

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF JULY, 2001, AT 7:04 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

John J. **McGlennon**, Chairman, **Jamestown** District
Bruce C. **Goodson**, Vice Chairman, **Roberts** District

Jay **T. Harrison**, Sr., **Berkeley** District
James G. **Kennedy**, **Stonehouse** District
Ronald A. **Nervitt**, **Powhatan** District

Sanford B. **Wanner**, County Administrator
Frank M. **Morton, III**, County Attorney

B. PLEDGE OF ALLEGIANCE

Mr. Calder **Glasebrook**, an eight grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Norm **Larkin**, 5303 Aden Court, stated that the proposed 365-unit timeshares proposed on Olde Towne Road may have as many as ten occupants per unit per week; voiced concern about the **traffic impacts** this use will have; voiced doubt about overall benefits to the community since the tenants will not be concerned about conserving water or resources; stated concern about community access to the public trail located within the gated community; and requested the Board deny the special use permit request.

2. Ms. Patricia **Neary**, 5301 Aden Court, supported Mr. **Larkin's** statement

3. Mr. Bob **Stowers**, 619 Beechwood Drive, stated **that the** original concerns regarding the Olde Towne Road timeshare project, such as traffic and water, have not been adequately addressed; that the timeshare is not residential; that the trail is offered as a benefit to the community, however, it is not accessible to the community; and also stated that there are more negative impacts to the community than benefits.

4. Ms. Rita Lopez, 5128 Ginger Court, stated **opposition** to the Olde **Towne Road** timeshare project; concerns that tourism is down by eight percent last year; indicated that new hotels have been built, and what happens if this project goes **bankrupt**; concern that **traffic** conditions have not improved on Olde Towne Road; and requested that the Board deny the request.

5. Mr. Craig Larson, 124 Old Meadows Road, stated support for the Olde Towne Road **timeshares**; indicated that the tourism revenue is a benefit to the local community, and that for every dollar spent on tourism. \$7 is returned to the local economy.

6. Mr. Ed Oyer, 139 Indian Circle, stated that a 2,700 home development has been approved near Lightfoot by the Planning Commission; that since the desalinization plant is to be a supplement to the existing water supply, it will benefit those within the Primary Service Area (PSA), but it is not a benefit to those residents on private wells outside the PSA; stated concern that New Town may have the same developmental problem as Stonehouse: primarily residential and more draining on the aquifers; and stated that a recent phone bill reflected three tax increases.

7. Mr. Vernon Geddy, III, on behalf of the Olde Towne Road timeshares applicant, stated that the special use permit will limit the land use to timeshares; that timeshares provide positive fiscal impacts to the community; that the applicant is sensitive to the water issues and has taken steps to include stormwater retention ponds for irrigation purposes in planning the site; that the traffic situation on Olde Towne Road has improved since 1999; that the timeshare traffic peak hours, speed limits, and added turn lanes on Olde Towne Road will not increase traffic congestion; that the proposed bike trail has been narrowed and the condition revised to require Board approval prior to construction; and requested Board approval.

D. CONSENT CALENDAR

Mr. McGlennon asked if a member wished to pull an item from the consent calendar.

Mr. Kennedy made a motion to adopt all items.

On a roll call vote, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

1. Contract Amendment - Williamsburg Regional Library

RESOLUTION

CONTRACT AMENDMENT - WILLIAMSBURG REGIONAL LIBRARY SYSTEM

WHEREAS, James City County, City of Williamsburg, and Williamsburg Regional Library operate the Library System under a five-year contract signed January 1999; and

WHEREAS, recent experience has revealed a need to clarify the provisions in the Contract for Library maintenance responsibility; and

WHEREAS, the County Administrator, the City Manager, and the Library Director have agreed that the wording of the attached amendment clarifies respective maintenance obligations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the amendment to Section 5 of the January 1999 contract between the County of James City, the City of Williamsburg, and the Williamsburg Regional Library System.

2. Appropriation to James City County Transit Company

RESOLUTION

APPROPRIATION TO JAMES CITY COUNTY TRANSIT COMPANY

WHEREAS, James City County Transit Company received an additional \$20,990 from the **Hampton** Roads Planning District Commission and the Metropolitan Planning **Organization** to purchase ten replacement buses.

NOW, THEREFORE, BE **IT** RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments to the **N** 02 Transit Budget:

Revenue:

Federal Funds	<u>\$20,990</u>
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Expenditures:

James City County Transit Company	<u>\$20,990</u>
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E. **PUBLIC HEARINGS**

1. Case No. SUP-08-01. Hogan Day Care

Mr. Ben Thompson, Planner, stated that **Cathrine** K. Hogan has applied for a special use permit to operate a child day care center out of her home on .331 acres, zoned R-2, General Residential, at 233 Nina Lane, further identified as Parcel No. (23-4) on James City County Real Estate Tax Map No. (3-2-3).

Staff found the proposal inconsistent with the surrounding zoning and development, and inconsistent with the Comprehensive Plan.

Mr. Thompson stated that on July 2, 2001, the Planning Commission voted 5-2 to deny the application.

Staff recommended denial of the application

The Board and staff discussed anticipated traffic counts with approval of the applications, State regulations regarding day care provider certification requirements, Ordinance regulation concerning home-based businesses, Department of Health requirements associated with the application, and adequacy of the size of the play area.

Mr. **McGlennon** opened the public hearing.

