

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF MAY, NINETEEN HUNDRED NINETY-SIX, AT 5:08 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

David L. Sisk, Chairman, Roberts District  
Robert A. Magoon, Jr., Vice Chairman, Jamestown District

Jack D. Edwards, Berkeley District  
Perry M. DePue, Powhatan District  
Stewart U. Taylor, Stonehouse District (Absent)  
Sanford B. Wanner, Acting County Administrator  
Frank M. Morton, III, County Attorney

**B. WORK SESSION**

**1. James City Service Authority, FY 1997 Budget**

Mr. Sisk made a motion to recess the Board of Supervisors for a James City Service Authority Board of Directors' work session at 5:08 p.m.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

Mr. Sisk recessed the Board at 6:00 p.m. for dinner.

Mr. Sisk reconvened the Board into open session at 7:02 p.m.

**C. MINUTES - April 17, 1996 - Budget Work Session  
April 18, 1996 - Budget Work Session  
April 24, 1996 - Budget Work Session  
April 25, 1996 - Budget Work Session  
April 30, 1996 - Regular Meeting**

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

Mr. Magoon made a motion to approve the five sets of minutes.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

**D. CONSENT CALENDAR**

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

Mr. Sanford B. Wanner, Acting County Administrator, requested removal of Item No. D-2 until a later date.

Mr. Sisk made a motion to approve Item Nos. 1, 3, 4, and 5 on the Consent Calendar.

On a roll call, the vote was: AYE: Magoon, DePue Edwards, Sisk (4). NAY: (0).

1. National Emergency Medical Services Week, May 19 - 25, 1996

**RESOLUTION**

**EMERGENCY MEDICAL SERVICES WEEK**

WHEREAS, Emergency Medical Services provides a vital contribution to the quality of life enjoyed by the citizens and visitors to James City County; and

WHEREAS, access to quality emergency medical care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the members of emergency medical service providers are trained, prepared, and ready; and

WHEREAS, Emergency Medical Services Week will serve to educate the citizens of James City County about injury prevention and how to respond to a medical emergency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims the week of May 19-25, 1996, as EMERGENCY MEDICAL SERVICES WEEK and encourages County citizens to observe this week with appropriate programs, ceremonies, and activities.

3. Appropriation of Funds - Communications

**RESOLUTION**

**APPROPRIATION OF FUNDS**

WHEREAS, Continental Cable is contributing \$18,533 for the purchase of equipment for the Community Video Center; and

WHEREAS, these funds were received in FY 96.

NOW, THEREFORE, BE IT RESOLVED that the following appropriations be made within the County's FY 96 General Fund.

Communications and Neighborhood Connections

Equipment	\$18,533
Received from Continental Cable	<u>(\$18,533)</u>

0

4. Mooretown Road Neighborhood Lot Sales Plan

**RESOLUTION**

**ADOPTION OF THE MOORETOWN ROAD NEIGHBORHOOD**

**LOT SALES PLAN**

WHEREAS, James City County has undertaken a Comprehensive Community Development Project with the Mooretown Road Neighborhood; and

WHEREAS, development and sale of affordable homes within the project area will complement the housing and community improvements undertaken within the project area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Mooretown Road Neighborhood Lot Sales Plan dated May 14, 1996, and authorizes lots to be sold to builders or individuals who will construct homes on property owned by the County within the boundaries of the Mooretown Road Comprehensive Community Development Project area.

BE IT FURTHER RESOLVED that the Acting County Administrator, or his designee, is authorized to sign on behalf of the County, any sales contract, development agreement or any other document necessary to enable the development and sale of property in accordance with the Mooretown Road Neighborhood Lot Sales Plan.

5. Industry Appreciation Week - May 19 - 25, 1996

**RESOLUTION**

**INDUSTRY APPRECIATION WEEK - MAY 19 - 25, 1996**

WHEREAS, James City County is fortunate to have a strong industrial base that provides much needed jobs for the citizens of James City County; and

WHEREAS, these same industries provide local taxes from which the entire local citizenry benefit; and

WHEREAS, these industries and their employees contribute in many ways to the life of the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby salutes our existing industry base, and gives notice to our citizens that Virginia industries are building a better Commonwealth.

BE IT FURTHER RESOLVED that the week of May 19-25, 1996, is hereby designated Industry Appreciation Week in James City County.

Mr. Sisk presented the National Emergency Medical Services Week resolution to Medic Justin Witt and Captain Jerry Woodson of the Fire Department. Mr. Sisk applauded the the Fire/Emergency Medical Services for awards received and their excellent record.

Richard M. Miller, Fire Chief, showed a brief videotape recognizing Emergency Medical Services Week.

## E. PUBLIC HEARINGS

### 1. Case No. Z-2-96. Neal Tract Rezoning

Mr. Gary Pleskac, Planner, stated that Mr. Dennis J. Kiser had applied to rezone approximately 4 acres from A-1, General Agricultural, to R-2, General Residential, with proffers, to create five lots for single-family homes, located at 6109 Centerville Road, further identified as Parcel No. (1-8) on James City County Real Estate Tax Map No. (31-1).

Mr. Sisk opened the public hearing.

1. Mr. Dennis Kiser, applicant, stated that homes built would be in the \$90 - 110,000 range.

Mr. DePue requested that the conservation easement regulations be disclosed to buyers during closing of sale.

Mr. Sisk closed the public hearing.

Mr. DePue made a motion to approve the rezoning case.

Mr. Magoon expressed a concern that a small development might generate another small development on adjacent property.

On a roll call, the vote was: AYE: DePue, Edwards, Sisk (3). NAY: Magoon (1).

## RESOLUTION

### CASE NO. Z-2-96. NEAL TRACT

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-2-96 for rezoning approximately 4 acres of land from A-1, General Agricultural District, to R-2, General Residential District, with proffers, and is further identified as Parcel No. (1-8) on James City County Real Estate Tax Map No. (31-1); and

WHEREAS, the Planning Commission of James City County recommended approval of Zoning Case No. Z-2-96, by a vote of 6 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-2-96, with the attached proffers.

### 2. Case NO. Z-3-96. CAL Company, LLC (Skiffe's Creek Townhomes)

Mr. Matthew W. Maxwell, Senior Planner, stated that Mr. James S. Peters of AES had applied on behalf of CAL Company, LLC to rezone approximately 4.3 acres from B-1, General Business, to R-5, Multifamily Residential, to construction approximately 30 townhomes, located at 8998 Pocahontas Trail, further identified as Parcel No. (1-15) on James City County Real Estate Tax Map No. (59-2).

Staff requested deferral of the case until the June 11, 1996, Board of Supervisors' meeting to allow additional time for applicant to negotiate a maintenance agreement for the shared portion of Skiffe's Creek Boulevard.

Without Board objection, Mr. Sisk continued the public hearing until June 11, 1996.

3. Case No. SUP-3-96. Shelton Glass Sculpture Studio

Ms. Tamara A. Mayer, Planner, stated that Mr. John W. Shelton had applied for a special use permit to operate a glass sculpture studio at 3301 Ironbound Road near Five Forks intersection, zoned R-8, Rural Residential, and further identified as Parcel No. (1-16) on James City County Real Estate Tax Map No. (47-1).

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

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

The Board questioned the hours of operation listed in Condition No. 4.

Mr. Sisk opened the public hearing.

1. Mr. John Shelton, applicant, requested removal of the hours of operation as a condition and that a larger advertising sign be allowed.

Mr. Sisk closed the public hearing.

Board discussion followed about the sign being attached to the building or freestanding.

Mr. Edwards made a motion to approve the resolution with deletion of Condition No. 4.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

**RESOLUTION**

**CASE NO. SUP-3-96. SHELTON GLASS SCULPTURE STUDIO**

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 1, 1996, recommended approval of Case No. SUP-3-96 by a vote of 6 to 0 to permit the operation of a glass sculpture studio at 3301 Ironbound Road, further identified as Parcel No. (1-16) on James City County Real Estate Tax Map No. (47-1).

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-3-96 as described herein with the following conditions:

1. If a site plan application for the project has not been submitted within 12 months from the date of issuance of this special use permit, it shall become void.

2. No retail activity for the glass sculpture studio shall take place on the site.
3. All business and storage operations of the glass sculpture studio shall be conducted within the existing shed structure that sits approximately 90 feet to the rear of the single family residence that fronts Ironbound Road. This structure shall not be enlarged.
4. Other than for safety and security, no outdoor lighting for the glass sculpture studio shall be installed on the site.
5. There shall be no internally-illuminated signage on the property advertising the glass sculpture studio. There shall be no more than one sign advertising the glass sculpture studio on the property, and it shall be no more than four (4) square feet in size. The sign shall be visible from Powhatan Springs Road, not Ironbound Road.

4. Case No. SUP-4-96. Williamsburg Montessori School

Mr. Pleskac stated that Ms. Carlotta Cundari had applied for a special use permit to operate a school at 4202 Longhill within a former convenience store adjacent to existing Williamsburg Montessori School, located at 4210 Longhill, zoned R-8, Rural Residential, and further identified as Parcel No. (1-4) on James City County Real Estate Tax Map No. (31-4).

