

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF NOVEMBER 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Michael J. Brown, Chairman, Powhatan District  
Jay T. Harrison, Sr., Vice Chairman, Berkeley District  
Bruce C. Goodson, Roberts District  
John J. McGlennon, Jamestown District  
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, County Attorney

**B. MOMENT OF SILENCE**

Mr. Brown requested the Board and citizens observe a moment of silence.

**C. PLEDGE OF ALLEGIANCE**

Carlo Lewis, a junior at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION**

**1. Employee and Volunteer Outstanding Service Awards**

Mr. Brown and the other Board members presented Outstanding Service Awards to the following:  
**Individuals:** Dorothy Haramis, Dr. Richard Johnson, Henri and Chris Julie, Ian Rillett, and Kevin Linkous;  
**Outstanding Teams:** *Non-Profit Organization Networking E-mail List*, Benjamin Goldberg and Elizabeth Schmidt; *Customer Service Team and Trainers*, Wayne Bartlett, Donna Christian, Joe Davis, Tratisa Hayes, Liz Johnson, John Leclair, Lisa Quick, Mary Frances Rieger, Terri Salnoske, Anita Taylor, Cheryl Waldren, Stephanie Williams, Grace Boone, Beth Davis, Joan Etchberger, Doris Heath, LD Kemp, Valerie Overton, Rosemary Randall, Brad Rinehimer, Dawna Seibel, Jane Townsend, John Wilson, and Rona Vrooman; and  
**Commendation Awards:** *Looking to Learn: Original Paintings by Peter Catalanotto*, Noreen Bemstein, Charlotte Wood, Patrick Golden, Crystal Clay, Kathy McDevitt, and Sandra Towers; *Staff Choice Awards*, Benjamin Goldberg, Caroline O'Brien, and Jenny Payne; *Festival of the Reader*, Andrew Smith; *Storage Construction Project*, Greg Robins, Bob Belmore, Al Catlett, Richard Svadeba, and Sharon Hamlin; *SCADA*, Howard Anby, Kevin Linkous, and Jim Hopkins; *Working Towards Wellness Committee*, Alex Holloway, Brian Harriss, Carrie Binsfeld, Debbie Post, Joann Martin, John White, Mary Frances Rieger, Michelle Toutaint, Bart Johnson, Carol Luckam, Cecil Pool, John Leclair, John McDonald, Mike Vergakis, Phil Mease, and Rebecca Duncan; and the *RFP Committee*, Carol Schenk, Don Breland, Richard Drumwright, Robert Marakos, Bart Johnson, Niyoko Bell, Sandy Hale, and Tara Woodruff.

**E. PUBLIC COMMENT**

1. Mr. David Brown, 1502 Bushneck Road, stated concern about the increasing real estate assessments in the County, and stated concern that the Real Estate Assessment Office has discarded a decision of the Board of Equalization regarding his assessment appeal.

2. Mr. Gene Hofmeyer, 1409 John Tyler Highway, stated concern that the Rural Lands Committee was not publicly advertised for volunteers to serve on the Committee; stated concern that those appointed are not familiar with the land development potential and limitations in the County; stated concern that the initial Rural Lands Committee fell by the wayside and another Committee was formed which was a waste of the taxpayers' money; and requested the Rural Lands Committee members be fired and a more knowledgeable membership be appointed to the Committee.

3. Mr. Brian Oyer, 9025 Barnes Road, stated concern about the increase in real estate assessments in the County; the lack of response by the Real Estate Assessment office regarding his inquires to appeal the assessment on his property; stated that being notified on October 27 that he can apply to have his appeal heard by the Board of Equalization if he submits the appeal request by October 28 is not professional; and stated that the number of individuals speaking about issues and concerns associated with the Real Estate Assessment Office should spark an investigation into the affairs of the office.

4. Mr. Ed Oyer, 139 Indian Circle, requested a Colorado "TABOR- taxpayer's bill of rights - to ensure that the County would spend and live within its limits; commented on the Comprehensive Plan in York County; and stated concern that he is consistently limited to speak for three minutes while other speakers are permitted more time to have their voices heard.