1. Mr. John Hogan, the applicant, described the process for getting the application before the Board; voiced concern regarding the number of changes made to the application requirements during the process; stated that the hours of operation for the center will be from **8:30 a.m.** to **1:30 p.m.**; that the play area size meets State space guidelines; that the facility has been reviewed by a State licensing specialist; that this application is a step towards **expanding** and relocating the program; requested the Board approve the

application; and stated that a petition with a **Homeowner's** Association letter has been submitted to the Board in support of the application.

The Board, staff, and applicant discussed potential time frames and locations for the relocation of the operation.

2. Ms. Sarah Kueser, 109 Candlestick Place, stated support for the application and stated that traffic is not a problem.

3. Mr. Mike Hayes, 104 Oak Ridge Court, stated support for the application, indicated that traffic is not a problem, and requested the Board support this type of home business.

4. Mr. Chris Henderson, 427 Dogleg Drive, stated that residents are searching for quality day care and they are going outside the County to get this service; and requested the Board approve the application.

Mr. **McGlennon** closed the public hearing as no one wished to speak

The Board held a brief discussion concerning the County Ordinance, hours of operation, **traffic**, and septic field adequacy for application.

Mr. Nervitt made a motion to adopt the resolution as revised.

On a roll call vote, the vote was: AYE: Harrison, **Kennedy**, Nervitt, **Goodson**, **McGlennon** (5). NAY: (0).

RESOLUTION

CASE NO. SUP-08-01. HOGAN DAY CARE

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, Mrs. **Cathrine K.** Hogan has applied for a special use permit to allow a child day care center for **eight** children within her existing home located at 233 Nina Lane; and

WHEREAS, the property is located on land zoned R-1, Limited Residential District, and can be further identified as Parcel No. (3-203) on James City County Real Estate Tax Map No. (23-4); and

WHEREAS, the Planning Commission, following its public hearing on July 2, 2001, voted 5 to 2 to deny this application.

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-08-01 as described herein with the following conditions:

1. If a certificate of occupancy has not **been** obtained for the project within thirty-six months from the issuance of the special use **permit**, the permit shall become void.
2. No more than eight children shall be permitted at the day care center.

3. The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.
4. The owner/operator of the child day care center shall reside on the property.
5. All play areas shall be screened with fencing or shrubbery, to be approved by the Planning Director.
6. Hours of operation shall be limited from 7:00 a.m. to 1:30 p.m., Monday through Friday.
7. A site plan shall be submitted to and approved by the Planning Director.
8. This special use permit shall be valid for a period of thirty-six months from the date of issuance of this special use permit.
9. No additional exterior lighting shall be permitted on the property other than lighting typically used at a single-family residence.
10. No signage shall be permitted on the property.
- II. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-10-01. Miss Vickie's Clubhouse Child Day Care Center

Ms. Jill Schmidle, Planner, stated that Ms. Vickie Skutans has applied for a special use permit to operate a child day care center out of her home, on .75 acres, zoned R-1, Limited Residential, located at 108 León Drive, further identified as Parcel No. (2-3-7), on James City County Real Estate Tax Map No. (47-2).

Ms. Schmidle stated that on July 2, 2001, the Planning Commission voted 4-3 to deny the application.

Staff recommended denial of this application.

The Board and staff held a discussion regarding the Virginia Department of Transportation's traffic assessment at the site, noise levels, the number of children permitted on site by this application request, and the adequacy of play space.

Mr. McGlennon opened the public hearing

I. Ms. Willafay McKenna, representing the applicant, stated that there is a demand for this type of service in James City County; that child day care is acceptable in this zoning; that the application is requesting only 3-5 more children than is currently allowed by-right; that traffic and noise are not a problem; and that the residents support this application.

The Board inquired if the applicant would find it acceptable to lower the number of children permitted on the site from ten to eight.

2. Ms. Holly Speight, 6033 Fox Hill Road, stated the demand for child care is growing and the County should support this project that addresses the needs of the children and mothers in the community.

3. Dr. Steven Suders, 104 Stanley Drive, stated support for this initiative; indicated that the proposal will not significantly impact traffic in the neighborhood; that the neighborhood already has an existing service to the children at **Indigo** Park pool and the residents do not complain about traffic tie-ups; that there are several roads accessing the site that will minimize **traffic** tie-ups; and requested the Board support this initiative.

Mr. **McGlennon** closed the public hearing

Mr. **Goodson** made a motion to adopt the resolution with the number of children permitted on site reduced from ten to eight.

The Board and staff discussed the benefits of a limited three-year permit

Mr. **Goodson** amended the motion to adopt the resolution with ten children permitted on the site.

Mr. **McGlennon** moved to modify the motion to limit the number of children to eight.

The Board and staff discussed the evaluation process and State's employee to children ratio requirement.

Mr. **Goodson** withdrew his motion.

Mr. **McGlennon** withdrew his motion

The Board and **staff** held a brief discussion regarding the impacts of increasing the number of children above eight, the guidelines establishing a business as home-based, size of the lot, and employee vehicle impacts.

Mr. **Goodson** made a motion to adopt the resolution as presented to the Board with ten children.

On a roll call, the vote was: AYE: **Harrison, Kennedy, Goodson** (3). NAY: **Nervitt, McGlennon** (2).

