former proffers.

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

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

#### CASE NO. Z-5-91. AMERICAN RETIREMENT CORPORATION

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-5-91 for rezoning approximately 49 acres from R-8, Rural Residential, to PUD-R, Planned Unit Development Residential, on property identified as the northern portion of Parcel (1-3) on James City County Real Estate Tax Map No. (48-2); and

WHEREAS, the James City County Planning Commission unanimously approved Zoning Case No. Z-5-91.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-5-91 and does hereby accept the voluntary proffers.

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

#### CASE NO. SUP-6-93. WILLIAMSBURG LANDING/AMERICAN

#### RETIREMENT CORPORATION

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 applicants have requested a special use permit amendment to allow previous special use permit condition on property zoned R-5, Multi-Family Residential, and identified as Parcel (1-2) on James City County Real Estate Tax Map No. (48-2) and on property zoned R-8, Rural Residential, and identified as Parcel (1-3) on James City County Tax Map No (48-2); and

WHEREAS, the deletion of Condition 12 of SUP-5-82 is consistent with the Comprehensive Plan of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the deletion of Condition 12 of SUP-5-82.

2. Case Nos. Z-1-93 and SUP-7-93. Williamsburg Landing, Incorporated

Ms. Friel stated that Mr. Alvin P. Anderson had applied on behalf of Williamsburg Landing, Inc., to rezone approximately 15.79 acres from R-8, Rural Residential, to R-5, Multi-Family Residential, located at the southeast intersection of Lake Powell Road and Williamsburg Landing Drive, within Primary Service Area, and further identified as Parcel (1-3) on James City County Real Estate Tax Map No. (48-2).

The Board asked whether traffic study included all development on Lake Powell Road and wanted clarification of staff's Airport Approach Overlay Zoning District and the airport's instrument approach zone.

In concurrence with staff, the Planning Commission unanimously recommended approval of Case No. Z-1-93 with proffers and Case No. SUP-7-93 with conditions listed in the resolution.

Ms. Knudson opened the public hearing.

1. Alvin P. Anderson, Esq., noted past contributions of Williamsburg Landing residents to the County and the rezoning would allow 27 dwellings at 1.7 units density per acre with the special use permit allowing facilities for the care of persons needing some assistance. He explained that the proximity of the airport was disclosed to prospective residents.

2. Mr. Jay Everson, 130 Oslo Court, spoke of his concern that the rezoning would surround the airport with residences and asked whether the Economic Development office gave input on rezoning cases.

Mr. David B. Norman, County Administrator, responded that this project had no impact on economic development.

Ms. Knudson closed the public hearing.

Ms. Knudson made a motion to approve Case Nos. Z-1-93 and SUP-7-93 and staff discussion regarding the temporary construction entrance ensued.

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

R E S O L U T I O NCASE NO. Z-1-93. WILLIAMSBURG LANDING, INCORPORATED

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-1-93 for rezoning approximately 15 acres from R-8, Rural Residential, to R-5, Multi-Family Residential, on property identified as the southern portion of Parcel (1-3) on James City County Real Estate Tax Map No. (48-2); and

WHEREAS, the James City County Planning Commission unanimously approved Zoning Case No. Z-1-93.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-1-93 and does hereby accept the voluntary proffers.

R E S O L U T I O NCASE NO. SUP-7-93. WILLIAMSBURG LANDING, INCORPORATED

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 applicant has requested a special use permit to allow single-family dwellings, nursing homes, and facilities for the residence and care of the aged in the R-5, Multi-Family Residential District, on property identified as the southern portion of Parcel (1-3) on James City County Real Estate Tax Map No. (48-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-7-93 as described herein with the following conditions:

1. Case No. SUP-7-93 shall remain in effect for a period of 36 months from the date of issuance. If within this time, site plan approval and/or building plan approval are issued, the special use permit shall remain in effect for the term of approval and/or permits. Issuance of a Certificate of Occupancy would preserve the rights of the special use permit.
2. Only two entrances shall be permitted to the property, one from Williamsburg Landing Drive and one from Marclay Drive.
3. An area of 100 feet from the edge of the existing Lake Powell Road right-of-way shall be left as buffer area and remain in its natural state except for necessary utility crossings or construction road entrances.
4. All potential residents of the residential structures shall be formally notified by the developer and/or seller the development's proximity to the Airport Approach Overlay District.

3. Case No. Z-2-93. Five Forks (The Ironbound Company, Inc.)

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Mr. Vernon Geddy, III, had applied on behalf of The Ironbound Company, Inc., to amend proffers attached to rezoning Case No. Z-13-89, of 26.27 acres, located on Ironbound Road approximately 300 feet southeast of the intersection of Ironbound Road and John Tyler Highway, and further identified as Parcel (1-54) on James City County Real Estate Tax Map No. (47-1). Mr. Sowers further stated that this application to amend proffers would increase residential units from 53 to 63, zoned R-2, General Residential, with remainder of proffers impacting development unchanged.

In concurrence with staff, the Planning Commission unanimously recommended approval of the proffer amendment.

Ms. Knudson opened the public hearing.

1. Vernon Geddy, III, Esq., representing the applicant, stated that the Comprehensive Plan had changed to allow larger density and engineering study showed property can support additional 10 lots with no decrease in green space.

Ms. Knudson closed the public hearing.

Mr. DePue made a motion to approve the resolution.

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

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

### CASE NO. Z-2-93. THE IRONBOUND COMPANY, INC.

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-2-93 for rezoning approximately 26.27 acres from R-2, General Residential, with proffers, to R-2, General Residential, with proffers, on property identified as Parcel (1-54) on James City County Real Estate Tax Map No. (47-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 13, 1993, unanimously recommended approval of Case No. Z-2-93.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-2-93, and accepts the voluntary proffers.

4. Case No. SUP-5-93. John F. Mandaro

Mr. Sowers stated that Mr. John F. Mandaro had applied on behalf of Hall and Morton, et eux, for a special use permit to allow development of a professional office on 6.227 acres zoned R-8, Rural Residential, located at 8946 Pocahontas Trail, further identified as Parcel (1-10) on James City County Real Estate Tax Map No. (59-2).

Mr. Sowers indicated that the applicant desired to convert the existing residence on the site to an office building for a local labor union and would construct a new office building to the rear of the site. He noted the project was consistent with surrounding development and zoning and the Comprehensive Plan.

In concurrence with staff, the Planning unanimously recommended approval with conditions listed in the resolution.

Discussion followed regarding size of building, location on site, and buffer for manufactured home park.

Ms. Knudson opened the public hearing.

Mr. Sisk recommended a deferral until more information could be obtained from the applicant.

Without objection, Ms. Knudson continued the public hearing until the May 17, 1993 Board of Supervisors' meeting.