Staff determined that the proposed expansion was compatible with surrounding zoning and land uses and consistent with the Comprehensive Plan.

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

Mr. DePue questioned whether any of the renovation was proffered, and requested staff to indicate site elevations and whether conditions are proffered or not proffered in future cases.

Mr. Sisk opened the public hearing.

1. Mr. John Tarley, Chairman of the Williamsburg Montessori School Board, stated that finances for the proposed renovation were being evaluated.

Mr. Sisk closed the public hearing.

Mr. DePue made a motion to approve the resolution with conditions as listed.

Mr. DePue asked staff to review County parking requirements and Mr. Magoon advised staff that visual aids would be requested of future applicants as part of special use permit/rezoning applications.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

## RESOLUTION

### CASE NO. SUP-4-96. WILLIAMSBURG MONTESSORI SCHOOL EXPANSION

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 1, 1996, recommended approval of Case No. SUP-4-96 by a vote of 6 to 0 to permit the operation of a school at 4210 Longhill Road, further identified as Parcel No. (1-4) on James City County Real Estate Tax Map No. (31-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-4-96 as described herein with the following conditions:

1. If construction has not commenced on the project within eighteen (18) months from the issuance of the special use permit, it shall become void. Commencement of construction shall be defined as securing permits for land disturbance, building modification and/or construction, or for construction of required road improvements.
2. Williamsburg Montessori School shall have no more than thirty-five (35) students at this facility at any one time. Additional students above the number of 35 shall require approval by the Director of Planning, who shall, as part of such request, review and approve parking facilities at the school.
3. A capacity analysis of existing water lines to the site shall be performed and the results of that analysis shall be submitted with the site plan application. The study shall be approved by the Director of Planning, and its results shall be incorporated into the site plan.
4. The landscape plan shall include landscape screening along the length of the playground between the school and the existing duplexes to the north.
5. A completed Sidewalk Agreement guaranteeing a sidewalk across the frontage of the property shall be submitted along with the site plan application required for this project and approved prior to site plan approval. The sidewalk agreement shall be approved by the Director of Planning.
6. The parking lot of this facility shall connect with the existing parking lot which currently serves the Williamsburg Montessori School.
7. The driveway entrance which currently serves the former convenience store shall be abandoned as part of final site plan approval. Only one entrance driveway shall serve the entire school facility.

5. Case No. SUP-7-96. Williamsburg Clocks

Mr. Pleskac stated that Mr. and Mrs. Keith Clayton-Kastenholz had applied for a special use permit to operate a gift shop and antique shop for the sale and repair of clocks and music boxes, located at 110 Peninsula Street, Norge, zoned A-1, General Agricultural, and further identified as Parcel No. (2-D5) on James City County Real Estate Tax Map No. (23-2).

Staff determined that the proposal with conditions was consistent with the Comprehensive Plan and surrounding zoning and development and recommended approval of the application.

The Planning Commission, by a 5-1 vote, denied the application by use being not compatible with surrounding neighborhood.

Mr. Sisk opened the public hearing.

1. Keith and Louise Clayton-Kastenholz, 102D Stratford Road, applicants, stated they would reside in the house, a sign would be displayed on the building and asked that a ten-foot square sign be allowed rather than a four-foot square one. They expressed that the business would improve the neighborhood.
2. Ms. Cathleen Briggs, 105 Peninsula Street, spoke in opposition to the business.
3. Mr. Carl Finstrom, 107 Winter East, spoke in favor of the application to preserve architecture and character of Norge being maintained by a skilled craftsman.
4. Mr. A. G. Bradshaw, 101 Peninsula Street, spoke in opposition, stating the application was not in accordance with the Comprehensive Plan and zoning ordinance.
5. Ms. Nancy Bradshaw, 101 Peninsula Street, urged the Board to retain low density residential designation and deny retail development on Peninsula Street.
6. Mr. John Jensen, 112 Peninsula Street, spoke in favor of the application.

Mr. Sisk closed the public hearing.

Mr. Sisk made a motion to approve the resolution with deletion of "Williamsburg Clocks" in Condition Nos. 4, 5, and 6.

Board members expressed appreciation to the Bradshaws for community service and indicated support of the application and its importance to the Norge community, by improvement to a transitional neighborhood with a limited commercial business owned by a small family.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

## RESOLUTION

### CASE NO. SUP-7-96. WILLIAMSBURG CLOCKS

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 1, 1996, recommended denial of Case No. SUP-7-96 by a vote of 5 to 1 to permit the operation of a gift and antique shop for the sale and repair of clocks and music boxes at 110 Peninsula Street in Norge, further identified as Parcel No. (2-D5) 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, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-7-96 as described herein with the following conditions:

1. If a site plan application for the project has not been submitted within 12 months from the date of issuance of this special use permit, it shall become void.
2. No business activity other than the sale and repair of clocks and music boxes shall be permitted on the site.



3. The existing residence on the site shall be utilized. Any modifications to the residence shall be approved by the Director of Planning. Any modifications to the residence shall be generally consistent with the character, design, and materials of the existing residence. None of the structures shall be enlarged for business purposes. Structures may be enlarged for residential purposes. Connecting structures may be constructed between the main residence and the detached work shed for the purpose of providing protection from the weather.
4. Business activity for the operation shall take place only within 300 square feet of the interior of the residence, the attached garage, and the detached workshop as shown on the sketch site plan submitted by the applicants (Attachment 5 to the staff report). Display of retail items shall take place only inside of the structure, and no items shall be visible from the exterior of the building. There shall be no exterior evidence of the business use, other than one sign, no more than four (4) parking spaces, and one handicapped parking sign.
5. There shall be no illuminated signage on the property. There shall be no more than one sign on the property advertising the operation and it shall not be a freestanding sign. The sign shall be no more than 4 square feet in size.
6. The hours of operation of the business shall be limited to 10:00 a.m. to 6:00 p.m. on Tuesdays through Saturdays. During the month of December, the business shall also be permitted to operate on Mondays from 10:00 a.m. to 6:00 p.m., and on Sundays from 12:00 noon to 5:00 p.m.
7. Prior to a Certificate of Occupancy (CO) being issued for the site, sufficient gravel or pavement for no more than four (4) parking spaces shall be placed on the driveway and parking areas in an area approved by the Director of Planning.
8. Any lighting installed on the site shall be approved by the Director of Planning.

6. Case No. SUP-8-96. Action Park (Go Karts Plus)

Mr. Pleskac stated that Mr. Richard Miller had applied for a special use permit to extend an expired special use permit on a portion of his property at 6870 Richmond Road, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

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

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

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

RESOLUTIONCASE NO. SUP-8-96. GO-KARTS PLUS

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 1, 1996, recommended approval of Case No. SUP 8-96, by a vote of 6 to 0, and extend by one year SUP-34-94 to permit the construction of an outdoor center of amusement, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

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-8-96 as described herein with the following conditions:

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. The applicant shall construct a new, commercial grade, main entrance at the crossover in front of the new amusement site within five years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five year period, the applicant can ask the Board of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.
3. The applicant shall show the future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus facility.
4. Parking lots between the new and existing sites shall be connected.
5. Only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
6. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
7. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels at the property lines shall be less than that emanating from Richmond Road.

7. Case No. ZO-3-96. Zoning Ordinance Amendments: Landscape Requirements for Industrial Uses

Mr. O. Marvin Sowers, Jr., Director of Planning, summarized the proposed changes of applicability, perimeter landscaping and foundation planting to the Landscape ordinance.

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

Mr. DePue made a motion to approve the ordinance amendment.

Board members briefly explained their support of the ordinance as an asset to the County.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

8. Conveyance of Property off Clark Lane

Mr. Leo P. Rogers, Deputy County Attorney, stated that the County acquired the property to provide access to Clark Lane for three properties.

Staff recommended approval of the resolution conveying the surplus land without cost to the adjoining property owners to meet objective of maximizing number of properties provided access to the new street.

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

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

**RESOLUTION**

**CONVEYANCE OF PROPERTY OFF CLARK LANE**

WHEREAS, the County acquired certain real property to construct Clark Lane as part of the Mooretown Road Comprehensive Community Development Project; and

WHEREAS, the Board of Supervisors of James City County, following a public hearing, is of the opinion that it is in the public interest to convey certain real property along the southern boundary of the Clark Lane right-of-way to provide access to adjacent property owners.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs its Chairman, David L. Sisk, to execute deeds conveying the following property to individuals listed below:

1. 0.099 ± acres to William and Blanche Crew;
2. 0.023 ± acres to Robert Ratcliffe; and
3. 0.001 ± acres to Roy Lee Brown.

9. Sale of Davis Clark Subdivision Lots

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that the County owned two contiguous parcels of vacant property which front on the newly constructed extension of Clark Lane within the Mooretown Road Comprehensive Community Development Block Project Area. He further stated that three lots are proposed to be developed and sold in accordance with the Mooretown Road Neighborhood Lot Sales Plan.