RESOLUTION

CASE NO. SUP-10-01. MISS VICKIE'S CLUBHOUSE CHILD DAY CARE CENTER

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, Ms. **Vickie Skutans** has applied for a special use permit to allow a child day care center for ten children **within** her existing home located at 108 Leon Drive; and

WHEREAS, the property is located on land zoned **R-1**, Limited Residential District, and can be further identified as Parcel No. (2-3-7) on James City County Real Estate Tax Map No. (47-2); and

WHEREAS, the Planning Commission, following its public hearing on July 2, 2001, voted 4 to 3 to deny this application.

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-10-01 as described herein with the following conditions:

1. If a certificate of occupancy has not been obtained for the project within **36** months from the issuance of the special use permit, the permit shall become void.
2. No more than ten children shall be permitted at the day care center,
3. The applicant shall submit a written Agreement outlining the requirements for water meter upgrades and provide an implementation schedule to the James City Service Authority (JCSA) and shall receive approval of this Agreement and any improvements from JCSA prior to issuance of a certificate of occupancy.
4. The **owner/operator** of the child day care center shall reside on the property.
5. All play areas shall be screened with fencing or shrubbery, to be approved by the Planning Director.
6. Hours of operation shall be limited from **7:00** a.m. to 5:30 p.m., Monday through Friday.
7. A site plan shall be submitted to, and approved by, the Planning Director.
8. This special use permit shall be valid for a period of **36** months from the date of issuance of this special use permit.
9. No additional exterior lighting shall be permitted on the property other than lighting typically used at a single-family residence.
10. No **signage** shall be permitted on the property.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Lease with New Zion **Baptist** Church for the Centerville Resource Center

Mr. Leo Rogers, Deputy County Attorney, stated that New Zion Baptist Church has volunteered to operate the Centerville Resource Center as **a community** resource center until they complete a building project. The proposed lease would open the facility to the Church and to the Community, with first priority to the Church, then Community, then County-sponsored programs. The Church will operate and maintain the Resource Center at its sole expense, and the term of the lease is for one year, with the option to renew for four additional one-year terms.

Staff recommended that the Board adopt the resolution authorizing the County Administrator to execute the lease.

The Board and staff briefly discussed the County's intent to sell the structure to a qualified buyer through the County's Affordable Housing Program **after** New Zion Baptist Church's use of the facility ends.

Mr. **McGlennon** opened the public hearing.

Mr. **McGlennon** closed the public hearing as no one wished to speak

Mr. **Goodson** made a motion to adopt the resolution.

On a roll call, the vote was: AYE: **Harrison, Kennedy, Nervitt, Goodson, McGlennon** (5). NAY: (0).

RESOLUTION

LEASE WITH NEW ZION BAPTIST CHURCH FOR THE CENTERVILLE

RESOURCE CENTER

WHEREAS, the County owns **0.459** acres with improvement **thereon** known as Lot 26, Section 1, Forest Glen, James City County, Virginia, designated as Parcel No. (2-26) on James City County Real Estate Tax Map No. (31-3) and commonly known as 3832 **Longhill** Road (the "Property"); and

WHEREAS, the New Zion Baptist Church wishes to lease the Property for the purposes of conducting church programs, community activities, and County sponsored events; and

WHEREAS, New Zion Baptist Church is willing to manage the Property and operate it for the benefit of the Community.

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, authorizes and directs the County Administrator to execute the **Centerville** Resource Center Lease with the New Zion Baptist Church and such other documents as may be necessary to effectuate the Lease.

4. Case No. Z-6-00/SUP-28-00. Loulvnn Acres – Chesapeake Park

Mr. Paul D. **Holt, III**, Planner, stated that Mr. Vernon Geddy, **III**, has applied on behalf of **Loulvnn** Acres Associates to rezone a portion of the property to allow for a bank on 1.9 acres, zoned **B-1**, General Business, located at 8909 **Barhamsville** Road, further identified as Parcel No. (1-3A) on James City County Real Estate Tax Map No. (12-1).

Staff did not **find** the proposal consistent with the Comprehensive Plan.

Mr. Holt stated that on June 4, 2001, the Planning Commission voted 6-0 to approve the application.

Staff found the applicant's request that the **permit** be valid for 60 month from SUP approval for the start of construction of the project inconsistent with time limits placed on other SUP applications. Staff recommended commencement of construction be within 36 month of SUP approval.

The Board and staff discussed alternative locations for the bank; services provided by the bank being needed in the upper end of the County; proposed access to the site from Route 30; proposed intersection improvements; and lack of a master plan for the remaining parcel included in the rezoning request.

Mr. **McGlennon** opened the public hearing.

I. Mr. Vernon Geddy, **III**, applicant, introduced Mr. Marshall Warner, Chesapeake Bank, and Mr. Richard Costello, **AES**.

Mr. Geddy, Mr. **Warner**, and Mr. **Costello** gave the Board an overview of the proposed master plan for the site, concerns from citizens and staff regarding the proposed master plan, traffic impacts, need for **services** provided by a bank in the upper portion of the County, concerns from staff and citizens regarding access to Route 30 and Old Stage Road, and requested that the Board approve the rezoning **for the** parcel and approve the site plan for the bank.

The Board, staff, Mr. Geddy, Mr. Wamer, and Mr. **Costello** discussed the time limit on **SUPs, BMPs**, shared parking, access to Route 30, citizens concerns regarding access to site from Old Stage **Road**, and deferral for review of another Master Plan.