**F. CONSENT CALENDAR**

Mr. Brown called attention to pages 7 and 17 of the agenda book and stated that "PPEA" referred to "PPTA." Mr. Bradshaw and Mr. Brown also clarified that a date on the resolution item F-4 was corrected, and the corrections were noted and made available.

Mr. Bradshaw made a motion to adopt the items on the consent calendar including the corrections to the October 25 regular meeting minutes and the resolution for the *Conversion of Part-Time Permanent Community Partnership Development Director Position to Full-Time Outreach Director Position in the Williamsburg Regional Library (WRL)*.

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

1. Minutes
  - a. October 25.2005. Work Session
  - b. October 25.2005. Regular Meeting
2. Amendment to Minutes of September 13.2005, Regular Meeting

3. Williamsburg Community Health Foundation Grant - \$11.097

**RESOLUTION**

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT - \$11.097

WHEREAS, the Williamsburg Community Health Foundation has awarded a grant in the amount of \$11,097 to the Fire Department for the purchase of Oxylators; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant expires on December 31, 2006, thus allowing any unspent funds as of June 30, 2006, to be carried forward to James City County's next fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

WCHF – Oxylator Grant \$11.097

Expenditure:

Oxylator Equipment \$11.097

4. Conversion of Part-Time Permanent Community Partnership Development Director Position to Full-Time Outreach Director Position in the Williamsburg Regional Library (WRL)

**RESOLUTION**

CONVERSION OF PART-TIME PERMANENT COMMUNITY PARTNERSHIP DEVELOPMENT

DIRECTOR POSITION TO FULL-TIME OUTREACH DIRECTOR POSITION IN THE

WILLIAMSBURG REGIONAL LIBRARY

WHEREAS, the Williamsburg Regional Library (WRL) wishes to create a new Outreach Division to coordinate all its activities that take place outside the two library buildings; and

WHEREAS, the management of those activities will require a full-time division director; and

WHEREAS, there exists a part-time permanent Community Partnership Development Director position that is already fulfilling part of that need; and

WHEREAS, the Board of Supervisors must approve adding positions to the WRL; and

WHEREAS, money is available in the WRL budget to affect this change

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the part-time permanent Community Partnership Development Director position, salary range 26, be converted into a full-time permanent Outreach Director position, salary range 27, effective December 1, 2005.

## **G. PUBLIC HEARINGS**

### **1. Case No. HW-4-05. Titan Ready Mix Concrete Batch Plant -Height Waiver**

Mr. David W. German, Planner, stated that G. Archer Marston, AES Consulting Engineers, on behalf of Titan Virginia Ready Mix, L.L.C./Titan America, has requested a height limitation waiver. On property zoned M-2, structures may be constructed up to 60 feet; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board. The applicant has specifically requested that a height limitation waiver be granted to allow for the construction of up to two aggregate (stone) silos, each not to individually exceed 80 feet in height. The two silos would stand together in a line perpendicular to Massie Lane and be well screened from adjacent properties by existing vegetation maintained for this purpose. The silo structures would be painted a very neutral and muted light beige color. Aggregate silos of this type are pre-designed components necessary for the construction and operation of ready mix concrete plants. The proposed use (ready mix concrete batch plant) had been previously approved for this site with SUP-46-89 and 2-17-89, so all that was in question with this application was the height of the two proposed silos for this facility.

Staff found the two proposed silos should present a negligible visual impact to surrounding properties and uses and the proposal was consistent with the requirements stated under Section 24-444 of the Zoning Ordinance.

Staff recommended approval of the resolution.

The Board and staff discussed the landscaping requirements to obscure the view of the silos.

Mr. Bradshaw stated that two buffers were critical to visibility, the large area of trees north of the railroad tracks and a berm on Route 60 that was heavily landscaped. He asked what guaranteed this visibility protection will remain. Staff responded that the berm was donated as preserved open space with trees, thus any clearing had to be approved. Staff stated that the vegetation on Richmond Road was also maintained as a requirement of that SUP, and that Richmond Road was a community corridor, so landscaping is preserved.