Staff recommended approval of the resolution.

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

Mr. DePue made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

**RESOLUTION**

**SALE OF LOTS IN THE DAVIS CLARK SUBDIVISION**

WHEREAS, on May 14, 1996, the Board of Supervisors of James City County, Virginia, adopted the Mooretown Road Lot Sales Plan ("Plan"), authorizing property to be developed and lots to be sold to builders or individuals who will construct homes on County-owned property within the designated project area in accordance with the Plan; and

WHEREAS, the County desires to subdivide and develop Parcel Nos.: (1-26) and (1-27) on James City County Real Estate Tax Map No. (32-1) in accordance to the plan; and

WHEREAS, the Board of Supervisors held a public hearing pursuant to Virginia Code Section 15.1-262 to consider the sale and disposal of real property owned by the County within the designated project area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign on behalf of the County, any sales contract, development agreement, deed, and any other necessary document, consistent with the Plan, enabling the County to develop and convey, in whole or in parts, ownership of property in the Davis Clark Subdivision.

10. Ordinance Creating James River Enterprise Zone

Mr. Douglas Powell, Assistant Manager of Community Services, stated that the James River Enterprise Zone would be administered by the proposed ordinance and policies and procedures manual.

Staff recommended approval of the ordinance.

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

Mr. Sisk made a motion to approve the ordinance.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

## F. BOARD CONSIDERATIONS

### 1. Case No. Z-19-95. Associated Developers/Mainland Farm

Mr. Gary A. Pleskac, Planner, stated this case was deferred at the May 14, 1996, Board of Supervisors' meeting to allow the applicant to consider adding a note on the proffered Master Plan for Mainland Farm within the 109-acre rezoning area. He reiterated that Mr. Henry Stephens of Associated Developers, Inc., had applied to rezone approximately 109 acres from R-8, Rural Residential, to R-2, General Residential, with proffers, to develop single-family residences, and to rezone approximately 216 acres from R-8, Rural Residential, to R-8, Rural Residential, with a Master Plan proffer, for Mainland Farm. The property is located north of Jamestown 1607 and Cardinal Acres communities and on the easterly side of Greensprings Road, further identified as a portion of Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-1).

Mr. Edwards made a motion to approve Case No. Z-19-95.

Mr. Edwards stated that cases approved by the Planning Commission prior to the end of April should be considered by past standards.

The Board thanked the Whites' for the gift of acreage and their community service of many years.

On a roll call, the vote was: AYE: Magoon, Edwards, Sisk (3). NAY: DePue (1).

## RESOLUTION

### CASE NO. Z-19-95. ASSOCIATED DEVELOPERS

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-19-95 for rezoning approximately 109 acres of land from R-8, Rural Residential District, to R-2, General Residential District, with proffers, and approximately 216 acres from R-8, Rural Residential District, to R-8, Rural Residential District, with a proffered Master Plan for Mainland Farm, dated February 16, 1996 and prepared by DJG Engineers, and is further identified as a portion of Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County recommended approval of Zoning Case No. Z-19-95, by a vote of 6 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-19-95, with the attached proffers.

### 2. Case No. Z-20-95. Greensprings LLC (Mainland Farm)

Mr. Pleskac stated the case was deferred at the April 30, 1996, Board of Supervisors' meeting to allow applicant to reconsider the voluntary cash proffer pertaining to Alternate Route 5. Mr. Pleskac reiterated that Mr. Marshall Findley of Greensprings Limited Liability Company had applied to rezone approximately 17 acres from R-8, Rural Residential, to R-2, General Residential, with proffers, to develop single-family residences, located along Greensprings Road across from The Maine at extreme northwest corner of Mainland Farm, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-1).

Board discussion was held regarding deletion of street connection to Fieldcrest, Section 5.

Mr. Sisk asked the applicant why the bike/pedestrian connection to Fieldcrest would be unpaved.

Mr. Marshall Findley, applicant, stated that he agreed to build a paved bike/pedestrian path.

Mr. Morton reminded the Board that no legal commitment existed to build bike path.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, Edwards, Sisk (3). NAY: DePue (1).

## RESOLUTION

### CASE NO. Z-20-95. GREENSPRINGS LLC

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-20-95 for rezoning approximately 17 acres of land from R-8, Rural Residential District, to R-2, General Residential District, with proffers, and is further identified as a portion of Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County recommended approval of Zoning Case No. Z-20-95, by a vote of 3 to 2.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-20-95, with the attached proffers.

### 3. Anheuser-Busch Companies, Inc., Industrial Revenue Bonds

Mr. Sanford B. Wanner, Acting County Administrator, stated that the Industrial Development Authority had passed a resolution of inducement for \$55,000,000 of Revenue Bond financing for Anheuser-Busch, Inc. He further stated that State and Federal statutes require governing bodies of jurisdictions in which such financing activity is to occur must consider and approve a resolution of concurrence in support of the IDA's action.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

## RESOLUTION

### RESOLUTION OF APPROVAL AND CONCURRENCE FOR ANHEUSER-BUSCH

### COMPANIES, INC., REVENUE BOND ISSUES

WHEREAS, the Industrial Development Authority of the County of James City, Virginia (the "Issuer") is authorized and empowered under the provisions of the Industrial Development and Revenue Bond Act, Code of Virginia § 15.1-1373 et. seq., as amended (the "Act"), to issue revenue

bonds for the purposes set forth in the Act and to permit the expenditure of the proceeds thereof to finance, among other things, any facilities authorized under the Act; and

WHEREAS, Anheuser-Busch Companies, Inc., a Delaware Corporation (the "Company"), wishes to finance all or a portion of the cost of acquiring, equipping, improving, and constructing certain facilities (the "Projects"), including facilities located at the existing brewery owned and operated by Anheuser-Busch, Incorporated, a wholly-owned subsidiary of the Company, in the County of James City, Virginia ("James City County"), the existing theme park Busch Gardens in James City County operated by Busch Entertainment Corporation, a wholly-owned subsidiary of the Company ("Busch Entertainment"), the resort and residential community Kingsmill on the James in James City County operated by Busch Properties, Inc., a wholly-owned subsidiary of the Company, and the existing theme park Water Country USA (the "York County Project") in the County of York, Virginia ("York County") operated by Busch Entertainment, all as further described in an exhibit attached hereto, and wishes to have the Issuer issue one or more issues and in one or more series its revenue bonds for the Company, in an aggregate principal amount not to exceed a combined total of \$55,000,000 (the "Bonds"), to provide financing for all or a portion of the cost of such Projects (with approximately \$5,000,000 being the current estimated cost of the York County Project); and

WHEREAS, on May 9, 1996, the Issuer held a public hearing relating to the financing of the Projects and the issuance of the Bonds (the "Public Hearing"), after publishing notice of the Public Hearing on April 25, 1996, and May 2, 1996, in the Daily Press, a newspaper having general circulation in each of James City County and York County, all in accordance with the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, after the Public Hearing, the Issuer on May 9, 1996, adopted a resolution (the "Inducement Resolution") indicating its intention to issue the Bonds in an aggregate principal amount not to exceed \$55,000,000 to finance all or a portion of the costs of such Projects; and

WHEREAS, pursuant to the Act, in order for the Issuer to finance the Projects, the Board of Supervisors of the County of James City, Virginia, (the "Board of Supervisors") must adopt a resolution approving the financing of the Projects by the Issuer; and

WHEREAS, pursuant to the Code, in order for interest on the Bonds to be excludible from gross income of the owners thereof for Federal income tax purposes, it is necessary for the Board of Supervisors, as the elected legislative body of the government unit on behalf of which the Bonds will be issued and having jurisdiction over the area where portions of the Projects are located, to approve the issuance of the Bonds; and

WHEREAS, the Issuer has filed with the Board of Supervisors a transcript of the proceeding of the Public Hearing and a copy of the Inducement Resolution, copies of which are attached as exhibits to this Resolution, together with its recommendation of the financing of the Projects and has requested that the Board of Supervisors approve the financing of the Projects and concur with the Inducement Resolution; and

WHEREAS, for the benefit of the citizens of James City County and to further the purpose of the Act, the Board of Supervisors desires to take such action as requested by the Issuer.

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

1. The Board of Supervisors hereby approves the financing of the Projects by the Issuer and concurs with the Inducement Resolution.

2. Pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Issuer for purposes of assisting with the financing of the Projects is hereby approved.
3. The actions of the Issuer in holding the Public Hearing on behalf of the Board of Supervisors are hereby ratified and approved.
4. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.
5. If any section, paragraph, clause, or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the other provisions of this Resolution.
6. This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

**G. PUBLIC COMMENT**

1. Mr. Sam Hazelwood, Toano, urged the Board appointment of Mr. Sanford B. Wanner as County Administrator.
2. Mr. Ed Oyer, 139 Indian Circle, spoke of toxic pollution from composting facilities and questioned the budget increase of the E-911 fee to \$.90.