2. Mr. Charlie Crawford, property owner, stated that the stand-alone structures will permit the County to control the type and design of the development, requested the Board act on the request tonight, and requested modification of the time limit for the SUP be modified to 36 months if that would allow the Board to vote on the application this evening.

The applicant, Board, and staff discussed the proposed change to 36 months,

Mr. Kennedy made a motion to approve the resolution authorizing the rezoning of approximately 1.9 acres to **B-1**, General Business, and the resolution authorizing the approval of a special use permit for 36 months.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

RESOLUTION

CASE NO. 2-6-00. LOULYNN ACRES - CHESAPEAKE PARK

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Case No. 2-6-00 for rezoning of approximately 1.9 acres from **A-1**, General Agricultural, to **B-1**, General Business, with proffers; and

WHEREAS, this case is being approved concurrently with Case No. SUP-28-00; and

WHEREAS, on June 4, 2001, the Planning Commission recommended approval of this application by a vote of 6-0; and

WHEREAS, the property to be rezoned is identified as a 1.903 acre portion of Parcel No. **(1-3A)** on the James City County Real Estate Tax Map No. (12-I), more particularly described in Exhibit A to the proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. 2-6-00 and accepts the voluntary proffers.

RESOLUTION**CASE NO. SUP-28-00. LOULYNN ACRES -CHESAPEAKE PARK**

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance, specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, the applicant has requested a commercial special use permit to allow for a use which will generate more than **100** peak hour vehicle trips. More specifically, a bank located at 8909 **Barhamsville** Road; and
- WHEREAS, a portion of the property is being **rezoned** concurrently with this special use permit from A-I, General Agricultural, to **B-1**, General Business, with proffers, under Case No. 2-6-00; and
- WHEREAS, the property is designated Mixed Use on the 1997 Comprehensive Plan Land Use Map; and
- WHEREAS, the property is more specifically identified as Parcel No. (1-3A) on the James City County Real Estate Tax Map Number (12-1); and
- WHEREAS, on June 4, 2001, the Planning Commission recommended approval of the application by a vote of **6-0**.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-28-00 as described herein with the following conditions:

1. Free standing **signage** shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a free standing sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed 8 feet in height from grade.
2. A sidewalk, 5 feet in width, shall be provided from the bank parcel to **Highfield** Drive. This pedestrian connection shall be shown on any site plan for development on Parcel **1** and its design and location subject to the review and approval of the Planning Director.
3. Start of construction, as defined in the Zoning Ordinance, shall have commenced on this project within 36 months of approval or this special use permit shall be void.
4. All exterior lights on the property shall be recessed fixtures with no bulb, lens, or globe **extending** below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side.
5. The building architecture shall be consistent, as determined by the Director of Planning, with the building rendition prepared by Guemsey-Tingle Architects and dated **June 4, 2001**.
6. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

5. Case No. MP-03-01. Greensprings Plantation Master Sign Plan Amendment

Ms. Jill E. **Schmidle**, Senior Planner, stated that Robert Oliver, Jamestown, LLC, has applied for an amendment to the **Greensprings** Plantation Master Sign Plan under the requirements of Section 24-292 of the Zoning Ordinance to allow four additional directional signs for the Williamsburg National Golf Course and 12 additional subdivision signs for sections within Greensprings West subdivision.

Staff found the number of additional signs requested for the golf course to be excessive and recommended that the Greensprings Plantation Master Sign Plan be amended to include two additional directional signs for Williamsburg National Golf Course and 12 additional subdivision signs for Greensprings West subdivision with the conditions listed in the resolution.

Mr. **McGlennon** opened the public hearing

Mr. **McGlennon** closed the public hearing as no one wished to speak

Mr. Harrison made a motion to adopt the resolution

On a roll call, the vote was: AYE: Harrison, Kennedy, **Nervitt**, **Goodson**, **McGlennon** (5). NAY: (0).

R E S O L U T I O N

CASE NO. MP-03-01. GREENSPRINGS PLANTATION MASTER SIGN PLAN AMENDMENT

WHEREAS, the Board of Supervisors of James City County has adopted by **ordinance**, specific provisions to allow for the master planning of signs within the R-4, Residential Planned Community District; and

WHEREAS, Mr. Robert Oliver, on behalf of Jamestown, LLC, has applied to amend the existing Master Sign Plan for **Greensprings** Plantation within the R-4, Residential Planned Community District, on property generally identified as Parcel No. (1-1) on James City County Real Estate **Tax** Map No. (46-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Greensprings Plantation Master Sign Plan Amendment, Case No. MP-03-01, subject to the conditions listed below, to allow construction of additional signs within the planned community.

1. No more than two directional signs for Williamsburg National Golf Course shall be permitted. The two signs shall be no more than 24 inches by 15 inches, mounted on 4-foot posts, and shall generally conform to the design in Attachment 1, as determined by the Planning Director. The Planning Director shall approve the location of each directional sign.
2. No more than 12 additional subdivision identification signs shall be permitted in the interior of Greensprings West subdivision. The 12 signs shall be monument style, no greater than 32 square feet, and shall generally conform to the design in Attachment 2, as determined by the Planning Director. The Planning Director shall approve the location of each subdivision sign.