Mr. Brown opened the Public Hearing.

Mr. Arch Marsten, AES Consulting Engineers, stated that he had representatives from AES, Titan America, and Massie Contractors present. He thanked staff for their responsiveness in the matter, and then turned the presentation over to Mr. Chris Basek, AES Consulting Engineers.

Mr. Basek presented a briefing on the request for a height limitation waiver. He oriented the Board to the site, indicating Mirror Lakes Subdivision, the site, and where the photographs were taken. Mr. Basek showed the height relationship between an existing tower of roughly 80 feet tall and one radio tower of 200 feet tall. He showed the towers from several locations including from Mirror Lakes Subdivision, Route 60 at Anderson's Comer, and the Titan site. He showed the proposed location and a similar silo that is **constructed** elsewhere. He suggested that proposed planting be required as part of the site plan application and a row of trees on the interior of the curve at Massie Lane. He stated that this would hinder vision of the silos significantly.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing

Mr. Goodson made a motion to approve the resolution.

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

## RESOLUTION

### CASE NO. HW-4-05. TITAN READY MIX CONCRETE BATCH PLANT

WHEREAS, G. Archer Marston of AES Consulting, on behalf of Titan Virginia Ready Mix, LLC/Titan America, (the "Applicant"), has applied for a height limitation waiver to allow for the construction of up to two aggregate (stone) silos, each individually not to exceed 80 feet in height; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case HW-4-05; and

WHEREAS, the proposed silos will be located on property zoned M-1, Limited Business Industrial, and M-2, General Industrial, and is further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (13-3), (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-444 of the James City County Zoning Ordinance have been satisfied, in order to grant a 20-foot waiver to the height limitation requirements, to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-4-05, granting the Applicant a 20-foot waiver to the 60-foot height limitation to permit the construction of two aggregate silos on the Property, each individually not to exceed 80 feet in height, as shown on Site Plan SP-122-05, and as generally depicted in McNeilus Companies, Inc., elevation drawing for "Batchmaster 12 w/Aux Silo & Screw," dated 30 March 1989, that was submitted with the HW-4-05 Height Waiver application.

### 2. Case No. SUP-28-05. New Dawn Assisted Living

Mr. Joel Almquist, Planner, stated that Brian May, on behalf of New Dawn Assisted Living Corporation, submitted an application to amend SUP-7-99 to allow the construction of an assisted living facility no larger than 30,000 square feet with a design that will consist of three buildings with approximately 9,500 square feet each.

A SUP was approved in 1998 (SUP-8-98) for a skilled nursing facility no greater than 50,000 square feet and an office development no greater than 20,000 square feet (the skilled nursing facility has been built and is operating). An SUP amendment (SUP-7-99) and rezoning (Z-3-99) were approved in 1999. The amendment allowed 22,000 square feet of assisted living facility in lieu of the 20,000-square-foot office development. At that time a subdivision was approved which created two lots from the one original lot.

The proposed SUP amendment covered only the portions of SUP-7-99 that applied to Parcel No.1-70A where the assisted living facility was to be located. The new conditions for SUP-28-05 was for the Master Plan

titled "New Dawn Living Facility" and was a combination of the previous applicable conditions with the new conditions requested by staff. All of the conditions of SUP-7-99 would still apply to the existing skilled nursing facility.

Staff found the proposed assisted living facility is a complementary use to the surrounding community, and is consistent with the Comprehensive Plan.

At its meeting on October 3, 2005, the Planning Commission recommended approval of the proposal by a vote of 6-0.

Staff recommended approval of the resolution.

Mr. Brown opened the Public Hearing.

The Board and staff discussed the impact of additional square footage on environmental factors and traffic. Staff indicated that the additional square footage did not add any additional impact on environment, traffic, etc. than what is currently there in relation to similar projects.