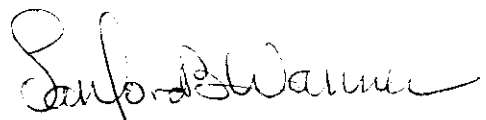
**H. REPORTS OF THE COUNTY ADMINISTRATOR - None**

**J. BOARD REQUESTS AND DIRECTIVES - None**

Mr. Edwards made a motion to recess until 5:00 p.m., Tuesday, May 28, 1996, for a work session on drainage.

On a roll call, the vote was: AYE: Magoon, DePue, Edwards, Sisk (4). NAY: (0).

The Board recessed at 9:50 p.m.



Sanford B. Wanner  
Clerk to the Board



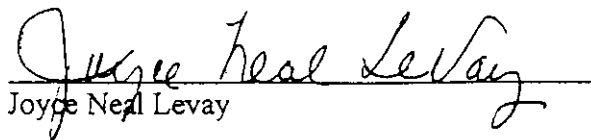
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## PROFFERS

These proffers are made as of this 6<sup>th</sup> day of May, 1996 by Joyce Neal Levay, Owner, and her heirs, successors, and assigns:

Ms. Levay is the owner of 3.9727 acres located on Centerville Road in James City County, (the property), **Tax Map (31-1)(1-8)**. The property is subject to an application for rezoning with the James City County Board of Supervisors, from A-1 to R-2. As a part of this rezoning request, the Owner hereby proffers the following conditions for her property:

1. There shall only be one entrance to the subdivision from Centerville Road, the clearing for which shall not exceed fifty feet in width.
2. The surface of the private entrance road shall be a paved, all weather surface acceptable to the Director of Planning.
3. At the time of subdivision application, the Owner shall provide a maintenance agreement for the private access road to be included in the individual deeds to the lots. This agreement shall provide for a deed of easement to be recorded against each lot. Said easement shall provide a mechanism for annual maintenance of the private access road, and shall provide for periodic assessment of lot owners for this maintenance, with each lot owner being responsible for a proportionate share of the maintenance. This agreement and easement must be in a form acceptable to the Director of Planning.
4. Prior to subdivision approval, the Owner shall dedicate a thirty five foot wide conservation easement to James City County along Centerville Road frontage of the property. This easement shall be exclusive of the Virginia Power utility easement and the VDOT road right of way. The conservation easement shall begin at the existing tree line and be shown on the subdivision plat. The conservation easement shall remain undisturbed except for a single access point at Centerville Road, Community and directional signage, and the removal of dead, dying, or diseased vegetation.

  
Joyce Neal Levay

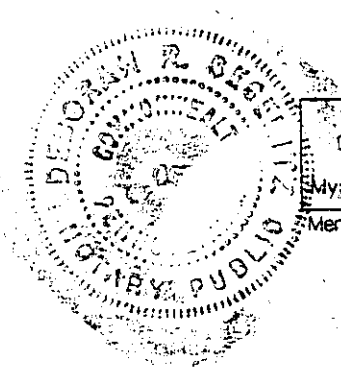
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STATE OF PENNSYLVANIA  
CITY/COUNTY OF Bucks

The foregoing instrument was acknowledge before me on this 6<sup>th</sup> day of May  
1996 by Joyce Neal Levay.

Deborah R. Segelitz  
Notary Public

My commission expires 3/28/98



Notarial Seal  
Deborah R. Segelitz, Notary Public  
Bensalem Twp., Bucks County  
My Commission Expires March 28, 1998  
Member, Pennsylvania Association of Notaries

VIRGINIA: City of Williamsburg and County of  
James City, to With:

In the Clerk's Office of the Court of the  
City of Williamsburg, James City the

20<sup>th</sup> day of May, 1996. This Proper  
document is annexed and  
admitted to record at 1:16 o'clock

Teste: Helene S. Ward, Clerk

by Helene S. Ward  
Deputy Clerk

MAY 14 1996

ORDINANCE NO. 31A-168

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 II, SPECIAL REGULATIONS, DIVISION 4, LANDSCAPING, SECTION 20-86, LANDSCAPING AND TREE PRESERVATION REQUIREMENTS.

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 20-86, Landscaping and tree preservation requirements.

## ARTICLE II. SPECIAL REGULATIONS

### DIVISION 4. LANDSCAPING

#### Sec. 20-86. Landscaping and tree preservation requirements.

*(C) General Requirements for All Uses Requiring a Landscape Plan:*

*(2) Site landscaping and tree protection requirements:*

- (a) General Landscape Area Standards: Existing trees shall be retained to the maximum extent possible in all landscape areas. Such trees may be removed to accommodate necessary utilities or drainage structures or where necessary to abate demonstrable public health or safety hazards. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots, as required below in paragraph (C)(2)(b) and (C)(2)(e), shall contain a number of trees equal to at least one tree and three shrubs per 400 square feet of total landscape area provided.

At least 35 percent of these trees shall have a minimum caliper of 2 ½ inches. Fifteen to 25 percent of the required trees shall be ornamental trees. At least 25 percent of the total required trees and 25 percent of the required shrubs shall be evergreen. All required plantings shall conform with the most recent edition of *American Standard for Nursery Stock*, published by the American Association of Nurserymen, and shall be planted in accordance with the most recent edition of *Guidelines for Planting Landscape Trees and Planting and Care of Trees and Shrubs*, published by the Virginia Cooperative Extension Service. Required planting materials shall be of a species that promotes the intent of this section and that is compatible with the proposed planting environment. Transplanting for the purpose of achieving a larger size tree may be approved, provided it is done in accordance with accepted horticultural and silvicultural practices.

Each mature existing tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. However, no credit shall be given for any mature tree or specimen tree which is not protected in full compliance with the tree protection standards above in paragraph (C)(1). In such cases, planted trees shall be provided as required above. Planted trees and shrubs shall be reasonably distributed throughout the site singly or in groups, with an appropriate mix of planting types and species which achieves the purposes of this section. Required landscape areas shall be designed so as to not create vehicular and pedestrian hazards.

- (b) Landscape Areas Adjacent to Buildings: A landscape area which is a minimum of ten feet wide shall be provided adjacent to buildings. Up to one-half of this area may be transferred elsewhere on the

site. This area shall contain a number of trees and shrubs equal to at least one ornamental tree or five shrubs per 200 square feet of planting area provided.

- (c) Landscape Area Along Right-of-Way: A landscape area having an average width of 30 feet shall be provided adjacent to any existing or planned public road right-of-way. Such landscape areas may be reduced to an average width of 20 feet or ten percent of the average lot depth, whichever is greater, on lots with less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990. Any required landscape area along a right-of-way shall have a minimum width of 15 feet. All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be determined by multiplying the applicable average width requirement above times the length of the right-of-way frontage. In no case shall any portion of any landscape area located more than 45 feet from the right-of-way be counted toward meeting the requirements of this paragraph. All landscape areas along right-of-ways shall be continuous along the road right-of-way frontage, except where driveway, utility or other breaks are necessary, and shall be designed in a manner that achieves the intent of this section. All existing viable trees or specimen trees shall be preserved within this landscape area and protected in accordance with the above tree protection standards in paragraph (C)(1). Such landscape area shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in paragraph (C)(2)(a) above.

- (d) Screening:

1. Transitional screening. Transitional screening between conflicting land uses and districts shall be provided as required in this paragraph and in paragraph (D). Such screening areas shall be

left in their undisturbed natural state and supplemented where necessary in accordance with paragraph (C)(2)(a) and with additional plantings to provide an effective visual screen. Such areas shall be continuous except where driveways, utilities and other breaks are necessary. All breaks shall cross transitional screening areas right angles. Where such breaks are necessary, different design requirements may be imposed to achieve an equivalent screening effect. Transitional screening areas shall not contain accessory structures, storage, parking or loading.

2. Additional transitional screening requirements. If the commission determines that noises dust and debris, glare or other objectionable impacts created by a proposed development will have a detrimental effect on adjoining properties which will not be adequately addressed by transitional screening required by this section, the commission may increase minimum transitional screening requirements or setbacks and may require landscaping or architectural barriers which provide a visual screen between a proposed development and adjoining properties.
3. Objectionable features. Objectionable features shall be visually screened by landscaping or architectural barriers from or by adjacent residential districts, agricultural districts which are designated for residential use on the comprehensive Plan and public streets. Objectional features may include, but are not limited to, the following: refuse areas, storage yards, loading areas, and detention ponds.
4. Historic landmarks and buildings. The commission may require screening of any use, or portion thereof, upon a determination that the use would otherwise have a negative visual impact on property listed on the Virginia Historical Landmarks Register.