5. Case No. SUP-13-93. Spencer Builders, Inc., Whiting's Farm

Mr. Sowers stated that Mr. Kenneth C. Spencer had applied on behalf of Spencer Builders, Inc., for a special use permit to allow construction of a two-family dwelling on .35 acres zoned R-2, General Residential, located at 3901 Strawberry Plains Road, further identified as Parcel (2-5) on James City County Real Estate Tax Map No. (39-3).

Staff reported the project was consistent with surrounding development and zoning and the Comprehensive Plan. In concurrence with staff, the Planning Commission unanimously recommended approval with conditions listed in the resolution.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. Sisk made a motion to approve Case No. SUP-13-93.

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

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

CASE NO. SUP-13-93. SPENCER BUILDERS, INC. - DUPLEX

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

WHEREAS, the Planning Commission of James City County, following its public hearing on April 13, 1993, unanimously recommended approval of Case No. SUP-13-93 to allow a two-family dwelling in the R-2, General Residential, district on property identified as Parcel (2-5) on James City County Real Estate Tax Map No. (39-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-13-93 as described herein with the following conditions:

1. This special use permit shall remain in effect for a period of 18 months from the date of issuance. If within this time site plan approval and/or building plan approvals are issued, the special use permit shall remain in effect for the term of those approvals and/or permits. Issuance of a Certificate of Occupancy would preserve the rights of the special use permit.
2. The site shall be limited to 1 two-family dwelling.
3. The property shall be limited to one entrance on Strawberry Plains Road.

6. Case No. SUP-14-93. Newport News Water Main Construction

Mr. Sowers stated that Case No. SUP-5-91 was previously approved but failed to commence within 24-month period stipulated in conditions and therefore, Mr. J. P. Noonan of Malcolm Pirnie, Inc., had applied on behalf of City of Newport News for a special use permit to allow construction of a 30-inch water transmission main. Mr. Sowers indicated the main would commence at the City of Newport News/James City County boundary and extend north to a point east of Anheuser-Busch Brewery in the vicinity of entrance to Busch Gardens, located within an 100-foot wide Virginia Power right-of-way for the most part. He further indicated that the water transmission main would provide the increasing demand for water in Roberts District of James City County, portions of York County and City of Newport News while improving overall system reliability.

In concurrence with staff, the Planning Commission unanimously recommended approval of the resolution with listed conditions.

Ms. Knudson opened the public hearing.

1. Mr. Bryan Bradish, Chief Engineer, Newport News Waterworks, stated that economics played a role in failure to commence construction within 24 months from approval, and expressed appreciation of staff's professionalism.

Ms. Knudson closed the public hearing.

Ms. Knudson made a motion to approve Case No. SUP-14-93.

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



RESOLUTIONCASE NO. SUP-14-93. CITY OF NEWPORT NEWS NORTHERN ZONEWATER TRANSMISSION MAIN

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

WHEREAS, the Planning Commission of James City County, following its public hearing on April 13, 1993, voted 9-0 to make a finding that the above mentioned water transmission main is in accordance with the Comprehensive Plan and voted 9-0 to recommended approval of Case No. SUP-14-93 to permit a 30-inch water transmission main extending from the City of Newport News/James City County boundary north to a point east of the Anheuser-Busch Brewery in the vicinity of the entrance to Busch Gardens. The main would be located, for the most part, within the existing 100-foot wide Virginia Power right-of-way. The length of the main would be approximately 29,830 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-14-93 as described herein with the following conditions:

1. Evidence of the acquisition of all property necessary to construct the main shall be provided to the Planning Division prior to preliminary approval of the site plan for the project. This permit is valid only for the route shown on the maps submitted to the County as part of this application. Any deviation from the route must be approved by the Development Review Committee. Any relocation of the proposed main on property other than that identified on the maps submitted as part of this application would cause the permit to become void.
2. This special use permit shall remain in effect for a period of 24 months from the date of issuance. If within this time site plan approval and/or building plan approvals are issued, the special use permit shall remain in effect for the term of those approvals and/or permits. Issuance of a Certificate of Occupancy would preserve the rights of the special use permit.
3. Construction, operation, and maintenance of the water transmission main shall comply with all local, State, and Federal requirements.
4. The erosion and sediment plan shall be submitted as part of the site plan submittal and shall be approved by the County Engineer.
5. Copies of all State, Federal, and local permits shall be provided as part of the site plan submittal.
6. Crossings of roads and existing utilities shall be coordinated with applicable agencies during the construction of the main.
7. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent

property. These methods are to be shown on the site plan and approved as part of the site plan submittal.

8. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.
9. The topsoil shall be removed and stockpiled separate from other soil. When construction is completed, the topsoil shall be restored to its previous location and conditions to the greatest extent practical. In areas where topsoil restoration is not possible, post-construction topsoil conditions shall be reestablished to preconstruction conditions utilizing soil amendments as approved by the Soil Conservation Service.
10. In areas of the construction easement that have been cleared, seedlings shall be planted in accordance with the State Department of Forestry guidelines and shall be shown on a reforestation plan to be approved by the Planning Director. The reforestation of this easement shall be completed within 2 years of the clearing of the easement. It shall be the responsibility of City of Newport News to secure the necessary means to plant on the construction easement after the easement reverts back to the property owner.

7. Case No. SUP-16-93. Miles A. Pitts Family Subdivision

Ms. Friel stated that Mr. Miles A. Pitts, Jr., had applied for a special use permit to allow a family subdivision of 2 parcels less than 3 acres in size in A-1, General Agricultural, with a 1.3-acre parcel to be transferred from Mr. Miles A. Pitts, Sr., to Mr. Miles A. Pitts, Jr., and retention of ownership of 2.8-parcel where Mr. Pitts, Sr. currently resides. Ms. Friel further stated that the site was located northwest of intersection of Riverview Road and Saddlestown Road and further identified as Parcels (1-15) and (1-17) on James City County Real Estate Tax Map No. (15-3).

Staff found the subdivision consistent with the Comprehensive Plan and surrounding zoning and development.

In concurrence with staff, the Planning Commission unanimously recommended approval of the resolution with condition listed.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. Taylor made a motion to approve Case No. SUP-16-93.

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

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

#### CASE NO. SUP-16-93. MILES A. PITTS, JR., FAMILY SUBDIVISION

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 applicant has requested a special use permit to allow a family subdivision with lot sizes less than three acres in size in the A-1, General Agricultural District, on property identified as Parcel Nos. (1-15) and (1-17) on James City County Real Estate Tax Map No. (15-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-16-93 as described herein with the following condition:

1. Final subdivision approval shall be secured within 18 months from the date of the issuance of SUP-16-93.
8. Case No. ZO-3-93. Ordinance Amendment, Chapter 20, Zoning, Article I, Sections 20-2 and 20-12, Handicap Parking Requirements

Mr. Sowers stated that the ordinance amendment supported new Federal legislation regarding total number of off-street handicapped spaces which had been revised in accordance with American with Disabilities Act, and an additional requirement that one of eight handicapped spaces would be a van accessible space 9-foot wide with an 8-foot wide access aisle to allow wheelchair platform lifts room to maneuver.