3. Signs shall not be internally illuminated.

6. Case No. Z-8-00/SUP-29-00. Williamsburg Christian Retreat

Ms. Jill E. Schmidle, Senior Planner, stated that Mr. **Robert Ackerman** has applied on behalf of the Williamsburg Christian Retreat Center for a **rezoning** to allow a 5 I-lot single-family subdivision retirement community **as well as** a special use permit to allow a nine-hole golf course for youth and retirees on 138 acres, zoned A-I, located at 9241 Barnes Road, further identified as Parcel No. (1-14) on James City County Real Estate Tax Map No. (4-3).

Staff found the proposal to rezone to residential outside the Primary Service Area contrary to the Comprehensive Plan.

Ms. Schmidle stated that on June 4, 2001, the Planning Commission voted 5-1 to deny this application

Staff recommended the Board deny this rezoning and special use permit request

The Board and **staff held** a discussion concerning the water system costs associated with the proposed project; concerns about the removal of trees to create open space; the Health Department review of the septic system; surrounding zoning and subdivisions; **traffic** impacts; and concerns regarding the condition of **Barnes Road** and impacts of proposed project on the road.

Mr. **McGlennon** opened the public **hearing**.

1. Mr. David Eberly, 205 Roger **Webster**, provided the Board with an overview of the **Mennowood at Williamsburg's** goals and resources, provided an overview of the master plan and proffers for the project, and stated that the PSA does not extend to the site and **traffic** will not be a problem with senior residents.

2. Dr. Donald I. Messmer and Ms. Suzanne Huddleston of The **Wessex** Group, Ltd., provided the Board with the Fiscal and Economic Impact Analysis of Mennowood at Williamsburg including a brief description of the project and a comparison of the proposed project impacts vs. by-right impacts.

3. Mr. Steve Driver, McGee-Carson planning consultant to the applicant, stated that the proposal includes clustered homes to minimize impact on the open space.

The Board and Mr. Driver discussed the intent to minimize the impact on open space, the high number of homes proposed for the site, ownership **of the** homes, anticipated costs for the homes, monthly maintenance fees, process for the buy-back of the homes, breakdown of anticipated revenue to County, revenue expectations from golf, golf course users, **traffic** and parking associated with the golf course, concern that it is a retirement community but attracting youth under 18 years of age to utilize the golf facility, tax status of the organization, and type of materials that may be used for the parking lot.

4. Mr. Bill **Rutledge** gave an overview of the "First Tee" program and stated support for this initiative.

5. Ms. Jeanette Showalter, President of Mennowood Land Company, read a letter from the stakeholders of Mennowood Land Company that stated the land will be developed by-right if the request for rezoning and special use permit are denied and that the company has presented a plan that preserves the land by exceeding the standards set for rural land use.

6. Dr. Sanford Snider, 7140 Turner Road, Richmond, read a letter from Dr. Jim **Stam**, President of Stonehouse Homeowners Association, in support of the application.

7. Ms. Kathryn Baer, 1 Holloway Road. **Newport** News, stated support for cluster building in rural areas.

8. Ms. Susan **Ackerman**, 524 Marlin Drive, **Newport** News, read a letter from Rosa **Mayes**, a resident of the **Racefield** subdivision, in support of the rezoning, the preservation of trees, buffers, and use of the proposed recreational area.

9. Mr. **Orville** Yoder, 211 Cherokee Road, **Hampton**, stated support for the project and would like to reside on the premises and would volunteer in the community if the project is approved.

10. Mr. Glen **Stoltzfus**, 981 Summit Avenue, Hamsonburg, gave a history of the retreat center and the benefits the center will provide as a part of Mennowood.

11. Mr. Lloyd Weaver, 198 Colony Road, **Newport News**, **requested the** Board's approval on this application.

12. Mr. Randy Coblentz, 9301 Barnes Road, read a letter of support from 35 residents and landowners along Barnes Road.

13. Mr. Raymond Stewart, 9583 Barnes Road, stated that traffic along Barnes Road is terrible; that the road is in poor conditions and cannot handle the additional traffic; that the County has several other golf courses; stated concern for the continued tapping of limited water resource and electrical services; requested the Board deny the application; and stated that the proposed removal of trees cannot be replaced within the next couple generations.

14. Mr. Ed Oyer, on behalf of his son and neighbors on Barnes Road, requested the Board control growth; stated water consumption is increasing and will continue despite proposal that indicates pond water will be used to water the golf course; requested the Board deny this application; and stated that the desalinization plant and Potomac aquifer do not need the added demand of this development.

Mr. **McGlennon** closed the public hearing as no one else wished to speak

The Board discussed residential developments outside the Primary **Service** Area, **traffic** concerns, taxation, golf courses in the County, environmental impacts, clustering of residential units, and water **concerns** associated with this proposal.

Mr. Kennedy made a motion to deny the request for rezoning and a special use permit.

On a roll call, the vote was: AYE: Kennedy, Nervitt, **Goodson**, **McGlennon** (4). NAY: Harrison (1).

F. BOARD CONSIDERATION

1. Case No. SUP-18-99. Olde Towne Road Timeshares (deferred from September 12, 2000)

Ms. Jill **Schmidle**, Planner, stated that Mr. Richard **Costello**, **AES** Consulting Engineers, on behalf of Mr. Philip Richardson and Phil Richardson Company, **Inc.**, has revised the application for a special use permit to allow 365 timeshares within a residential cluster and one single-family lot, density 2.80 dwelling units per

acre, on 130.40 acres, zoned R-2, General Residential, located at 5295, 5350, and 5380 Olde Towne Road, further identified as Parcel Nos. **(1-26)**, **(1-26A)**, and (1-36) on James City County Real Estate Tax Map No. (32-4) and Parcel No. (1-30) on James City County Real Estate Tax Map No. (33-3).