Mr. Brown opened the Public Hearing

1. Mr. Brian May, Dewberry and Davis, requested approval of the application.

Mr. Bradshaw asked how many patients the facility would serve. Mr. May indicated that the facility would serve forty-five residents.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing

Mr. Harrison made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY:

## **RESOLUTION**

### **CASE NO. SUP-28-05. NEW DAWN ASSISTED LIVING**

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 (SUP) process; and

WHEREAS, Mr. Brian May has applied for an amendment to SUP-7-99 to allow for the construction of a 30,000 square foot assisted living facility; and

WHEREAS, the land is located on a parcel zoned both R-8, Rural Residential, and LB, Limited Business, and can be further identified as Parcel No. (1-70A) on James City County Real Estate Tax Map No. (47-3); and

WHEREAS, the Planning Commission of James City County, following a public hearing on October 3, 2005, recommended approval of Case No. SUP-28-05 by a 6-0 vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-28-05 as described herein with the following conditions:

1. Master Plan: This Special Use Permit shall be valid for an assisted living facility no larger than 30,000 square feet and accessory uses thereto. Development of the site shall be generally in accordance with the master plan titled "New Dawn Assisted Living Facility," dated August 22, 2005, as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Architecture: Prior to final site plan approval, the Director of Planning shall review and approve the final architectural design of the building. Such building shall be generally consistent, as determined by the Director of Planning, with the architectural elevations titled "New Dawn Assisted Living Facility" submitted with this special use permit application, dated August 22, 2005, and drawn by Dewberry and Davis, Inc.
3. Buffers: There shall be a minimum 50-foot undisturbed wooded buffer between the proposed assisted living facility and the residential properties to the east as shown on the master plan titled "New Dawn Assisted Living Facility," dated August 22, 2005. The construction of a trail within the landscape buffer as shown on the master plan is permitted provided no trees are removed before or after construction. There shall also be a 10-foot building setback line from all natural open space conservation easements as shown on the master plan titled "New Dawn Assisted Living Facility," dated August 22, 2005.
4. Lighting: Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and 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. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
5. Dumpsters: All dumpsters and heating and cooling units, whether on the ground or affixed on the rooftop, shall be screened from view by landscaping, fencing, or other alternative that provides similarly adequate screening, as determined and approved by the Director of Planning prior to final site plan approval.
6. Archaeology: A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing*

*Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.

7. Buffer Enhancement: Prior to the issuance of a certificate of occupancy for the assisted living facility, the natural open space easement along **Jamestown Road** as designated on the master plan titled "New Dawn Assisted Living Facility," dated August **22,2005**, shall be seeded with a native woodland mix to enhance the buffer. The composition of this mix shall be indicated on the site plan and shall be approved by the Director of Planning prior to final site plan approval.
8. Enhanced Landscaping: 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 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.
9. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
10. Stormwater Manaeement: The owner shall submit to the County a master stormwater management plan as a part of the initial site or development plan submittal for the Property, including the stormwater management BMP ponds, methods and measure to reduce fecal bacteria, low impact design techniques where appropriate and feasible for review and approval by the Environmental Division. The master stormwater management plan may be revised **and/or** updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised **and/or** updated, shall be implemented in all development plans for the Property.
11. Construction: If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings **and/or** foundation has passed required inspections.
12. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.



3. Case Nos. MP-9-05/SUP-21-05. Olde Towne Timeshares Amendment

Ms. Ellen Cook, Planner, stated that Mr. Robert Anderson, McKinney and Company, submitted an application on behalf of Heritage Resorts, Inc., for a SUP to amend a previously approved SUP (JCC Case No. SUP-18-031MP-7-03 Olde Towne Timeshares, which was itself an amendment of JCC Case No. SUP-I8-99 Olde Town Road Timeshares). The last approved SUP permitted a development of 365 timeshare units in a residential cluster. This amendment proposed the same number of timeshare units but made some changes to the layout of the Master Plan, which required an SUP amendment. It should be noted that the previously approved SUP remains valid until November 12, 2006. Since the last SUP was approved, the applicant has completed several improvements on the site including road improvements to Olde Towne Road and a berm and landscaping along the road.