In concurrence with staff, the Planning Commission unanimously recommended approval of the ordinance amendment.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Ms. Knudson made a motion to approve the Ordinance amendment.

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

## G. BOARD CONSIDERATIONS

### 1. Case No. S-20-93. Powhatan Clusters - Private Streets

Mr. Sowers stated that Mr. Stephen Romeo, of Langley and McDonald, had applied on behalf of Lawrence Beamer for approval of a private street within Powhatan Secondary Subdivision to serve a planned 16-lot subdivision, zoned R-4, Residential Planned Community, and in accordance with Section 20-277(b), Street Improvements. Mr. Sowers further stated that the site was 7.5 acres, located on the north side of Powhatan Secondary, east of Powhatan Secondary's intersection with Old Carriage Way.

Mr. Sowers indicated that the original plan was for attached structures and the loop road was classified as a parking area; plans now are for detached single-family homes which must be served by private or public roads.

Staff found that the Master Plan referenced private streets, and clearing for a new road would strip the site of all natural vegetation.

Staff recommended approval of the private street.

The Board discussed maintenance responsibility of the private street, construction done by Virginia Department of Transportation standards, and staff recommendation determined by private street guidelines for safety.

Mr. DePue made a motion to approve the resolution.

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

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

### CASE NO. S-20-93. POWHATAN CLUSTERS - PRIVATE STREETS

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

WHEREAS, the applicant has requested approval of a private street as generally shown on the subdivision plans entitled "Powhatan of Williamsburg Secondary, Powhatan Clusters" prepared by Langley and McDonald, P.C., and dated March 16, 1993, on property as the northwest corner of Parcel No. (1-12) on James City County Real Estate Tax Map No. (38-3) in accordance with Section 20-227 (b) of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the private street as described herein.

2. FY 1994 Budget Appropriation

Mr. Walter C. Schmidt, Assistant Manager of Financial and Management Services, presented the changes made to the proposed budget as a result of discussion at the budget work sessions.

Staff recommended approval of the appropriation resolution.

The Board individually complimented staff on its efforts in producing an excellent budget, commented on the Board's positive response to funding requests, and expressed pride for the County's economic condition.

Mr. Edwards made a motion to approve the resolution.

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

R E S O L U T I O N

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 1993, and ending June 30, 1994, for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein and to set tax rates on real estate, tangible personal property and machinery and tools to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND EXPENDITURES

|                                  |                     |
|----------------------------------|---------------------|
| Legislative Services             | \$ 454,685          |
| Administrative Services          | 706,663             |
| Elections                        | 146,974             |
| Financial Administration         | 1,521,227           |
| General Services                 | 1,438,649           |
| Development Management           | 1,891,769           |
| Refuse Collection and Disposal   | 262,655             |
| Judicial Administration          | 566,707             |
| Public Safety                    | 6,515,013           |
| Community Services               | 2,384,650           |
| Education                        | 26,682,709          |
| Public Health and Welfare        | 1,290,786           |
| Contributions                    | 1,130,661           |
| Nondepartmental                  | 625,000             |
| Contributions - Capital Projects | <u>1,027,000</u>    |
| Total General Fund Expenditures  | <u>\$46,645,148</u> |

The appropriation for education includes \$22,852,859 as a contribution to the Williamsburg-James City County Schools.

### GENERAL FUND REVENUES

|  |                     |
|--|---------------------|
| General Property Taxes                 | \$29,812,030        |
| Other Local Taxes                      | 7,786,660           |
| Licenses, Permits and Fees             | 2,977,100           |
| Fines and Forfeitures                  | 75,000              |
| Revenue from Use of Money and Property | 698,900             |
| Revenue from the Commonwealth          | 4,220,519           |
| Revenue from the Federal Government    | 2,100               |
| Charges for Current Services           | 768,344             |
| Miscellaneous Revenues                 | <u>304,495</u>      |
| Total General Fund Revenues            | <u>\$46,645,148</u> |

2. That the tax rates be set on the following property for the amounts shown below and revenues appropriated in the following classifications:

### TAX RATES

|  |        |
|--|--------|
| Real Estate on each \$100 Assessed Value                   | \$ .75 |
| Tangible Personal Property on each<br>\$100 Assessed Value | 4.00   |
| Machinery and Tools on each \$100 Assessed Value           | 4.00   |

3. That the following amounts are hereby appropriated for the funds as indicated in the amounts as shown below:

### CAPITAL PROJECTS FUND

#### Revenues:

|                                      |                    |
|--------------------------------------|--------------------|
| Contribution - General Fund          | \$1,027,000        |
| Other Revenues                       | 195,081            |
| Prior Year Fund Balance              | 2,398,124          |
| Debt Financing                       | 5,000,000          |
| City of Williamsburg                 | <u>280,000</u>     |
| Total Capital Projects Fund Revenues | <u>\$8,900,205</u> |

#### Expenditures:

|                      |                |
|----------------------|----------------|
| Schools              | \$5,838,000    |
| Recreation           | 540,000        |
| Public Safety        | 359,000        |
| Development Projects | 1,113,000      |
| Community Services   | 895,205        |
| General              | <u>155,000</u> |

Total Capital Projects

Fund Expenditures \$8,900,205

Revision - Current Capital Budget

|                               |             |
|-------------------------------|-------------|
| Source - VPSA Bonds, May 1992 | \$1,210,000 |
| Project - James River School  | \$1,210,000 |

DEBT SERVICE FUND

|                        |                    |
|------------------------|--------------------|
| Beginning Fund Balance | <u>\$4,774,603</u> |
|------------------------|--------------------|

Revenues:

|                             |               |
|-----------------------------|---------------|
| From General Fund - Schools | \$3,800,000   |
| From General Fund - Other   | 380,000       |
| Interest on Bond Proceeds   | 50,000        |
| From State                  | <u>17,988</u> |

|                                  |                    |
|----------------------------------|--------------------|
| Total Debt Service Fund Revenues | <u>\$4,247,988</u> |
|----------------------------------|--------------------|

|                                 |                    |
|---------------------------------|--------------------|
| Total Revenues and Fund Balance | <u>\$9,022,591</u> |
|---------------------------------|--------------------|

|                           |                    |
|---------------------------|--------------------|
| Current Year Expenditures | <u>\$4,261,030</u> |
|---------------------------|--------------------|

|                     |                    |
|---------------------|--------------------|
| Ending Fund Balance | <u>\$4,761,562</u> |
|---------------------|--------------------|