Ms. **Schmidle** stated that on July 5, 2000, the Planning Commission voted 4-3 to approve the application with the attached conditions.

Staff found the revised proposal consistent with the surrounding zoning and single-family, multi-family, and timeshare uses, consistent with the Residential Cluster Zoning Ordinance, and consistent with the Comprehensive Plan.

Staff recommended approval of the proposal with the conditions listed in the resolution

The Board and staff discussed the **Powhatan** Watershed Study findings; traffic counts on Olde Towne Road since the completion of Route 199; citizen concerns regarding the trail locations; water supply; proposed percentage of open space to be preserved; safety and crime concerns regarding the trail; dedication of a conservation easement; the number of proposed units; and by-right development.

Mr. **Goodson** made a motion to adopt the resolution granting a special use permit.

On a roll call, the vote was: AYE: Harrison, Kennedy, **Goodson**, **McGlennon** (4). NAY: **Nervitt** (1).

RESOLUTION

CASE NO. SUP-18-99 OLDE TOWNE ROAD TIMESHARES

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, Mr. Richard **Costello** has applied on behalf of Mr. Philip Richardson and Philip Richardson Company, **Inc.**, for a special use permit to allow 365 timeshare units in a residential cluster; and

WHEREAS, the proposed residential cluster is shown on the Master Plan prepared by **AES** Consulting Engineers, dated May 10, 2000, and entitled "Olde Towne Road **Timeshares**," and

WHEREAS, the property is located on land zoned R-2, General Residential District, and can be further identified as Parcel Nos. **(1-26)**, **(1-26A)**, and (1-36) on James City County Real Estate Tax Map No. (32-4) and Parcel No. (1-30) on James City County Real Estate Tax Map No. **(33-3)**; and

WHEREAS, the Planning Commission, following its public hearing on **July 5, 2000**, voted 4-3 to approve this application.

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-18-99 as described herein with the following conditions:

1. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this permit shall be void. Construction shall be

defined as the first placement of permanent construction of a structure on a site, such as the **pouring** of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Construction does not include land preparation such as clearing, **grading**, or filling.

2. The Master Plan of development required under Section **24-554** of the Zoning Ordinance shall be generally consistent with the Conceptual Plan "Olde Towne Road Timeshares" prepared by **AES** Consulting Engineers, Revised May 10, 2000, **as determined** by the Director of Planning. Development of the site shall be generally in accordance with the Master Plan, with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
3. The property shall be developed as a timeshare project. There shall be not more than 365 timeshare units in addition to associated recreation facilities on the property and one single-family residential lot, its location identified on the Master Plan.
4. The applicant shall implement the road improvements recommended by the traffic study "Traffic Analysis for Olde Towne Road Timeshares on Olde Towne Road prepared by DRW Consultants, **Inc.**, September 9, 1998, prior to issuance of the first Certificate of Occupancy for any structure on the site.
5. Prior to **preliminary** site plan approval, an engineering study shall be submitted to and approved by the James City Service Authority confirming the sanitary sewer system capacity.
6. All dumpsters and heating and cooling units shall be screened by landscaping or fencing approved by the Planning Director prior to final site plan approval.
7. **Free-standing** signs shall be ground-mounted, monument style, and shall be approved by the Planning Director prior to final site plan approval.
8. The landscape plan shall be approved by the Planning Director prior to final site plan approval for any section or phase of this project and shall include enhanced landscaping around the perimeter of each timeshare building, so that the required number of plants equals at least 133 percent of the County's Landscaping Ordinance requirements with a **minimum** of 33 percent of the required number of trees being evergreen. The landscape plan shall also contain landscape screening and berms with a **minimum** 8-foot height along the Olde **Towne** Road and Route 199 frontage, at the location shown on the Master Plan.
9. Four-foot Class **II** bikeways shall be provided on both sides of Olde Towne Road at the location shown on the Master Plan prior to the issuance of the first Certificate of Occupancy for any structure on this site. A 4-foot sidewalk shall be provided at the location shown on the Master Plan on the eastern side of Olde Towne Road prior to the issuance of the first Certificate of Occupancy for any structure on this site.
10. All exterior light fixtures on the property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted to, and approved by, the Planning Director which indicates the fixture type and that no glare will occur outside the property lines. "Glare" shall be defined as more than 0.1

footcandle at the property line or any direct view of the lighting source from a public street or adjoining residentially designated property.