5. Multiple frontage lots. Lots with multiple frontages shall have screening provided between the rear of the principal use or building and the public right-of-way.
  6. Residential developments not subject to article III, Site Plan. Major subdivisions of residential developments, as defined in Chapter 17, shall conform with screening requirements for multiple frontage lots. Such developments shall also provide transitional screening along any property line which is adjacent to or across a peripheral public street from any multifamily, commercial or industrial zoning district. The amount of transitional screening shall be based on the zoning district adjacent to or across a peripheral public street from the proposed residential development. Such residential developments shall provide transitional screening in accordance with the requirements for the multifamily, commercial or industrial district contained in paragraph (D).
- (e) Off-Street Park Lot Landscaping: Parking areas, accessory or otherwise, containing ten or more parking spaces shall contain landscaping and landscape areas in accordance with all of the following:
1. Preservation of trees. Parking lots shall be designed and constructed so that existing viable trees are preserved in a manner which will meet the intent and satisfy the requirements in this section to the maximum extent possible. Where such existing trees do not fully satisfy these requirements, additional trees shall be planted in an amount which meets or exceeds the stated minimum requirements. The requirements in this paragraph shall be in addition to other requirements stated in this section.
  2. Landscape area. Total landscape area within the parking lot, exclusive of any perimeter landscape areas or any landscape areas around the building, shall not be less than ten percent

of the surface area of the parking lot, including drives and circulation areas. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, total landscape area within the parking lot shall not be less than 7.5 percent of the surface area of the parking lot including drives and circulation areas.

3. Planting requirements. Landscape areas within a parking lot shall contain a minimum of one tree and two shrubs for each five parking spaces in the parking lot. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, landscape areas within the parking lot shall contain a minimum of one tree and two shrubs for each ten parking spaces in the parking lot. At least 50 percent of the required trees shall be deciduous shade trees with a 2 ½-inch minimum caliper and at least 25 percent of the required shrubs shall be evergreen. As provided above, each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for three planted trees. No credit shall be given for any mature or specimen tree which is not protected in full compliance with the tree protection standards in paragraph (C)(1) above. Required trees shall be reasonably distributed throughout the parking lot in a manner that promotes the intent of this section and shall be spaced no more than 75 feet apart throughout the parking lot. In addition to the above tree and shrub requirements, all parking lots shall be visually screened from public road right-of-ways by evergreen plantings or berms. Such berms shall have a maximum side slope ratio of three horizontal feet to one vertical foot and a level crown with a minimum width of three feet for maintenance and planting purposes. Any berm shall be designed and constructed to ensure that proper erosion prevention and control practices have been utilized.



4. Special requirements for bus parking lots. Bus parking areas shall contain landscape areas in accordance with the above requirements except that plantings shall be provided as follows: one tree and two shrubs shall be provided for each two bus parking spaces, with at least 50 percent of the required trees consisting of deciduous shade trees with a 2 ½-inch minimum caliper and, in addition to the foregoing tree and shrub requirements, bus parking areas shall be visually screened from all public road right-of-ways by evergreen landscaping or berms to the maximum extent possible. Any berms shall meet the requirements of paragraph 3. above.

*(D) Landscape Requirements by Zoning District.* All uses and developments requiring a site plan and landscape plan in accordance with article III, Site Plan, and this section shall comply with the above requirements and those which follow. Where no landscape requirements are provided for a specific zoning district, the landscape plan shall be prepared in accordance with the requirements for the district which is deemed by the planning director to be the most similar to the character of the proposed use, situation and surrounding conditions. In making this determination, the following shall be considered: the characteristics of the proposed use and surrounding area, existing zoning and Comprehensive Plan designations and use regulations of this chapter. At a minimum, required setbacks and yards shall be provided as landscape areas which meet the requirements of this section.

- (3) *LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; M-3, Limited Industrial:*

- (a) Side and Rear Landscape Area: A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width. Along the rear property lines, such landscape area may

be reduced to a minimum of ten feet in width or five percent of the average lot depth, whichever is greater, on lots with less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990. Such landscape area shall be landscaped in accordance with paragraph (C)(2)(a) above. Such area may be broken by necessary driveways or utilities perpendicular to the property line.

(b) *Special Requirements for Industrial Uses: Landscape standards in paragraphs (C)(2)(a) and (C)(2)(b) for certain landscape areas shall be reduced for all uses in M-2 or M-3 districts, or for industrial uses in M-1 districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or M-3 district except automobile service stations, offices, employment agency, or school.*

1. *Landscape Areas Along Rights-of-Way and Side and Rear Property Lines: Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the industrial districts listed above, no shrubs shall be required within such landscape area and the required trees may be provided at a ratio of one tree per 600 square feet of landscape area. For such landscape areas, none of the deciduous trees shall be required to be of a 2 ½ inch minimum caliper. All required trees shall meet the other minimum standards of this section, or*

2. *Landscape Areas Adjacent to Buildings. A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape area would be along a*

*portion of a building's perimeter that is not visible from a public street, and that same side of the building is not visible from any district other than one of the industrial districts listed above. Such landscape area shall be landscaped in accordance with paragraph (C)(2)(b) unless a modification is granted under paragraph (B)(5).*

- (bc) Transitional Screening: Landscape areas along property lines of properties zoned LB, B-1, M-1, M-2 and M-3 shall be increased to the following widths when adjacent to or across a public street from a residential district or agricultural district if designated residential on the Comprehensive Plan:

LB District	30 Feet
B-1 District	35 Feet
M-1 District	35 Feet
M-2 District	50 Feet
M-3 District	35 Feet

Such landscape areas shall be exclusive of any planned future right-of-way and shall be left in an undisturbed natural state and supplemented with additional plantings to create a visual screen in accordance with paragraph (C)(2)(d) above.

- (cd) Landscape Open Space and Impervious Cover: As required in Chapter 19B, Chesapeake Bay Preservation Ordinance, impervious cover shall not exceed 60 percent of the lot area except where an exception is approved in accordance with Chapter 19B. Provided, however, in no case shall minimum landscape open space be less than that required below for the respective district:

<i>District</i>	<i>Percent of Total Lot Area</i>
LB	35
B-1	30
M-1	30

M-2	25
M-3	30

(4) PUD, planned unit development district. MU, mixed use district.

- (a) Setbacks: Setbacks from existing or planned peripheral public street right-of-ways shall contain a landscape area having an average width of 30 feet in accordance with paragraph (C)(2)(c) above. The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with paragraph (C)(2)(a) above. Landscape requirements along internal streets shall not apply to single-family dwellings. Requirements of this paragraph shall not apply to active recreation playing areas designated on the master plan and approved in accordance with article V, division 14.
- (b) Yards: All yards shall contain existing trees and plantings in conformance with paragraph (C)(2)(a) above. This requirement shall not apply to single-family dwellings or active recreation playing areas designated on the master plan and approved in accordance with article V, division 14 of this chapter.
- (c) Special Requirements for Industrial Uses: Landscape standards in paragraphs (C)(2)(a) and (C)(2)(b) for certain landscape areas shall be reduced for industrial uses in PUD and MU districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or M-3 district except automobile service stations, offices, employment agency, or school.
  - I. Landscape Areas in Setbacks and Yards. Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the districts or land bays listed above, no shrubs shall be required within such landscape area, and the required trees may

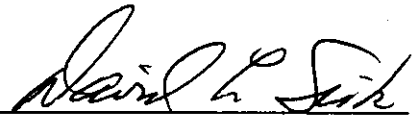
*be provided at a ratio of one tree per 600 square feet of landscape area. For such landscape areas, none of the deciduous trees shall be required to be of a 2 ½ inch minimum caliper. All required trees shall meet the other minimum standards of this section; or*

2. *Landscape Areas Adjacent to Buildings. A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape areas would be along a portion of a building's perimeter that is not visible from a public street, and that same side of building is not visible from any district other than one of the districts listed above. Such area shall be landscaped in accordance with paragraph (C)(2)(b) unless a modification is granted under paragraph (B)(5).*

~~(cd)~~ Transitional Screening.

1. Residential. Where a multifamily or townhouse structure in a PUD district is located adjacent to or across a peripheral public street from an R-1, R-2, or R-6 residential district or agricultural district if designated low density residential or rural lands on the Comprehensive Plan, a 35 foot wide transitional screening area in accordance with paragraph (C)(2)(d) above shall be provided within the first 35 feet of yard area or setback from any property line adjoining such district.
2. Commercial, industrial, public or institutional uses. Where a commercial, industrial, public or institutional use in a PUD district is located adjacent to or across a peripheral public street from any residential district or agricultural district if designated for residential use on the

Comprehensive Plan, transitional screening shall be provided in accordance with requirements for LB, B-1, M-1, M-2, or M-3 districts as required in paragraph (D)(3)(b) above. The applicable transitional screening requirements shall be determined by the planning director in accordance with paragraph (D) above.