VIRGINIA PUBLIC ASSISTANCE FUNDRevenues:

|  |               |
|--|---------------|
| From the Federal Government/Commonwealth | \$1,297,924   |
| From the General Fund                    | 528,381       |
| Grant                                    | 123,742       |
| Other                                    | 66,667        |
| Fund Balance                             | <u>80,019</u> |

|   |                    |
|---|--------------------|
| Total Virginia Public Assistance<br>Fund Revenues | <u>\$2,096,733</u> |
|---|--------------------|

Expenditures:

|                               |                    |
|-------------------------------|--------------------|
| Administration and Assistance | <u>\$2,096,733</u> |
|-------------------------------|--------------------|

|   |                    |
|---|--------------------|
| Total Virginia Public Assistance<br>Fund Expenditures | <u>\$2,096,733</u> |
|---|--------------------|

COMMUNITY DEVELOPMENT FUNDRevenues:

|                          |               |
|--------------------------|---------------|
| General Fund             | \$ 165,848    |
| Grants                   | 441,340       |
| Generated Program Income | <u>65,000</u> |

|  |                   |
|--|-------------------|
| Total Community Development<br>Fund Revenues | <u>\$ 672,188</u> |
|--|-------------------|

Expenditures:

Administration and Programs \$ 672,188

Total Community Development Fund  
Expenditures \$ 672,188

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary increase with various increases based on performance and funded at an average of 4.5 percent, granted to employees in FY 94.

**H. PUBLIC COMMENT**

1. Mr. Jay Everson, 130 Oslo Court, expressed his view that economic development should focus more on locating small businesses in the County and less intently on large firms.

2. Mr. Lawrence Beamer, owner of Powhatan Secondary subdivision, expressed appreciation to Elizabeth Friel, Senior Planner, for her professional manner of help and assistance in the private street case approved earlier on the agenda.

**I. REPORTS OF THE COUNTY ADMINISTRATOR - None****J. BOARD REQUESTS AND DIRECTIVES**

Mr. Taylor asked the status of Racefield Road in the Secondary Road program.

Mr. Norman responded that a review would be made.

Ms. Knudson stated the Volunteer Gala on April 29, 1993, was a huge success and expressed the Board's gratitude to the large number of volunteers in the County. She announced that Mr. Jim Robertson was recognized as a Top Four Volunteer of the Year and Ms. Sharon Keech received a Certificate of Recognition for work in financial counseling.

Ms. Knudson noted a memorandum received from the Hampton Roads Planning District Commission requesting an answer to the following question: "Do you support and will you advocate General Assembly legislation empowering and requiring locally elected school boards to levy taxes and raise their own revenue in lieu of direct funding by the local governing body?"

Board discussion followed regarding two taxing bodies in one jurisdiction, amount of FY 94 school funding exceeds real estate and property tax revenues, and whether a signed petition for a referendum was required for appointment of the School Board by the Board of Supervisors.

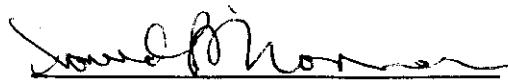


Mr. Frank M. Morton, III, County Attorney, stated that he would review the State Code and advise his findings.

Mr. Edwards made a motion to recess until 5:00 p.m., Monday, May 17, 1993.

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

The Board recessed at 9:26 p.m.

A handwritten signature in dark ink, appearing to read "David B. Norman", written over a horizontal line.

David B. Norman  
Clerk to the Board

3Maybos.min

7444  
BOOK 623 PAGE 658PROFFER AMENDMENT

This Proffer Amendment is made as of the 26th day of April, 1993 by Williamsburg Landing, Inc., a Virginia Non Stock, Non Profit Corporation ("WLI") and American Retirement Corporation, a Tennessee Corporation ("ARC") together with their respective successors and assigns and James City County, Virginia, a Virginia Municipal Corporation ("the County").

RECITALS

A. WLI is the owner of certain real property in James City County, Virginia, ("the WLI Property") more particularly described as follows:

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "PARCEL A" on that certain plat entitled "PLAT OF PARCELS "A" AND "B", BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC." dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 39, Page(s) 20 and 21, consisting of 70.12 acres.

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "13.9303 ACRES" as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL B & PART OF PARCEL C (PB 39, PG 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Stephen A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72.

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "(PARCEL B) WILLIAMSBURG LANDING DRIVE, 1.8609 AC." as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Steven A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-

Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72.

B. ARC is the owner of certain real property in James City County, Virginia, ("the ARC Property") more particularly described as follows:

All that certain tract or parcel of land situate in James City County, Virginia, and more particularly described as a portion of "Parcel C" north of "Parcel B", west of "Parcel A" south of Va. State Route 199 and east of Va. State Route 617 on that certain plat entitled "PLAT OF PARCELS "A" AND "B" BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC.", dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in Plat Book 39, Pages 20 and 21.

C. The WLI Property and the ARC Property are each currently subject to certain proffered conditions as a result of Zoning Case No. Z-3-82 ("the Prior Zoning Case").

D. The aforesaid proffered conditions of the Prior Zoning Case have either been met and satisfied or are no longer appropriate.

Now, therefore, pursuant to Section 15.1-491.6, et seq. of the Code of Virginia, 1950, as amended, and Section 20-22 of the James City County Code, WLI, ARC and the County, and each of them agree that the proffered conditions associated with the Prior Zoning Case be and are hereby abandoned.

Witness the following signatures and seals:

WILLIAMSBURG LANDING, INC.

By: Mary Lee Hocking  
Title: Chairman, Board of Directors  
& president

AMERICAN RETIREMENT CORPORATION

By: James J. Money  
Title: Senior Vice President - Development Services

Execution of this Agreement by the Chairman of the James City County Board of Supervisors was authorized at the Board's regular meeting on May 3, 1993.

JAMES CITY COUNTY, VIRGINIA

By: *John H. Darling*  
Title: Chairman, Board of Supervisors

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 28th day of April, 1993, by Mary Lee Darling, President of and acting on behalf of Williamsburg Landing, Inc.

*William H. City*  
NOTARY PUBLIC

My commission expires: 12/31/96

STATE OF TENNESSEE

County of Williamson, to-wit:

The foregoing instrument was acknowledged before me this 26 day of April, 1993, by James J. Money, Vice President of and acting on behalf of American Retirement Corporation.

*Ruby C. Wood*  
NOTARY PUBLIC

My commission expires: 12-8-96

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 17th day of MAY, 1993, by JUDITH N. KNUDSEN, Chairman of the Board of Supervisors on behalf of James City County, Virginia.

*Mary Frances Rieger*  
NOTARY PUBLIC

My commission expires: October 31, 1997

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, Virginia, on this 14th day of June, 1993 T. Realt  
at 1:07 o'clock

PROFFER AGREEMENT

THIS PROFFER AGREEMENT is made as of the 26th day of April, 1993 by American Retirement Corporation, a Tennessee Corporation ("ARC"), together with its respective successors and assigns.