11. An 8-foot wide paved public use path with 3-foot wide mulched shoulders and a 6-foot wide public use mulched path as shown generally on the Master Plan shall be constructed prior to the issuance of a certificate of occupancy for no more than 200 timeshare units if the Board of Supervisors has approved construction of this path and requested it in writing. If the Board of Supervisors has not approved construction of this path and requested it in writing within seven years of the approval of this Special Use Permit, the applicant **and/or** its successors shall have no obligation to construct this path. The path shall be located no closer than 80 feet from the nearest residential property line. The applicant shall fully maintain the paths and bridge during the period of time the developer is constructing the timeshare units.
12. The applicant shall work out an **arrangement** with the Virginia Department of Transportation to address **traffic** issues and safety concerns on Olde Towne Road. The applicant shall provide documentation of the agreed upon arrangement prior to **final** site plan approval.
13. The applicant shall dedicate to the County, by conservation easement for the purpose of providing public access to the public-use paths, 44.94 acres of the Chisel Run Swamp, identified on the Master Plan as "Protected and Preserved Natural Area, RMA Wetlands, and Buffers," in a form approved by the County Attorney prior to final site plan approval for any structure on the site.
14. The applicant shall provide water for irrigation utilizing surface water collection from the two surface water impoundments as shown on the master plan and shall not use JCSA water or well water for irrigation purposes. This **irrigation** system shall be included with the site plan for the project and shall be approved by the Director of Planning. The system shall be in place and operational prior to issuance of a certificate of occupancy for any structure on the site. This requirement prohibiting the use of well water may be waived by the County Engineer if the applicant demonstrates to the County Engineer that there is insufficient water for irrigation in the surface water impoundments, and the applicant may apply for a waiver for a shallow (less than 100 feet) well only.
15. In order to mitigate the fiscal impact of the road improvements on Olde Towne Road caused in part by this project, for a period of 15 years **from** the issuance of this special use **permit**, the area shown on the Master Plan as "Reserved Lot" may be used as one residential lot if needed by the County or the Virginia Department of Transportation ("VDOT") to relocate a family displaced due to the Olde Towne Road improvements. A subdivision creating the **"Reserved Lot"** shall be permitted only in connection with a conveyance to the County or VDOT for the purpose identified in this paragraph. In the event the "Reserved Lot" is not used for the purpose allowed in this paragraph, the "Reserved Lot" shall remain open space.
16. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

G. PUBLIC COMMENT

1. Mr. Richard Costello, **AES** Consulting, deferred to Mr. Norm **Larkin**.

2. Mr. Norm **Larkin**, 5303 Aden Court, stated that the availability of water is a problem; stated that **information** sent out from **AES** indicates the local residents will not be concerned about neatness; that 365 units with 10 to 12 occupants each will have an impact on the traffic conditions on Olde Towne Road; and disagrees **with** the six-month traffic study of the traffic counts on Olde Towne Road.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that upon completion of the items on the agenda, the Board adjourn until the next regularly scheduled meeting on July 24, 2001, and that following the Board's meeting, the James City Service Authority Board of Directors convene for a brief meeting.

Mr. Wanner recommended that the Board appoint Ms. Ann **Janni** to the Clean County Commission.

Mr. **Goodson** made a motion to appoint Ms. **Janni** to the Clean County Commission for a three-year term, term to expire on July 10, 2004.

On a roll call, the vote was: AYE: **Harrison**, Kennedy, Nervitt, **Goodson**, McGlennon (5). NAY: (0).

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon requested staff follow up on Mr. Hogan's concerns regarding the accuracy of the contact information for Case No. SUP-8-01, Hogan Day Care within staff records.

Mr. Kennedy made a motion to adjourn until July 24, 2001, at 7 p.m.

On a roll call, the vote was: AYE: **Harrison**, Kennedy, Nervitt, **Goodson**, McGlennon (5). NAY: (0).

The Board adjourned at 12:48 a.m.



Sanford B. Wanner
Clerk to the Board

010012235

PROFFERS

THESE PROFFERS are made this 29th day of June 2001 by LOULYNN ACRES ASSOCIATES (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia containing approximately 9.898 acres and being Tax Parcel (12-1)(3-A). The parcel is now zoned A-1 and is designated Mixed Use on the County Comprehensive Plan Land Use Map.

B. Owner has applied to rezone a portion of the parcel (the "Property") described on Exhibit A hereto attached from A-1 to B-1 General Business District, with proffers.

C. Owner has submitted to the County a master plan entitled "Chesapeake Park" prepared by AES Consulting Engineers and dated May 14, 2001 (the "Master Plan") for the Property.

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned A-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the

requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Buffers.** Prior to the issuance of a temporary certificate of occupancy, Owner shall have constructed the berms shown on the Master Plan and installed the landscaping thereon. The landscaping installed shall be Transitional Screening as required by the Zoning Ordinance and shall contain either 133% of the evergreen trees required by the Zoning Ordinance or 125% of the general planting required by the Zoning Ordinance as determined by the Director of Planning. The County shall not be obligated to grant final site plan approval for any buildings on the Property until such berms and landscaping have been installed or their installation commenced and completion guaranteed by surety in a form approved by the County Attorney and posted with the County. All berms on the Property shall have at least a six inch layer of topsoil and any fill material used in the construction of the berms shall be subject to the approval of the Director of Planning or his designee.

2. **Entrance.** There shall be only one entrance into the Property from Route 30 and it shall be located generally as shown on the Master Plan. Owner shall provide an easement for

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vehicular traffic to and from the entrance into the Property to and from the balance of Tax Parcel (12-1) A as it exist on the date of approval of the rezoning. There shall not be any vehicular connection to Highfield Drive.

3. Turn Lanes. Concurrently with the construction of the entrance into the Property directly across from La Grange Parkway and prior to the issuance of a certificate of occupancy for the building on the Property, a right turn lane and a left turn lane from Route 30 into the entrance to the Property as shown on the Master Plan shall have been constructed or construction commenced and completion bonds or other surety acceptable to the County Attorney posted to assure completion of the turn lanes. All turn lanes shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and guidelines and shall be designed to incorporate shoulder bike lanes. Owner shall convey, free of charge, to the County or VDOT the right of way for the cul-de-sac at the end of Highfield Drive as noted and shown on the Master Plan.