Staff found the proposal consistent with surrounding zoning, single-family, multi-family, and timeshare uses. Staff also found the proposed amendment consistent with the requirements of the residential cluster zoning ordinance and consistent with the Comprehensive Plan. Staff believed the changes from the previously approved SUP were generally positive in nature.

Staff recommended approval of the proposed amendment to the SUP.

The Board and staff discussed the difference between the original plan and the new SUP request. Staff stated that the only difference was the unit type, which is four-bedroom units with lockout features in apartment side-by-side style rather than townhouse up-and-down style. The overall number of bedrooms returns to the original SUP approval number in the 2003 SUP. Staff indicated that the major change was that the quads were not arranged in a group, but are spread out across the area on a loop road.

Mr. Brown and staff discussed how they were able to eliminate the impact on wetlands and springs.

Mr. Brown opened the Public Hearing

Ms. Lisa McAdam of McKinney stated that wetland preservation was improved because the roads were parallel. She indicated that the new arrangement follows the lay of the land and though there is more impervious area, the developed area of the watershed was reduced. Ms. McAdam stated they will be utilizing low-impact stormwater management design. She indicated there will be some best management practices on the site, but not a large wetland or dry pond.

Mr. Brown stated the proposed plan was widely accepted by the Environmental Division.

Mr. Brown closed the Public Hearing to allow other Board members to ask questions of staff.

Mr. McGlennon asked staff what the impact of changing the number of occupants would be on traffic. Staff stated the proposed number of units was the same, and the traffic studies were benchmarked on similar configured timeshares. They maintained that there would not be a difference in the impact.

As there were no other questions to this matter for staff, Mr. Brown reopened the Public Hearing.

Mr. Vemon Geddy presented Corina Caldwell with Heritage Resorts and the applicant, Ms. McAdam, and stated that they would be happy to answer any questions.

As no one else wished to speak on this matter, Mr. Brown closed the Public Hearing.

Mr. Brown made a motion to approve the resolution.

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

## RESOLUTION

### CASE NO. SUP-21-05iMP-9-05. OLDE TOWNE TIMESHARES AMENDMENT

- 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 (SUP) process ; and
- WHEREAS, Mr. Robert Anderson has applied on behalf of Heritage Resorts, Inc., for a SUP to amend a previously approved SUP allowing 365 timeshares in a residential cluster; and
- WHEREAS, the proposed residential cluster is shown on the Master Plan prepared by McKinney and Company, dated October 20, 2005, and entitled "Master Plan SUP-21-05/MP-09-05 Olde Towne 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 October 3, 2005, voted 6-0 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-21-05/MP-9-05 as described herein with the following conditions:

1. If construction has not commenced on this project within 36 months from the issuance of a SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
2. The master plan of development required under Section 24-554 of the zoning ordinance shall be generally consistent with the "Master Plan SUP-21-05/MP-09-05 Olde Towne Timeshares" prepared by McKinney and Company, dated October 20, 2005, 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. 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.
6. Free-standing signs shall be ground-mounted, monument style and shall be approved by the Planning Director prior to final site plan approval.
7. 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 eight-foot height along the Olde Towne Road and Route 199 frontage, at the location shown on the Master Plan. Additionally, the landscape plan shall address the landscaping along the Route 199 right-of-way berm. In order to ensure the adequacy of the reduced buffer, the landscaping shall include the total number of trees required for a 150-foot buffer. Landscaping should also be designed in a manner that provides the appearance of a natural forested area.
8. Four-foot paved shoulder 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 four-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.
9. 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 (except at street connections where up to 2.0 foot candles is permitted) or adjoining residentially designated property.
10. An ten-foot-wide paved public use path with four-foot-wide mulched shoulders and a six-foot-wide 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 the construction of this path and requested it in writing. Any **bridge(s)** will have two feet of clearance on either side and shall meet the Virginia Department of Transportation (VDOT) standards (for conveyance of pedestrians and bicyclists only). 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 SUP, the applicant **and/or** its successors shall have no obligation to construct this path. The applicant shall fully maintain the paths and **bridge(s)** during the period of time the developer is constructing the timeshare units.
11. The applicant shall work out an arrangement with the VDOT 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.
12. The applicant shall dedicate to the County a conservation easement for 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.