David L. Sisk, Chairman  
Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	ABSENT
MAGOON	AYE
DEPUE	AYE
EDWARDS	NAY
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14<sup>th</sup> day of May, 1996.

art2d4-2.upd

MAY 14 1996

ORDINANCE NO. 192

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING THAT THE CODE OF ORDINANCES, COUNTY OF JAMES CITY, BE AMENDED BY ADDING CHAPTER 5, ENTERPRISE ZONE, SECTIONS 5-1 THROUGH 5-10.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5, is hereby added to the Code of James City by adding Section 5-1, Statement of purpose; Section 5-2, Boundaries of the James River Enterprise Zone; Section 5-3, Definitions; Section 5-4, Qualification for incentives; Section 5-5, Local enterprise zone incentives; Section 5-6, Application; Section 5-7, Appeals; Section 5-8, Enterprise zone administrator; Section 5-9, Administrative regulations; and Section 5-10, Construction and serviceability.

#### CHAPTER 5. ENTERPRISE ZONE

##### Sec. 5-1. Statement of purpose.

In accordance with the Virginia Enterprise Zone Act, Sections 59.1-270, et seq. of the Code of Virginia, and the declaration by the governor of the Commonwealth of Virginia declaring a portion of James City County as an enterprise zone, it is the purpose of this chapter to stimulate business and industrial growth and rehabilitate existing residential structures within the area designated as the James River Enterprise Zone by means of tax incentives, fee exemptions and local incentives designed to promote such growth.

Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 2

Sec. 5-2. Boundaries of the James River Enterprise Zone.

The boundaries of the James River Enterprise Zone are as set forth on the map entitled, "James River Enterprise Zone" revised September 28, 1995, which is on file in the office of Enterprise Zone Administrator the area of which has been declared an enterprise zone by the governor of the Commonwealth of Virginia for a period of twenty years in accordance with the Virginia Enterprise Zone Act.

Sec. 5-3. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

**Business firm.** Any business entity authorized to do business in the Commonwealth of Virginia and subject to the state income tax on net corporate rate income (Section 58.1-400, et seq.), or a public service company subject to a franchise or license tax on gross receipts, or a bank, mutual savings bank, savings and loan association, or a partnership or sole proprietorship. A business firm includes partnerships and small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to state income taxes as partnerships or corporations, the taxable income of which is passed through to and taxed on individual partners and shareholders. However, a business firm does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section 512; nor does it include homeowners associations as defined in Federal Internal Revenue Code, Section 528.



Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 3

Capital investment. An investment that results in an increase in the assessed value of real estate and a net gain in the original capital cost of business personal property and machinery and tools which triggers the payment of taxes to the County.

Employee of a zone establishment. A person employed by a business firm who is on the payroll of the firm's establishment(s) within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside of the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment(s) for at least one-half of his normally scheduled work days.

Enterprise zone. The area known as the James River Enterprise Zone declared by the governor of the Commonwealth of Virginia to be eligible for the benefits accruing under the Virginia Enterprise Zone Act (Section 59.1-270, et seq.).

Existing business. Any business operating or located within the enterprise zone on January, 1996 or within the county prior to its location within the enterprise zone. A business which retains the same ownership and which was operating or located within the enterprise zone on January, 1996 or within the county prior to location with the enterprise zone shall not be defined as a new business, even if the name or entity (corporate or otherwise) has changed.

Full-time employee. A person employed by a business firm who is normally scheduled to work at least thirty-five (35) hours per week during the firm's payroll period or two (2) or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one

Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 4

position, provided that each such employee receives the same benefits as full-time employees. The term "full-time employee" does not include unpaid volunteer workers.

Full-time permanent positions. Employment for 35 hours a week or more with no limitation on the length of employment.

New business. A business firm which begins the operation of a trade or business within a zone after January 1, 1996. This shall include a business firm which existed in the designated zone prior to such designation of the zone, but which by bona fide sale becomes owned by another person, firm or corporation in which the previous owner or any member of his immediate family has no interest. "Immediate family" as used herein shall mean the spouse, brothers, sisters, or children of the owner."

Sec. 5-4. Qualification for incentives.

(a). In order to qualify for local incentives provided under this chapter, a business firm must locate or be located within the boundaries of the Enterprise Zone and meet the following criteria:

- (1) Capital investment criteria. After adoption of this chapter, make a capital investment of \$1,000,000 or more in any twenty-four month period in a commercial or industrial project within the zone; or

Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 5

(2) Job creation criteria.

- a. 50 percent of either a new business workforce or existing business workforce expansion is documented as living in James City County for one calendar year; and
- b. 75 percent of business firm's workforce is full time permanent positions; and
- c. The average annual wage for a business firm's workforce is 90 percent of the County's per capita income, using the most recent census data.

(b) Incentives available to a business firm under this chapter depend on which eligibility criteria in Section-4 (a) (1) or (2) the business meets. Business firms that meet both criteria shall be eligible for incentives available under both of the eligibility criteria.

(c) Limitations.

- (1) No incentives shall be available to business firms moving into the enterprise zone from another location within the county unless the move is in conjunction with an expansion of at least a 50 percent increase in facility space (not less than 10,000 additional square feet), or 50 percent increase in workforce (not less than 10 new full-time permanent positions).
- (2) The amount of any tax rebate due a business firm shall not exceed the total local tax liability of the business firm.

- (3) In the event the Commonwealth of Virginia terminates funding for incentives for all or any business firms within the zone, the county may similarly cease funding local incentives.

Sec. 5-5. Local enterprise zone incentives.

(a) Business real estate rehabilitation tax exemption. Qualified business firms located within the Enterprise Zone shall be eligible to receive a five year declining, real estate tax exemption on the increase in real estate tax resulting from rehabilitation of commercial and industrial real estate and facilities, which qualify under the provisions of Virginia Code Section 58.1-3221, as amended. In the tax year after completion of rehabilitations renovation or replacement, the business firm shall be eligible for a 50 percent exemption from the real property tax increase due to the increase in assessed value. The exemption shall be 40 percent, 30 percent, 20 percent, and 10 percent for each successive tax year.

(b) Machinery and tools and/or business personal property tax exemption. Business firms qualifying under the capital investment criteria shall be eligible for a five-year declining tax exemption for the tax amount attributable to increased capital investment. In the first tax year after application approval, the business firm shall be entitled to a 50 percent exemption. The exemption shall be 40 percent, 30 percent, 20 percent, and 10 percent for each successive tax year.

(c) Waiver of permit fees. The county shall waive permit fees for site plans, subdivisions, erosion and sedimentation control, land disturbing activities, and building, electrical, plumbing and HVAC approvals for the following:

- (1) Capital investments of business firms which meet the capital investment criteria; and
  - (2) Rehabilitation of residential structures where the assess value does not exceed the 1991 base value of \$81,500 multiplied by the rate of inflation using the Consumer Price Index, not to exceed 5 percent in any one year.
- (d) JCSA sewer transmission fees. Business firms qualifying under the capital investment criteria shall be eligible for a reduced sewer transmission fee as provided in the James City Service Authority Regulations Governing Utility Regulations, as amended.
- (e) Use of well water. Business firms qualifying under the capital investment criteria shall be allowed to use water from permitted wells within the zone as process water.
- (f) Business firms qualifying under the capital investment criteria shall be eligible to apply to the Industrial Development Authority for a waiver of administrative fees involved in bond applications with the exception of any legal fees.
- (g) Business firms qualifying under the capital investment criteria shall be eligible for a 100 percent waiver of the county's consumer utility tax for five tax years beginning the tax year of application approval.
- (h) Employee-based tax incentive. Business firms qualifying under the job creation criteria shall be eligible for a grant from the County's Industrial Development Authority of \$400 per employee who is a resident within the zone and \$200 per employee who is a resident of the County outside the zone. This incentive shall be

payable for two tax years, at the end of each year, beginning the tax year of application approval. After the two-year period, a business firm shall be eligible for additional incentives per employee in the third year only if the business firm expands its employment 25 percent above its base employment established at the end of second year.

(i) Day care grant. Business firms qualifying under the job creation criteria shall be eligible for a one-time matching grant, from the County's Industrial Development Authority, of up to \$25,000 to be used with funds of an equal or greater amount from the business firm to establish or enhance a day care/pre-school facility within the enterprise zone.

(j) Residential Real property rehabilitation tax exemption. An owner of a residential structure within the zone shall be eligible for a five-year declining tax on the increased assessed real property value resulting from rehabilitation of the residential structure which qualify under the provisions of Virginia Code Section 58.1-3220, as amended. In the tax year after completion of rehabilitation renovation or replacement, the property owner shall be eligible for a 50 percent exemption from the real property tax increase due to the increased assessed value. The exemption shall be 40 percent, 30 percent, 20 percent, and 10 percent for each successive tax year. In order to be eligible for this tax exemption, the initial assessed value of the residential structure must not exceed the 1991 base value of \$81,500 multiplied by the rate of inflation using the Consumer Price Index, not to exceed 5 percent in any one year.

Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 9

Sec. 5-6. Application.

Any business firm seeking to receive Local Enterprise Zone Incentives shall make application to the enterprise zone administrator on forms provided by the Enterprise Zone Administrator. The enterprise zone administrator may require the business firm to provide documentation establishing that said business firm has met the requirements for the receipt of Local Enterprise Zone Incentives. Failure to provide requested documentation shall result in a denial of the business firm's application for local incentives. The enterprise zone administrator may require the business firm to provide additional documentation from time to time to assure that said business firm retains the requisite qualifications for the receipt of Local Enterprise Zone Incentives. In the event that any business firm shall fail to maintain the requisite qualifications for the receipt of Local Enterprise Zone Incentives, the enterprise zone Administrator shall inform the business firm in writing that it is no longer qualified for the receipt of local incentives, and shall send a copy of said notice to the county administrator.

Sec. 5-7. Appeals.

An applicant may appeal the decision of the enterprise zone administrator within 30 days from the date the decision was rendered. The notice of appeal shall be in writing, delivered to the county administrator and specify with particularity the basis for the appeal. The county administrator shall set a hearing for the appeal and provide the applicant and enterprise zone administrator at least five days notice prior to such hearing. The decision of the county administrator or his designee shall be final.

Sec. 5-8. Enterprise zone administrator.

The enterprise zone administrator shall be the County's Assistant Manager for Community Services.

Sec. 5-9. Administrative regulations.

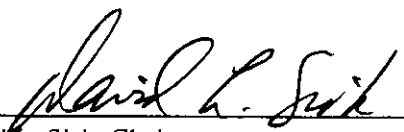
The county administrator may prescribe rules and regulations for the application of this chapter and approval of any incentives. Such rules and regulations shall guide the enterprise zone administrator in applying this chapter.

Sec. 5-10. Construction and serviceability.

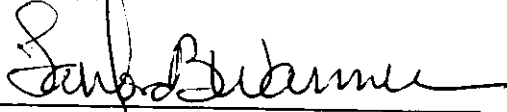
This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.



Ordinance to Amend and Reordain  
Chapter 5. Enterprise Zone  
Page 11

  
\_\_\_\_\_  
David L. Sisk, Chairman  
Board of Supervisors

ATTEST

  
\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	ABSENT
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of May, 1996.

## PROFFER AGREEMENT

THIS PROFFER made and entered into this 28th day of February, 1996, by and among FRANCES M. WHITE and ALBERT L. WHITE, III, husband and wife (collectively, "White"), and ASSOCIATED DEVELOPERS, INC., a Virginia corporation ("Associated"), with White and Associated being hereinafter collectively referred to as the "Owners", parties of the first part and GRANTORS, in favor of JAMES CITY COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County"), party of the second part and GRANTEE.

## RECITALS:

A. White is the owner of certain real property containing approximately 109 Acres located in Jamestown District, James City County, Virginia, as show on the sketch attached hereto as Exhibit A, with all of said property being hereinafter described as the "Property".

B. Associated has entered into a contract with White for the purchase of the Property which is conditioned upon the rezoning of the Property.

C. White and Associated have submitted an application for the rezoning of the Property to the County as Case Number Z-19-95.

D. White also owns additional property containing approximately 220 Acres located in Jamestown District, James City County, Virginia, with all of said additional property being hereinafter described as the "Remaining Property", with the Property and Remaining Property being commonly and hereinafter referred to as the "Mainland Farm".

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of the County, Owners agree that they shall meet and comply with all of the following conditions in developing and improving the Property and Remaining Property. In the event the requested rezoning is not approved by the County, these proffers shall become null and void and the Property shall maintain its current zoning.

## CONDITIONS:

1. Current and future development proposals for the Mainland Farm shall be in general conformance with the Master Plan for Mainland Farm and the notes contained thereon, dated February 16, 1996, and prepared by DJG Associates (the "Master Plan"), as determined by the Director of Planning of James City County. Amendments to the Master Plan shall be permitted upon review and approval by the Director of Planning and the Development Review Committee of the County's Planning Commission, provided only that such amendments do not have the effect of increasing the total number of residences permitted within Mainland Farm as shown on the Master Plan. The Master Plan shall be a general guide to the development of

Mainland Farm as identified in the Notes contained thereon, which are an integral part of this proffer and are incorporated by reference herein. The Master Plan shall be filed and available for inspection in the office of the Director of Planning of James City County.

2. There shall be one access point from 4-H Club Road to serve the Property which shall be at a single point to be determined. As a part of the development of the Property, the developer of the Property shall install such road improvements and dedicate sufficient on-site lands on the Property as are necessary to meet minimum VDOT standards on Jamestown Road and on 4-H Club Road. Such road improvements shall be determined by a traffic impact study submitted as part of the subdivision development plans for review and approval by VDOT.

3. All common areas, including open space, conservation easements and recreation areas within the Property as approved by the County shall be dedicated to an established homeowners association serving the proposed development. The homeowners association organization and the by-laws shall be approved as to form by the County Attorney. The by-laws of the homeowners association and/or the declaration of covenants, conditions and restrictions which affect the Property shall provide, inter alia, provisions for the maintenance by the association of all recreational facilities to be constructed within the common areas dedicated to the association. Sufficient open space to meet the recreation criteria of the James City County Parks and Recreation Master Plan dated February, 1993, (the "Plan"), shall be conveyed to the homeowners association free and clear as phases of the Property are subdivided. The developer of the Property shall be responsible for construction of the recreational improvements within each phase of the Property as required by the Plan and approved by the County.

Recreational improvements in the open space within the Property shall include:

a. General purpose park land calculated in area to be 1.9 acres based upon .0087 acres per unit using two units per acre for 109 acres. The equivalent value of the play field/park land shall be calculated as \$69.60 per unit.

b. A playground to include standard playground equipment such as swings, slides and climbing apparatus, the type and amount of equipment shall be submitted to the Planning Director for approval with the plat including the fifty-first lot. Approval shall be based upon the James City County Comprehensive Parks and Recreation Plan criteria and shall not require a cash expenditure greater than the per unit cash equivalent of \$43.50 in the Plan.

c. Multi-purpose play field calculated in area to be one acre based upon .0045 acres per unit using two units per acre for 109 acres. The equivalent value of the play field shall be \$29.00 per unit.

d. Within the park land or other open space there shall be a multi-purpose hard surface court, or picnic shelter or volleyball court. The equivalent value of the multi-purpose hard surface, or picnic shelter or volleyball court shall be \$66.00 per unit based upon two units per acre for 109 acres.

Construction and/or funding of recreation improvements specified in a., b., c., and d. above and dedication of open space shall be phased with the development of subdivided lots. The first phase of the recreation improvements shall be completed with the recording of the plat which includes the fifty-first lot or bonded as part of the subdivision bond for the subdivision section including the fifty-first lot. The amount of bond shall be the per unit cost of the improvements as established by the Plan times the actual lots recorded, inclusive of lots one through fifty. Additional phases of the recreation improvements shall be completed or bonded from time to time as subsequent subdivision sections are recorded where the number of lots in the subdivision section would cause the ratio of recreational improvements and/or park land to lots to be below that established by the Plan. Once completed, the recreational improvements and/or park land shall be owned and maintained by the homeowners association.

Appropriate substitution of other recreation improvements within the Property may be made at the discretion of the developer of the Property and/or homeowners association provided such substitutions are of comparable value to proffered improvements as calculated by the Plan using the per unit cost of \$69.60 for play field/park land and \$43.50 for playground. Based upon the unit cost criteria in the Plan, the Director of Planning shall review and approve the appropriateness of substitutions.

4. The existing Christmas tree farm shall be retained as a natural buffer, dedicated to and maintained by an established homeowners association serving the proposed development.

5. Archeological sites on the Property identified by prior archeological research shall be verified and protected from development according to Virginia Department of Historic Resources standards by inclusion in open space and dedicated to an established homeowner association serving the proposed development or may be donated to a non-profit or governmental organization acceptable to the Director of Planning.

Owners do hereby agree that the conditions contained in paragraph 1 shall apply to the development of the Mainland Farm and that the conditions contained in paragraphs 2, 3, 4 and 5 shall apply in the development of the Property in addition to all other requirements of the Zoning Ordinance for James City County.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, including without limitation any person or entity who may acquire all or any part of the Property for development in the future.

WITNESS the following signatures and seals:

  
FRANCES M. WHITE

  
ALBERT L. WHITE, III

ASSOCIATED DEVELOPERS, INC.

By

President

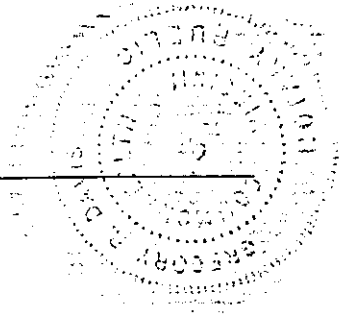
STATE OF VIRGINIA

CITY/COUNTY OF JAMES CITY, to-wit:

Subscribed, sworn and acknowledged before me this 4<sup>th</sup> day of April,  
1996 by Frances M. White.