RECITALS:

A. ARC is the owner of certain real property in James City County, Virginia, ("the ARC Property") more particularly described as follows:

All that certain tract or parcel of land situate in James City County, Virginia, and more particularly described as a portion of "Parcel C" north of "Parcel B", west of "Parcel A", south of Va. State Route 199 and east of Va. State Route 617 on that certain entitled "PLAT OF PARCELS "A" AND "B", BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC.", dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in Plat Book 39, Pages 20 and 21.

B. ARC has applied for a rezoning of the ARC Property.

C. ARC has requested that the ARC Property be rezoned from Rural Residential (R-8) to the Planned Unit Development District-Residential (PUD-R) to allow for the construction of sixty (60) residential dwelling units consisting of single family structures and/or attached structures.

D. ARC has agreed with and for the benefit of Williamsburg Landing, Inc. ("WLI") that upon the commencement of any development on the ARC Property, that ARC will install in a workmanlike manner pursuant to the plans and specifications prepared by Vaughan B. Rinner, C.L.A., Langley and McDonald, which plans are dated 11-30-92 and numbered "Project No. 90034-8", a six foot (6') vinyl coated chain link fence in lieu of and at the location of the designated wooden split rail fence and, in addition, the designated plantings all within the scenic easement on the north side of Williamsburg Landing Drive as more particularly described in the Deed of Easement dated December 9, 1992 from American Retirement Corporation to Williamsburg Landing, Inc., recorded in James City County Deed Book 598, Page 282.

E. WLI through its Board of Directors and its Residents' Association has endorsed the use of the ARC Property for sixty (60) single family dwelling units utilizing residential cluster development by resolutions adopted May 15, 1991 and December 16,

1992.

BOOK 623 PAGE 655

F. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the ARC Property.

G. ARC desires to offer to James City County certain conditions on the development of the ARC Property not generally applicable to land zoned Planned Unit Development-Residential (PUD-R) for the protection and enhancement of the community and to provide for the high quality and orderly development of the ARC Property.

Now, therefore, for an in consideration of the approval by James City County ("the County") of the rezoning set forth above and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Code, ARC agrees that it will meet and comply with all of the following conditions in developing the ARC Property. In the event the requested rezoning is not granted by the County, these proffers shall thereupon become null and void.

#### CONDITIONS - ARC PROPERTY

1. The primary use of the ARC Property shall be limited to residential dwellings consisting of single family structures and/or attached structures.

2. The number of residential dwellings on the ARC Property shall be limited to a total of sixty (60) dwelling units.

3. There shall be only one (1) entrance road to the ARC Property and that entrance road shall be from Williamsburg Landing Drive. No entrances except temporary construction entrances allowed by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the ARC Property.

4. All roads within the ARC Property shall be designed and constructed to Virginia Department of Transportation standards and guidelines but said roads shall be private and maintained by a Homeowner's Association established by ARC in accordance with proffer numbered five (5) hereof.

5. ARC shall organize an umbrella Homeowners' Association ("the Homeowners' Association") in accordance with Virginia Law. All property owners within the ARC Property, by virtue of their property ownership, shall be members of the Homeowners' Association. The Articles of Incorporation, By-Laws and Restrictive Covenants ("the Governing Documents") creating and governing the Association, shall be submitted to and reviewed by the County Attorney. The Governing Documents shall require that the Homeowners' Association adopt an annual maintenance budget and shall grant the Homeowners' Association the power to (i) assess all members for the maintenance of all properties and streets owned or

maintained by the Homeowners' Association and (ii) file liens on members' properties for non-payment of such assessment and for the cost of remedying violations of, or otherwise enforcing the Governing Documents. The Governing Documents shall also provide for a Design Review Committee with the power to review and approve all construction plans within the ARC Property.

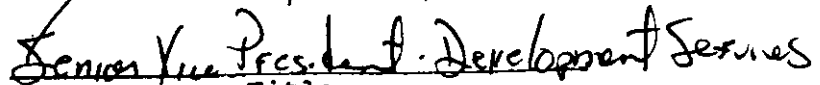
6. A Phase I Archaeological Study for the area to be disturbed on the ARC Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

7. No building on the ARC Property shall be erected closer than one hundred feet (100') to the existing rights-of-way of Lake Powell Road and Route 199. These areas shall be left in their existing natural wooded states.

8. No building on the ARC Property shall exceed three stories in height.

AMERICAN RETIREMENT CORPORATION

By: 

  
Title

BOOK 623 PAGE 657

STATE OF TENNESSEE

County OF Williamson, to-wit:

The foregoing instrument was acknowledged before me this  
26 day of April, 1993 by James E. Money on  
 behalf of American Retirement Corporation.

Rudolph C. Wood  
 NOTARY PUBLIC

My commission expires: 12-8-96

WITNESSETH  
 In the County of \_\_\_\_\_ State of Tennessee  
 On this 11 day of June, 1993 at \_\_\_\_\_  
19 o'clock  
 I, the undersigned, Notary Public, do hereby certify that the foregoing instrument was duly acknowledged before me and that the signatory is the person whose name is subscribed to the same.  
 Test my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[Signature]  
 Notary Public



PROFFER AGREEMENT

THIS PROFFER AGREEMENT is made as of the 30th day of April, 1993 by Williamsburg Landing, Inc., a Virginia Non-Stock, Non-Profit Corporation ("WLI"), together with its respective successors and assigns.

RECITALS

A. Williamsburg Landing is the owner of certain real property in James City County, Virginia (collectively "the WLI Property"), more particularly described as follows:

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "PARCEL A" on that certain plat entitled "PLAT OF PARCELS "A" AND "B", BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC." dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 39, Pages 20 and 21, consisting of 70.12 acres ("the Developed Property").

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "13.9303 ACRES" as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Stephen A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72 ("the Undeveloped Property").

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "(PARCEL B) WILLIAMSBURG LANDING DRIVE, 1.8609 AC." as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Steven A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the

Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72. ("Williamsburg Landing Drive").

B. WLI has applied for an amendment of the proffers applicable to the WLI Property.

C. WLI has also applied for a rezoning of and a Special Use Permit for the Undeveloped Property and Williamsburg Landing Drive.

D. WLI has requested that the Undeveloped Property and Williamsburg Landing Drive be rezoned from Rural Residential (R-8) to Multi-Family Residential (R-5). WLI has also requested a Special Use Permit for the Undeveloped Property and Williamsburg Landing Drive to permit single family dwellings, nursing homes and facilities for the residence and care of the aged.

E. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Undeveloped Property and Williamsburg Landing Drive.

F. WLI desires to offer to James City County certain conditions on the development of the Undeveloped Property and Williamsburg Landing Drive not generally applicable to land zoned Multi-Family Residential District (R-5) for the protection and enhancement of the community and to provide for the high quality and orderly development of the Undeveloped Property and Williamsburg Landing Drive.

Now, therefore, for and in consideration of the approval by James City County ("the County") of the rezoning set forth above and the issuance of the requested Special Use Permit and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Code, WLI agrees that it will meet and comply with all of the following conditions in developing the Undeveloped Property and Williamsburg Landing Drive. In the event all of the requested rezoning and Special Use Permit is not granted by the County, these proffers shall thereupon become null and void.

**CONDITIONS - UNDEVELOPED PROPERTY & WILLIAMSBURG LANDING DRIVE**

1. The use of the Undeveloped Property shall be limited to single family dwellings contained within a cluster development, two-family dwellings, townhouses, three-family dwellings and, with the Special Use Permit, single family dwellings, nursing homes and facilities for the residence and/or care of the aged.

2. Single family dwellings, whether or not contained within a cluster development, two-family dwellings, townhouses and three-family dwellings shall be limited to a total of twenty-seven (27) dwelling units for the Undeveloped Property; however, such limitation shall not apply to the other uses hereby permitted.

3. The entrances to the Undeveloped Property shall be limited to entrances from Williamsburg Landing Drive and, if legally permitted, from Marclay Drive. No entrances except public roads and/or temporary construction entrances approved by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the Undeveloped Property.

4. All internal roads within the Undeveloped Property shall be designed and constructed to Virginia Department of Transportation standards and guidelines but said roads shall be private and maintained by WLI; however, if Marclay Drive is relocated and crosses any portion of the Undeveloped Property, Marclay Drive shall be a public road.

5. A Phase I Archaeological Study for the area to be disturbed on the Undeveloped Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

6. No building on the Undeveloped Property shall be erected closer than one hundred (100) feet to the existing right-of-way of Lake Powell Road.

7. No building on the Undeveloped Property shall exceed three (3) stories in height.

## WILLIAMSBURG LANDING, INC.

By: Mary Lee Darling  
 Title: Chairman of the Board  
of Directors & President

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 30<sup>th</sup>  
 day of April, 1993 by Mary Lee Darling on behalf  
 of Williamsburg Landing, Inc.

Annison H. Clegg  
 NOTARY PUBLIC

My commission expires: 12/31/96

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, Virginia, on the 11 day of June, 1993, as was presented with due authority and admitted to record at 1:09 o'clock.

Tested before me at Williamsburg, Virginia, this 11 day of June, 1993.

Robert M. Hall  
 Clerk

266  
885

THESE PROFFERS, made as of this 26<sup>th</sup> day of April,  
1993, by IRONBOUND COMPANY, L.C., a Virginia limited liability  
company ("Owner").

RECITALS:

A. Owner is the owner of certain real property in  
James City County, Virginia (hereinafter referred to as the  
"Property") and more particularly described as follows:

That certain parcel of land containing 35.06 acres  
at the intersection of Ironbound Road and State  
Route 5 in James City County, Virginia, set out  
and shown on the plat hereto attached entitled  
"REZONING FOR FIVE FORKS ASSOCIATES -SCHEMATIC  
PLAN," made by Langley and McDonald, Engineers -  
Planners - Surveyors, revised 6/22/88 and 9/5/89.

B. The Property is zoned B-1 with proffers and a  
portion is zoned R-3 with proffers. Owner desires to amend  
Condition 9 of the existing proffers to permit a maximum of 63  
single family detached residential lots on the R-3 portion of the  
Property.

C. Owner, for itself and its successors and assigns,  
desires to offer to the County certain conditions on the  
development of the Property that are not generally applicable to  
land zoned B-1 or R-3 for the protection of the community that  
are intended to mitigate possible impacts from the development on  
the surrounding area.

NOW THEREFORE, for and in consideration of the ap-

See

proval by the Board of Supervisors of the County of James City of the requested rezoning, and pursuant to Section 15.1-491.1 et. seq. of the Code of Virginia, 1950, as amended, Owner agrees that it will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. a. The turn lanes described below shall be constructed prior to issuance of a certificate of occupancy for the B-1 property:

(i) for southbound traffic on Route 615, a left turn lane into the principal business entrance shown on the Schematic Plan prepared by Langley and McDonald entitled "REZONING FOR FIVE FORKS ASSOCIATES - SCHEMATIC PLAN", revised 6/22/88 and 9/5/89 submitted herewith (the "Schematic Plan") having a minimum taper of fifty (50) feet and a minimum length of two hundred (200) feet;

(ii) for traffic entering the principal business entrance from northbound Route 615, a right turn lane having a minimum taper of seventy five (75) feet and a minimum length of one hundred seventy (170) feet;

(iii) for northbound traffic on Route 615 turning westerly onto Route 5, a left turn lane having a minimum taper of fifty (50) feet and a minimum length of one hundred eighty-five (185) feet; and

(iv) for westbound traffic on Route 5 turning southerly on Route 615, a left turn lane (including curbing along the

southern right of way of Route 5, if needed) with a minimum taper and length as required by the Virginia Department of Transportation ("VDOT").

b. The turn lanes described below shall be constructed prior to issuance of a certificate of occupancy for the R-3 property:

(i) for southbound traffic on Route 615, a left turn lane into the residential entrance shown on the Schematic Plan with a minimum taper of eighty (80) feet and a minimum length of one hundred twenty (120) feet; and

(ii) for traffic entering the residential entrance from northbound Route 615, a right turn lane having a minimum taper length of seventy five (75) feet and a minimum length of hundred seventy (170) feet.

c. No certificates of occupancy shall be issued for buildings (i) on the B-1 property until the turn lanes described in subparagraph a. above, or (ii) for buildings on the R-3 property until the turn lanes described in subparagraph b. above, have been completed or the completion thereof is bonded, with surety, to the satisfaction of the County Attorney.

2. Owner shall, upon the request of County, dedicate to County all of the 26' strip located on the Property shown on the Schematic Plan as Additional R/W Dedication along the frontage of the Property on Route 615 that has not previously been conveyed to VDOT to permit the widening of Route 615.

3. There shall be two (2) entrances to the property

zoned B-1 from Ironbound Road. The center line of the principal entrance shall be located four hundred-eighty (480) feet south of the south right of way line of Route 5. The service entrance to the business zoned property shall be constructed opposite and, to the extent possible, aligned with the entrance to the Clara Byrd Baker Elementary School. If and when requested by VDOT, Owner shall make the necessary alterations and improvements to the entrances proffered above to install (or pay the costs of installation of) a traffic signal at the intersection of the service entrance to the B-1 property and the entrance to the Elementary School and to take such steps requested by VDOT to prevent traffic from turning left from southbound Ironbound Road into the principal entrance to the B-1 property or from leaving the principal entrance and turning left onto southbound Ironbound Road.

4. Between May 1 and June 30, 1990 Owner shall have conducted by their environmental consultants, retained by Owner and acceptable to the County, a field survey of the area designated on the Schematic Plan as "Potential Small Whorled Pogonia Habitat" to determine the existence of small whorled pogonias on the Property. Owner shall furnish the County a copy of the results of such study or on or before the date of submittal of any subdivision or site plan.

5. If the study described in condition 4 above indicates no small whorled pogonias were found on the Property, or, if small whorled pogonias were found and the County



Environmental Engineer and the Owner's environmental consultant agree that all the pogonias found are located in an area where they would not be adversely affected by the stormwater Best Management Practices ("BMPs") proffered in this condition 5, then:

(a) BMPs shall be designed, installed and maintained to control surface water runoff from the B-1 property and the portion of the R-3 property within the stormwater detention basin drainage area shown on the Schematic Plan. Such BMPs shall include a stormwater detention basin, and may, if agreed upon by Owner, Owner's engineers and the County Engineer, include infiltration trenches and/or porous pavement (depending on parking lot grades and soil percolation rates). The stormwater detention basin shall be located in the lower reaches of the major ravine system in the northeastern part of the Property and shall be designed and constructed, subject to the approval of the County Engineer, either (i) as a wet pond providing two week detention in accordance with the criteria and recommendations set forth on pages 5-7 through 5-12 of the Final Report entitled "Water Quality Management Plan for Skiffe's Creek Reservoir Watershed" dated December 1984 and prepared by Camp Dresser, & McKee or (ii) as an extended dry detention pond in accordance with the criteria set forth in "Controlling Urban Runoff" by the Metropolitan Washington Council of Governments. Other sedimentation and erosion control structures, in addition to those discussed above, shall be designed, installed and

maintained as required in the site plan or subdivision review process, by the Virginia Erosion and Sedimentation Control Handbook and by the County Engineer's Guidelines for Erosion and Sediment Control on Highly Erodible Areas.

(b) The area shown as "Conservation Area" on the Schematic Plan shall be left undisturbed and shall remain in its natural state, except for stormwater BMPs and other sedimentation and erosion control structures and devices proffered pursuant to condition 5 (a) hereof. Except as permitted by the preceding sentence, no land disturbing, clearing or building shall take place in the Conservation Area. No lot platted in the R-3 area shall encroach into the Conservation Area.

6. If (i) the study described in condition 4 above indicates small whorled pogonias were located within the potential habitat area shown on the Schematic Plan, unless the County Environmental Engineer and the Owner's environmental consultant agree the pogonias are located in an area where they would not be adversely affected by the BMPs proffered in condition 5 (a) above, or (ii) Owner commences land disturbing or construction on the Property before the results of the field study proffered in condition 4 above are available, then:

(a) BMPs shall be designed, installed and maintained to control surface water runoff from the B-1 and R-3 property. Such BMPs shall include a stormwater detention basin, and may, if agreed upon by Owner, Owner's engineers and the County Engineer, include drop inlets and piping, infiltration trenches and/or

porous pavement (depending on parking lot grades and soil percolation rates). The stormwater detention basin shall be located in the southeastern part of the Property, with the exact location subject to the approval of the County Engineer. The detention basin shall be designed and constructed, with the approval of the County Engineer, in one of the two methods and in accordance with the criteria described in condition 5 (a) above. Other temporary or permanent sedimentation and erosion control structures, in addition to those discussed above, shall be designed, installed and maintained as required in the site plan or subdivision review process, by the Virginia Erosion and Sedimentation Control Handbook and by the County Engineer's Guidelines for Erosion and Sediment Control on Highly Erodible Areas.

(b) if the pogonias are found within the portions of the habitat area on the Property shown on the Schematic Plan not included within the Conservation Area designated on the Schematic Plan, the Conservation Area shall be expanded to include the portion of the potential habitat area within which the pogonias are found plus an additional 10' buffer strip immediately adjacent to such habitat area. If land disturbing or construction begins before the results of the proffered field survey are available, the Conservation Area shall be expanded to include the entire potential habitat area on the Property not already included in the Conservation Area, plus an additional 10' buffer strip immediately adjacent to such habitat area, until the

results of the survey are available.

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(c) the area shown as "Conservation Area" as expanded pursuant to condition 6 (b) above, if necessary, shall be left undisturbed and in its natural state. No land disturbing, clearing or construction shall take place in the Conservation Area. No lot platted in the R-3 area shall encroach into the Conservation Area.

(d) Owner shall permit Dr. Donna Ware, curator of the William and Mary Herbarium, to accompany the Owner's environmental consultant onto the potential habitat area of the Property to assist in the field survey or to transplant small whorled pogonias if the Owner's environmental consultant, the County Environmental Engineer and Dr. Ware determine that transplanting is desirable.

7. The Conservation Area shall be conveyed to a property owners' association satisfactory to the County Attorney to be organized by the developer in which all lot owners shall be members and which shall be responsible for maintenance, including maintenance of stormwater BMPs and other sedimentation and erosion and control structures or devices located in such Conservation Area, and trash removal in such area. Until conveyance of such area to the property owners' association, Owner shall be responsible for such maintenance. If requested by the County, Owner or the homeowners' association shall grant to the County a conservation easement over the Conversation Area in form and substance satisfactory to the County and Owner or the

association.

8. The area to be rezoned from A-2 to B-1 (5.66 acres) shall not be developed and no improvements shall be erected thereon unless such development shall incorporate the area presently zoned B-1 (3.13 acres) and the entire 8.79 acres shall be used only for a "shopping center" as hereinafter defined. The shopping center shall contain no more than 70,000 square feet. For the purposes of this Proffer a shopping center is defined as:

A group of two (2) or more architecturally unified commercial establishments built on a site (which may include out parcels) which is planned, developed, owned or managed as an operating unit and which provides on-site parking in definite relationship to the types and sizes of the commercial establishments therein and which may include retail and office uses.

The following uses, which otherwise are permitted under the B-1 classification of the Zoning Ordinance, shall not be permitted on any of the area zoned or rezoned B-1:

Automobile service stations;  
Hotels, motels, tourist homes and convention centers;  
Schools, fire stations, post offices, houses of worship and libraries;  
Cemeteries;  
Marinas, docks, piers, yacht, boat basins;  
Wholesale and retail marine or waterfront businesses,  
Radio and television stations and accessory antenna or towers,  
Fast food restaurants,  
Convenience store with sale of fuel.

9. A maximum of 63 single-family detached residential lots only shall be permitted on the property to be rezoned R-3. No other residential use shall be made of the property rezoned R-3. No more than one single family dwelling shall be built on

each lot.

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10. Owner shall impose by restrictive covenant a buffer area at least 30' in width along the northern line of the R-3 property area where it abuts at the B-1 property. Such buffer shall remain in its natural state, except for stormwater BMPs and other sedimentation and erosion control structures and devices proffered pursuant to condition 4 hereof, and shall be augmented where necessary by additional evergreen planting, if requested, by the Development Review Committee of the County.