4. Archaeology. (a) Prior to any land disturbing activities on the Property, Owner shall submit an archaeological study of the Property in accordance with the Board of Supervisors adopted Archaeological Policy in effect at the time of approval of the rezoning to the Director of Planning for review and approval.

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5. Route 30 Buffer. Enhanced landscaping (as defined below) shall be provided within the 50' landscape and building setback along Route 30 as shown on the Master Plan. The enhanced landscaping shall be shown on the site plan for development of the Property and shall be subject to the approval of the Development Review Committee. As used herein "enhanced landscaping" means landscaping that (i) exceeds the numerical requirements of the Landscaping Ordinance by at least 25% or (ii) is otherwise approved by the Director of Planning.

6. Lighting. Street light poles within 100 feet of the boundary of the Property along Route 30 shall not exceed 20 feet in height. All other street light poles on the Property shall not exceed 15 feet in height. All building mounted external lights along the back of the building on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. These lights shall be shown on a lighting plan to be submitted to and approved by the Director of Planning and shall indicate that no glare is cast off the Property onto adjacent properties.

WITNESS the following signature

LOULYNN ACRES ASSOCIATES

By: *Charles David Craigher*
General Partner

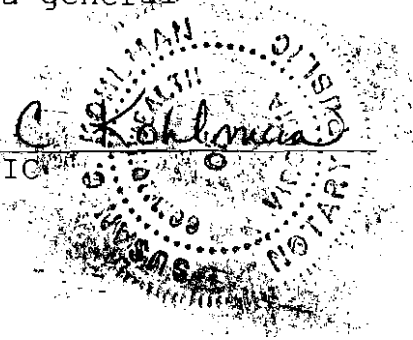
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STATE OF VIRGINIA AT LARGE

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

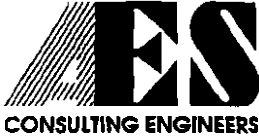
The foregoing instrument was acknowledged this 29 day of June, 2001, by Charles David Crawford As General Partner of Loulynn Acres Associates, a Virginia general partnership.

Susan C. Kohlman
NOTARY PUBLIC



My commission expires: 6/30/2004.

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5248 Olde Towne Road ■ Suite 1 • Williamsburg, Virginia 23188
(757)253-0040 ■ Fax (757)220-8994 ■ E-mail aes@aesva.com

May 18,2001

PROPERTY DESCRIPTION OF
1.903 ACRES
BEING A PORTION OF THE PROPERTY
OWNED BY LOULYNN ACRES ASSOCIATES

All of that certain parcel of land situated on **Highfield** Drive of Burnham Woods Subdivision – Section “3” and located within James City County, Virginia containing 1.903 acres more or less and more fully described as: Commencing at a point on the **northern** right of way of **Highfield** Drive, being a comer to Lot 44 of **Burnham** Woods Subdivision – Section "3" and being 27.29' more or less **from** the **eastern** right of way of **Overton Trail**; thence **S86°48'30"E**, 567.70' to a point, being the point of beginning for this parcel and the southeast comer of Lot 41 of Burnham Woods Subdivision Section “3”; thence leaving the right of way of Highfield Drive and along Lot 41 **N03°11'30"E**, 150.00' to a point, being a comer to this parcel, Lot 41 and a parcel of land now or formerly standing in the name of Delmarva Properties, Inc.; thence leaving Lot 41 and along the line of Delmarva Properties Inc. **S86°48'30"E**, 100.79' to a point; thence **N38°48'30"E**, 162.85' to a point on the southerly right of way of Barhamsville Road (Rt. 168 and Rt. 30); thence leaving Delmarva Properties, **Inc.** and along the right of way of Barhamsville Road on a curve to the right having a radius of **1382.40'**, a length of 268.96' and a chord of **S52°53'32"E**, 268.54' to a point, being a comer to this parcel and the remaining lands of Loulynn Acres Associates; thence leaving the right of way of Barhamsville Road along the line of **Loulynn** Acres Associates **S42°40'54"W**, 292.90' to a point; thence **N48°05'22"W**, 109.51' to a point on the right of way of a proposed cul-de-sac; thence along a curve to the left having a radius of **50.00'**, a length of 114.68' and a chord of **N62°30'47"W**, 91.14' to a point; thence along a curve to the right having a radius of **50.00'**, a length of 36.14' and a chord of **S72°29'13"W**, 35.36' to a point; thence **N86°48'30"W**, 30.62' to the said point of beginning, said parcel being a portion of the property known as the "La Grange" Tract as shown in Plat Book 45, Page 28 and is subject to a 25' ingress/egress easement as shown on the above referenced plat.

01102670

VIRGINIA City of Williamsburg and County of James City, to Wit:
In the Clerk's Office at the Circuit Court for the City of Williamsburg and County of James City the 13 day of July, 2001 this Deed was presented with the certificate annexed and admitted to record at 11:44 Am o'clock.
Teste:
By: [Signature]
Deputy Clerk

Respectfully submitted,

AES Consulting Engineers

[Signature]

G. T. Wilson, Jr.
License No: 1183