13. If the applicant desires to have outdoor watering they shall provide water for irrigation utilizing surface water collection from the 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 JCSA General Manager. This requirement prohibiting the use of well water may be waived by the JCSA General Manager if the applicant demonstrates to the JCSA General Manager 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.
14. In order to mitigate the 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 SUP, the area shown on the Master Plan as "Reserved Lot" may be used as one residential lot if needed by the County or VDOT to relocate a family displaced due to the Olde Towne Road improvements. In the event the "Reserved Lot" is not used for the purpose allowed in this paragraph, the "Reserved Lot" shall remain open space.
15. The Owner shall submit to the County a master stormwater management plan as a part of the initial site or development plan submittal for the Property, including the stormwater management BMP ponds, methods and measures to reduce fecal bacteria; low impact design techniques where appropriate and feasible for review and approval by the Environmental Division. The Master Stormwater Management Plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the Master Stormwater Management Plan has been approved. The approved Master Stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.
16. Additional berming and landscaping shall be provided between the compactor and the adjacent residential property to mitigate any noise impacts produced by the compactor operation. A landscape plan showing the additional berming and landscaping shall be included with the site plan for the phase of the project containing the compactor and shall be approved by the Planning Director prior to final site plan approval.
17. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall

meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.

18. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to, and approved by, the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
19. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

4. Case No. Z-8-05. Williamsburg Wicker and Rattan Retail Center

Ms. Ellen Cook, Planner, stated that Mr. James Peters, of AES Consulting Engineers submitted an application to rezone 1.13 acres of land from B-1, General Business District and A-I, General Agriculture District, to B-1, General Business District, with proffers. The applicant proposed approximately 8,200-square-feet of retail space and approximately 4,500-square-feet of storage warehouse. The site already has an existing single-family detached house.

Staff found the proposal to be compatible with surrounding land uses, and the Comprehensive Plan.

At its meeting on October 3, 2005, the Planning Commission recommended approval of the proposal by a vote of 6-0.

Staff recommended approval of this application with the voluntary proffers

The Board and staff discussed prohibited uses and the effect thereon of the proffers. Mr. Bradshaw asked what assurance was present to prevent prohibited uses that are intrusive or required large parking requirements if they were not in the proffers. Staff responded that the master plan disallowed these uses. Staff indicated that the Master Plan included Henry House.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing the applicant, made a presentation with a history of Williamsburg Wicker and Rattan Shoppe and an overview of the proposal.

As no one else wished to speak to this matter, Mr. Brown closed the Public Hearing.

Mr. Bradshaw made a motion to approve the resolution with the voluntary proffers

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

## RESOLUTION

### CASE NO. Z-8-05. WILLIAMSBURG WICKER AND RATTAN RETAIL CENTER

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. 2-8-05, with Master Plan, for rezoning 1.13 acres from **A-1**, General Agricultural District and **B-1**, General Business, to B-1, General Business, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 3, 2005, recommended approval of Case No. 2-8-05, by a vote of 6 to 0; and

WHEREAS, the property is located at 7414 Richmond Road and further identified as Parcel No. (2D-1A) 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 Case No. 2-8-05 and accept the voluntary proffers.

H. PUBLIC COMMENT - None

#### I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the James City County Social Services Division and those in York County and Williamsburg were recognized by Williamsburg Community Health Foundation as 2005 Healthcare Heroes.

Mr. Wanner stated that he represented the County at the VDOT hearing on Hampton Roads Transportation improvements in Chesapeake and spoke to the need of State funding for realignment of a new section of Route 60 East (Pocahontas Trail). There he said that the Board was a true friend of VDOT, by funding a portion of PPTA, which enabled Route 199 to be widened and improved prior to 2007, Green Springs Trail, Capital Trail, and improvements at the Chickahominy Riverfront Bridge (Dresser Bridge). Mr. Wanner told VDOT if they did not help James City County with the improvements to Route 60, they would "cook the golden goose of the Virginia Ports." He stated that he hoped his statements would result in State funding.