My commission expires: August 31, 1998

[Signature]  
Notary Public



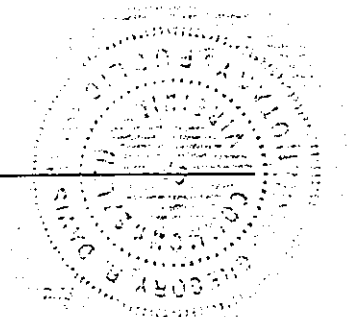
STATE OF VIRGINIA

CITY/COUNTY OF JAMES CITY, to-wit:

Subscribed, sworn and acknowledged before me this 4<sup>th</sup> day of April,  
1996 by Albert L. White, III.

My commission expires: August 31, 1998

[Signature]  
Notary Public



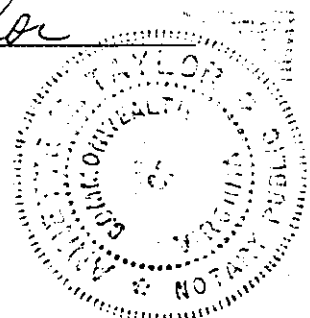
STATE OF VIRGINIA

CITY OF NEWPORT NEWS, to-wit:

Subscribed, sworn and acknowledged before me this 3<sup>rd</sup> day of April,  
1996 by Henry H. Stephens, President, Associated Developers, Inc.

My commission expires: 11-30-99

Annette M. Taylor  
Notary Public



VIRGINIA: City of Williamsburg and County of  
James City, to Wit:

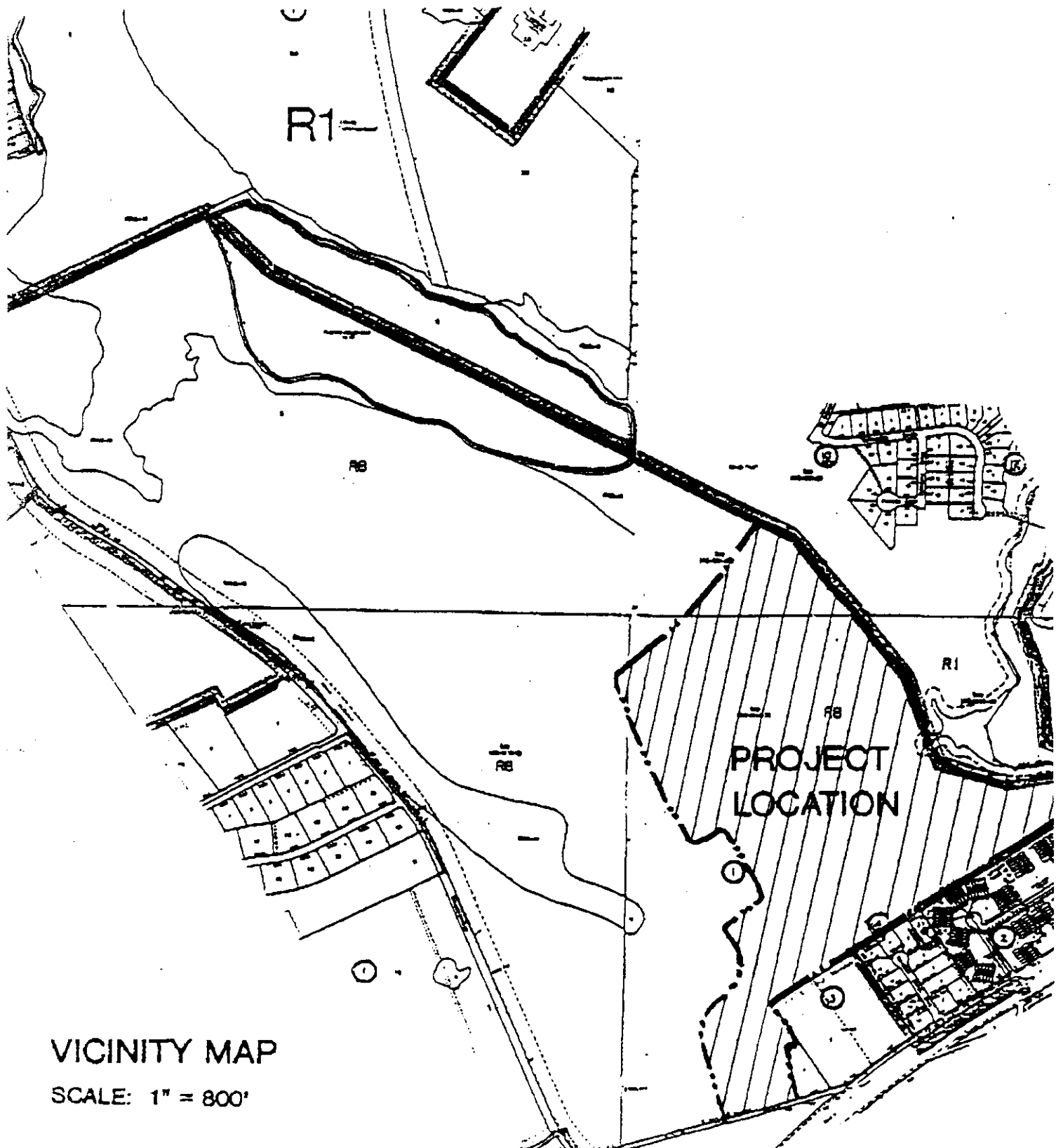
In the Clerk's Office of the Circuit Court of the  
City of Williamsburg and County of James City the

2067636 of May, 1996. This Deed  
was presented with certificate annexed and  
admitted to record at 1:12 o'clock

Teste: Helony B. Ward, Clerk

by [Signature]  
Deputy Clerk

4 of 5



VICINITY MAP

SCALE: 1" = 800'

006752

PROFFERS

BOOK 0788 PAGE 0249

Rezoning Case No. Z-20-95

These proffers are made this the 14th day of May, 1996 by Frances M. White, her heirs, successors and assigns (Owner), owner of 17 +/- acres (the Property) located on Greensprings Road (Rt. 614) in James City County, Virginia being a part of the property commonly known as Mainland Farm and identified on the James City County tax map as a part of parcel 1-3, map 46-1 and more particularly shown on the attached conceptual plan prepared by DJG dated October 27, 1995. This property is the subject of rezoning application No. Z-20-95 currently pending before the James City County Board of Supervisors and as a part of this application the Owner hereby proffers the following:

1. There shall be a greenbelt buffer, exclusive of any lots, established and dedicated to a homeowners association which shall be established by the Owner and approved as to form by the County Attorney. The greenbelt buffer shall be 175 feet in width as measured from the centerline of Greensprings Road and shall include a conservation easement requiring that existing vegetation shall remain undisturbed except as approved by the Director of Planning, which approval shall not be unreasonably withheld, for the access road, sight distance, drainage and utility improvements, signs, bike and pedestrian paths. Within the 175 foot conservation easement, a 12-foot easement shall be dedicated to the County by the Owner for the purpose of constructing a bike/pedestrian path. All clearing within the greenbelt for any purpose, with the exception of the removal of dead, dying or diseased vegetation and the aforementioned bike/pedestrian path shall be confined to an area generally not greater than 60 feet in width and aligned with Rt. 1102 "The Maine".
2. The total number of lots in the proposed subdivision shall not exceed thirty four (34).
3. If required by the County Subdivision Agent at the time of final subdivision approval the subdivision plat shall include A) a bikeway and pedestrian connection to the adjacent property on the Northwest of the Property (Fieldcrest section V), and B) a bikeway and pedestrian connection to property to the South deeded to the County by Frances M. White as identified in Deed Book \_\_\_\_\_, Page \_\_\_\_\_. These connections shall be twelve (12) feet in width and dedicated to the County for "bike/pedestrian paths".
4. The Owner shall pay the County the sum of \$1,000 for each lot included on each subdivision plat of the Property payable prior to the approval of such final subdivision plat for the lots on the Property for use by the County for the purpose of constructing two additional lanes to Alternate Rt. 5.
5. In accordance with recommendations of the Area Drainage Study prepared by the County the development will utilize the existing "Beaver Pond" as a regional BMP. The homeowners

association, as established in 1. above, shall include responsibility for payment to the County of it's prorata share of the maintenance of the regional BMP based on the projects post development runoff impact on the BMP.

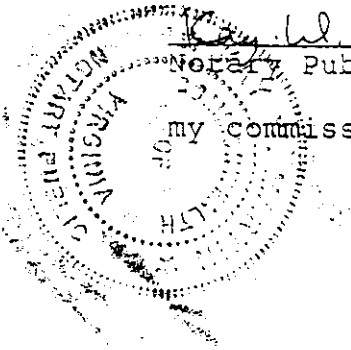
Frances M. White  
Frances M. White

State of Virginia, City/County of James City :

The above was acknowledged before me on this 8<sup>th</sup> day of May, 1996

Ray L. Martin  
Notary Public

my commission expires: October 31, 1996



VIRGINIA: City of Williamsburg and County of James City, to Wit:

In the Clerk's Office of the Court of the City of Williamsburg and County of James City the

2<sup>nd</sup> day of May, 1996. This Proffer was presented and annexed and admitted to record at 1:15 o'clock

Teste: Helene S. Clerk  
by Deborah A. [Signature]  
Deputy Clerk

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