11. Areas shown as "Designated Open Space" in the R-3 area on the Schematic Plan shall be left in their natural vegetated state or landscaped in accordance with plans approved by the Development Review Committee. If grading, as approved by the Development Review Committee, of any part of such areas requires the removal of natural vegetation, such vegetation shall be replaced with appropriate screen planting approved by the Development Review Committee. Such Designated Open Areas shall be conveyed to the aforementioned property owners' association which shall be responsible for all maintenance and trash removal in such areas. Until conveyance of such areas to the association, Owner shall be responsible for such maintenance.

12. All streets and roads in the residential R-3 area shall be built to specifications of VDOT and shall be dedicated to it for maintenance.

13. The area to be rezoned from A-2 to B-1 (5.66 acres) shall not be developed and no improvements shall be erected

thereon unless the areas shown as "Designated Open Space" within the area presently zoned B-1 (3.13 acres) and the area to be rezoned B-1 (5.66 acres) shall be made subject to a scenic easement and shall be left in their natural vegetated state or landscaped in accord with plans approved by the Development Review Committee. If relocation of the entrance is made such "Designated Open Space" may be adjusted to accommodate such change. If grading of such area or any part thereof requires the removal of such natural vegetation, the owner of such parcel shall replace the same with appropriate screen planting approved by the Development Review Committee of the County. The owner of such parcel shall maintain such planting and shall keep the area free of trash and debris.

IN WITNESS WHEREOF, Owner, intending to be legally bound, has duly executed these Proffers.

IRONBOUND COMPANY, L.C.

By: 

Title: Manager

STATE OF VIRGINIA AT LARGE

CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 20th day of April, 1993, by C. Lewis Wallrip, Manager of IRONBOUND COMPANY, L.C., on behalf of the company.

*James M. Thompson*  
NOTARY PUBLIC

My commission expires: 2-28-95

PLAT RECORDED IN  
P.B. NO. 57 PAGE 60

VIRGINIA: City of Williamsburg and County of  
James City, to Wit:  
I, *James M. Thompson*, Notary Public for the  
County of James City and City of Williamsburg,  
do hereby certify that on the 9th day of July, 1993, at  
3:52 o'clock, *James M. Thompson* was  
present and duly qualified as a Notary Public  
for the County of James City and City of Williamsburg.  
*James M. Thompson*  
Notary Public



MAY 3 1993

ORDINANCE NO. 31A-151BOARD 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, BY AMENDING SECTION 20-2, DEFINITIONS; AND SECTION 20-12, MINIMUM OFF-STREET PARKING; IN ORDER TO ADHERE TO NEW REGULATIONS REQUIRED BY THE AMERICANS WITH DISABILITIES ACT TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF JAMES CITY COUNTY.

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 20-2, Definitions; and Section 20-12, Minimum Off-Street Parking; in order to adhere to new regulations required by the Americans with Disabilities Act to protect the public health, safety and welfare of the residents of James City County.

Chapter 20. Zoning

Article I. In General

Section 20-2. Definitions.

*Detectable Warnings - A standardized surface feature built in or applied to walking surfaces or other elements to warn visually impaired people of hazards on a circulation path.*

Ordinance to Amend and Reordain  
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Page 2

Section 20-12. Minimum off-street parking.

(b)(1)d. Parking spaces for the handicapped and any necessary curb cuts, ~~and~~ ramps, ~~and accessible routes to the proposed use~~, shall be provided in ~~and from all~~ parking areas in conformance with the ~~standards outlined below~~; regulations issued by the U.S. Department of Justice pursuant to the Americans with Disabilities Act (ADA) (See 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities).

1. ~~Dimensions of handicapped spaces shall be as follows. Each handicapped space shall be 9 feet wide with a clearly marked 5 foot wide aisle next to it.~~ Except as required for van accessible spaces, each handicapped space shall be 9 feet wide with a clearly marked 5-foot wide aisle next to it. Van accessible spaces shall be 9 feet wide with a clearly marked 8-foot wide aisle next to it. One in every 8 handicapped accessible spaces, but not less than one, shall be designated van accessible.

No more than 2 spaces may share an aisle. Each aisle shall be headed by a curb cut or ramp, with a detectable warning, to allow unimpeded access to the use. Each space shall be headed with a sign clearly marking the space as handicapped ~~only~~ (with the international symbol of accessibility). Such signs shall not exceed 1.5 square feet in area, and shall be positioned so that the bottom edge of the sign is no less than 4 feet above grade, and no more than 7 feet above grade.

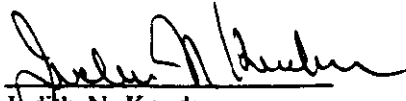
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2. Location of handicapped spots shall be determined as follows. Such spaces shall generally be closest to the entrance to the building or use for which they are provided. The spaces shall be connected to the use by a paved walk ~~of a level grade with a grade not to exceed 1:20~~, no less than 5 feet wide, with curb cuts, ~~and ramps and detectable warnings~~ where necessary, which shall allow unimpeded access to the use. *When a ramp is required to provide an accessible route, it shall be constructed in conformance with ADA regulations.*
3. The number of handicapped parking spaces shall be determined by the following chart;

| <u>Total Off-street<br/>Parking Required</u> | <u>Handicapped Spaces<br/>Required</u> |
|--|--|
| 1-15   | 1*                                     |
| 16-50  | 1                                      |
| 51-100                                       | 2                                      |
| 101-150                                      | 3                                      |
| 151-400                                      | 2%                                     |
| 401 and over                                 | 8 plus 1% of all<br>spaces             |
| 1 to 25                                      | 1                                      |
| 26 to 50                                     | 2                                      |
| 51 to 75                                     | 3                                      |
| 76 to 100                                    | 4                                      |
| 101 to 150                                   | 5                                      |
| 151 to 200                                   | 6                                      |
| 201 to 300                                   | 7                                      |
| 301 to 400                                   | 8                                      |
| 401 to 500                                   | 9                                      |
| 501 to 1,000                                 | 2 percent of total                     |
| 1,001 and over                               | 20 plus 1 for each<br>100 over 1000    |

\* ~~The accessible space shall be provided, but need not be designated.~~

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Judith N. Knudson  
Chairman, Board of Supervisors

ATTEST:

  
David B. Norman  
Clerk to the Board

| <u>SUPERVISOR</u> | <u>VOTE</u> |
|-------------------|-------------|
| TAYLOR            | AYE         |
| EDWARDS           | AYE         |
| DEPUE             | AYE         |
| SISK              | AYE         |
| KNUDSON           | AYE         |

Adopted by the Board of Supervisors of James City County, Virginia, this 3rd day of  
May, 1993.

2029A.wp5