Mr. Wanner suggested that when the Board completed its business, the Board adjourn to 4 p.m. on November 22, 2005, for a Work Session.

Mr. Wanner discussed an article in *The Virginia Gazette* regarding email exchange by staff and inappropriate comments written by staff concerning the Planning Commission, members of committees, and the Chairman of the Board of Supervisors. He stated that the Planning Director apologized, and the employee cited in the article had personally apologized to Mr. Brown for his comments. Mr. Wanner stated that after reviewing the FOI response, there would be a full investigation. He stated that the County and the Board did not condone inappropriate conduct and were committed to the County's core values. Mr. Wanner stated at the conclusion of this investigation, he would take whatever necessary action was required

## J. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated that the new Toano Convenience Center was at a superior location on Industrial Boulevard, was of superior design and access, and offered superior service. He indicated that in addition to current trash and recycling, the new Center also accepts tires and other refuse. Mr. Bradshaw thanked staff for their efforts.

Mr. Bradshaw also responded to the recent article. He stated that the Board appointed the Toano Area Community Study Committee and Rural Lands Committee and the process was unanimously agreed on by the Board. He said each supervisor may have had his own agenda, but the agreement had been to arrange a committee involving a wide range of knowledge, interests, and expertise, though perhaps not every organization. Mr. Bradshaw stated that the meeting process allows for others to participate, all committee meetings are open to the public, and materials are available to the public on the web. He said both committees have scheduled workshops, have met regularly, and have fully and capably performed the work they were commissioned to do. Mr. Bradshaw said the Board always reserves the right to add any member to any committee, and if anyone suggests an addition, they should contact the Board.

Mr. Bradshaw thanked the Peninsula Housing and Builders Association for advertising a public meeting for one of the groups. He stated that on Thursday evening, November 17, 2005, at 6:30 p.m. at Toano Middle School the first meeting of the Rural Lands Committee for public education and input will be held. He indicated that the description of the meeting by the Housing and Builders Association was not entirely correct because the purpose was not solely to discuss increasing lot size. He said that in fact, this meeting was not in relation to increase or decrease of rural lands, but at this meeting the focus was the concept of rural clusters. He stated he hopes that many attend this meeting to be informed and add their wisdom to the process.

## K. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointments of individuals to County boards and/or commissions.

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

Mr. Brown convened the Board into Closed Session at 8:10 p.m.

Mr. Brown reconvened the Board into Open Session at 8:40 p.m.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

## RESOLUTION

### CERTIFICATION OF CLOSED MEETING

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

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

**L. ADJOURNMENT**

Mr. Harrison made a motion to adjourn

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

At 8:45 p.m. Mr. Brown adjourned the Board to 4 p.m. on November 22, 2005

Sanford B. Anner  
Clerk to the Board

110805bos.min



PROFFERS

THESE PROFFERS are made this 28~~th~~ day of October, 2005 by OSCAR B. HARRELL and ELVA W. HARRELL, husband and wife (together with their respective successors in title and assigns, the "Owners")

RECITALS

A. Owners are the owners of those certain parcels or pieces of land Located in James City County, Virginia, with an address of 7414 Richmond Road and being Tax Parcel. 23202D0001A and being more particularly described on Exhibit A hereto (the "Property").

B. The Property is now zoned B-1 and A-1. The Owners have applied to rezone the Property from B-1 and A-1 to B-1, with proffers.

C. Owners have submitted to the County (i) a plan entitled "Rezoning Plan, Williamsburg Wicker & Rattan Shoppe Center" prepared by AES Consulting Engineers and dated April 25, 2005 (the "Rezoning Plan"), (ii) a plan entitled "Conceptual Landscape Plan, Williamsburg Wicker & Rattan Shoppe Center" prepared by AES Consulting Engineers and dated July 7, 2005 (the "Landscape Plan") and (iii) architectural elevations prepared by Paul White and submitted herewith (the "Architectural Elevations").

D. Owners desire to offer to the County certain conditions of the development of the Property not generally applicable to land zoned B-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they 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. Rezoning Plan.** The Property shall be developed generally in accordance with the Rezoning Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

**2. Water Conservation.** The Owners shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Irrigation wells shall be shallow wells of 100 feet or less. The standards shall be approved by the James City Service Authority prior to final site plan approval.

**3. Prohibited Uses.** The following uses, otherwise permitted by right in the B-1 district, shall not be permitted on the Property:

- adult daycare centers;
- automobile service stations;
- fire stations;
- health clubs, exercise clubs, fitness centers;
- hotels, motels, tourist homes and convention centers;
- indoor sports facilities
- indoor theaters
- marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same;
- marine or waterfront businesses;
- public billiard parlors, arcades, pool rooms, bowling alleys, dance halls, and other indoor centers of amusement
- radio and television stations and accessory antenna or towers or tower mounted wireless communication facilities, which are 60 feet or less in height; and
- fast food restaurants.

**4. Architectural Review.** Prior to the County being obligated to grant final development plan approval, there shall be prepared and submitted to the Director of Planning for approval final architectural plans for the Director of Planning to review and approve for general consistency with the Architectural Elevations. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Decisions of the

Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Completed buildings shall be consistent with the approved plans. No building on the Property shall exceed thirty-five (35) feet in height.

5. **Landscape Plans.** Prior to final site plan approval, the Owners shall have submitted to the Director of Planning a landscaping plan for the entire Property for the Director of Planning to review and approve for general consistency with the Landscape Plan and landscape ordinance requirements.

6. **Henry Home.** Owner shall retain the Henry Home house Located on the Property.

7. **Cash Contributions to James City Service Authority.** A contribution for each non-residential building on the Property in an amount equal to \$1.53 per gallon per day of average daily sanitary sewage flow as determined by the James City Service Authority ("JCSA") based on the use of the building(s) shall be made to the JCSA at the time of final site plan approval in order to mitigate impacts on the County from the physical development and operation of the Property.

8. **Screening.** All dumpsters and heating and cooling units, whether ground or roof mounted, shall be screened by landscaping, fencing, walls or other alternative features providing adequate screening as determined by the Director of Planning at the time of final site plan approval.

9. Peninsula Street Sidewalk. Owner, in Its sole discretion, shall either (i) construct approximately 437 linear feet of sidewalk along the Peninsula Street frontage of the Property or (ii) in lieu thereof, make a cash contribution to the County for use by the County for sidewalk capital improvements in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

WITNESS the following signatures

Oscar B. Harrell

Oscar B. Harrell

Elva W. Harrell

Elva W. Harrell

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me: This <sup>28<sup>th</sup></sup> day of ~~August~~ <sup>October</sup>, 2005, by Oscar B. Harrell and Elva W. Harrell, husband and wife.

Susan Y. Watter  
Notary Public

My commission expires: 06/30/07

# Exhibit A

## LEGAL DESCRIPTION

All those certain lots, pieces or parcels of land situate, lying and being in the County of James City, Virginia, known and designated as Lots Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and Lot 15, in Block D, as shown on that certain plat entitled, "A SURVEY FOR CONVEYANCE TO OLD COLONY BANK & TRUST COMPANY", made by L V. Woodson and Associates, dated March 9, 1973, and recorded in the Clerk's Office of the Circuit Court for the County of James City, Virginia, in Deed Book 143 at page 672, to which plat reference is here made.

Together with all the grantors right title and interest in and to Parcel A and the 20 foot alley adjoining the above described lots as shown and set forth on the aforementioned plat.

Together with all and singular, the buildings and improvements thereon, rights and privileges, hereditaments and tenements thereunto belonging or in anywise appertaining, and any easements or rights of way for the use thereof.

Subject, however, to all easements, rights of way, agreements, conditions and restrictions affecting the said property.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
admitted to record on 17 Nov 85  
AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk