

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF AUGUST, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

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

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Amanda Fields, a tenth-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION**

1. Virginia Department of Transportation Drainage Program

Mr. Steven Hicks, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), provided the Board with an overview of the Drainage Schedule and Drainage Watchlist developed by the Williamsburg Residency of VDOT to track and monitor drainage concerns in the County and to provide citizens and the Board with updates on areas of concerns.

Mr. McGlennon commented on the benefit of the program for VDOT to be able to provide citizens with feedback and information on their concerns.

**E. HIGHWAY MATTERS**

Mr. Goodson commented that VDOT crews are in the Roberts District, Grove area, and citizens provide positive feedback on their work.

Mr. Goodson commented that I-64 signage for Brewery traffic was delayed and requested an update.

Mr. Hicks stated that it is in the VDOT District's hands and a final report will be provided by August 31.

**F. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, commented on property assessments and recommended the Board enact a cap on assessments as they are and when a sale occurs, adjust accordingly or index the system; inquired if the sale of a new home on Indian Circle will impact the assessments of older homes on Indian Circle; commented that the Michigan Supreme Court has ruled that the State and local governments may not take property from a private owner and give it to another private owner for economic development purposes.

**G. CONSENT CALENDAR**

Mr. McGlennon made a motion to adopt the items on the Consent Calendar, including the amended minutes.

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

1. Minutes - July 27, 2004, Regular Meeting
2. Revisions to Chapter 7, Standards of Conduct of the James City County *Personnel Policies and Procedures Manual*

**RESOLUTION**

**REVISIONS TO CHAPTER 7, STANDARDS OF CONDUCT OF THE JAMES CITY COUNTY**

**PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, the U.S. Department of Labor has revised the Fair Labor Standards Act (FLSA) regulations; and

WHEREAS, the revisions take effect August 23, 2004; and

WHEREAS, the Standards of Conduct policy must be revised to conform with these changes and to be easier to understand and to use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the attached revisions to the personnel policies and procedures are adopted effective August 23, 2004.

**H. PUBLIC HEARINGS**

Mr. Goodson recognized Mr. Joe McCleary, member of the Planning Commission, in the audience.

1. Case No. AFD-1-93. Williamsburg Farms Withdrawal

Mr. Matthew Arcieri, Planner, stated that Vernon Geddy, III, has applied on behalf of the Williamsburg Winery, Ltd., to withdraw approximately 75 acres from the Williamsburg Farms Agricultural Forestal District (AFD) zoned R-8, Rural Residential, at 5800 Wessex Hundred Road and further identified as Parcel Nos. (1-10B), (1-10), and (1-12) on James City County Real Estate Tax Map No. (48-4). The withdrawn acres will be combined with land not in the AFD to create four single-family lots and open space.

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

At its meeting on July 6, 2004, the AFD Committee recommended approval of the 75-acre withdrawal by a vote of 7-0.

At its meeting on July 12, 2004, the Planning Commission recommended approval by a vote of 6-0.

Staff found the withdrawal would leave 219.3 acres in the Williamsburg Farms AFD, which still meets the minimum acreage requirement for AFDs. The proposal satisfied all three criteria for withdrawal and staff recommended approval.

Mr. Goodson inquired what the procedure would be for a by-right subdivision.

Mr. Arcieri stated that such proposals would be presented to the Planning Commission.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, requested the Board's approval of the proposal.

Mr. Bradshaw inquired if the applicant has decided to place any restrictions on the open space.

Mr. Geddy stated that the land would continue to be cultivated for land-use cultivation taxation.

Mr. Bradshaw inquired if it would be a legal obligation to keep it cultivated.

Mr. Geddy stated that at this time no restriction is placed on the property; however, to qualify for the taxation benefit, it would have to be cultivated. As part of another case, the Board may hear there would be a requirement but that case is not before the Board tonight.

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

Mr. Bradshaw made a motion to adopt the Ordinance.

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

2. Case No. SUP-18-04. Precious Moments Playhouse, Inc. - SUP Amendment

Ms. Karen Drake, Senior Planner, stated that Ms. Evangelina Crump, Child Care Center Administrator, has applied for a Special Use Permit (SUP) amendment to expand the number of children allowed to enroll at Precious Moments Playhouse, Inc., from 15 to 30 and to extend operating hours from 7

a.m. to 6 p.m. The Precious Moment Playhouse Inc., is located at 103 Indigo Terrace on .51 acres zoned R-2, General Residential, and further identified as Parcel No. (2-02) on James City County Real Estate Tax Map No. (38-4).

Staff found that the proposal, with new conditions, will become more conforming to current standards and policies and recommended approval of the application.

Mr. Goodson opened the Public Hearing.

1. Ms. Evangelina Crump, applicant, was available to answer questions from the Board.

Mr. Bradshaw inquired what type of food preparation is part of the day care center.

Ms. Crump stated that morning and afternoon pre-packaged snacks are provided; parents provide packed lunches; and a food service is being contracted to bring prepared food onto site.

Mr. Bradshaw stated that the applicant seems to be complying with the condition regarding food preparation and suggested that perhaps further clarification with the phrase "on-site" could be provided in the conditions.

Mr. Rogers stated that although that would provide further clarification, it is not necessary.

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

Mr. McGlennon made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CASE NO. SUP-18-04. PRECIOUS MOMENTS PLAYHOUSE, INC. - SUP 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 process; and

WHEREAS, Ms. Evangelina Crump has applied to amend the special use permit allowing for a child day-care center to be operated at 103 Indigo Terrace; and

WHEREAS, the property is located on land zoned R-2, General Residential, and can be further identified as Parcel No. (2-2) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the Planning Commission, following its Public Hearing on July 12, 2004, voted 6-0 to recommend approval of 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. 18-04 as described herein with the following conditions that replace the existing conditions of SUP-4-80:

1. No more than 30 children other than the owner's children shall be present at the child day-care facility.
2. Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. This special use permit shall be valid for a period of 36 months from the date of approval during which the child day-care owner shall be responsible for obtaining and maintaining all necessary County and State permits to operate the center.
4. Within six months of the date of issuance of this special use permit and prior to operating with an increased enrollment of 30 children, the owner shall obtain a new certificate of occupancy from James City County Code Compliance validating that Precious Moments Playhouse, Inc., can operate with a maximum of 30 children.
5. Within six months of the date of issuance of this special use permit, the owner shall have a water conservation plan approved by the James City Service Authority.
6. No additional signage shall be permitted, which relates to the use of the property as a child day care center.
7. No additional exterior lighting shall be permitted which relates to the use of the property as a child day care center.
8. No commercial food preparation or laundry services shall be provided as part of the operation of the child day-care center.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-19-04. Williamsburg Winery - Gabriel Archer Tavern SUP Renewal

Mr. Matthew Arcieri, Planner, stated that Vernon Geddy, III, has applied on behalf of Williamsburg Farms, Inc., to renew the SUP to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery at 5800 Wessex Hundred Road on 35.08 acres zoned R-8, Rural Residential, and further identified as Parcel No. (1-10B) on James City County Real Estate Tax Map No. (48-4).

Staff found the applicant has completed a majority of the previous SUP conditions and continues to make a good-faith effort to satisfy the previous conditions. The additional time should allow the applicant to complete building inspections, connect the waterline, and pay necessary fees and bills.

Staff also found the proposal to be acceptable from a land-use perspective.

At its meeting on July 12, 2004, the Planning Commission recommended approval of the SUP by a vote of 5-1.

Staff recommended approval of the SUP with conditions.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, stated that the preparation of a site plan took longer than expected and requested the Board approve the extension of the permit.

The Board stated appreciation for the update on the project and assurance that another extension would not be requested for this proposal.

The Board indicated that another extension would not be considered unless all conditions were met.

Mr. Geddy assured the Board that the applicant does not anticipate bringing this forward for another extension.

Mr. McCleary stated that the Planning Commission would not recommend another extension of this proposal to the Board if the applicant made such a request.

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

Mr. Harrison inquired what fiscal impact the County would experience if this operation was shut down.

Mr. Wanner stated that the County would lose meal tax revenues; however, the greater impact would be on the applicant's credibility as a businessman.

Mr. Brown made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CASE NO. SUP-19-04. WILLIAMSBURG WINERY -**

#### **GABRIEL ARCHER TAVERN SUP RENEWAL**

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, restaurants are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 12, 2004, recommended approval of Case No. SUP-19-04 by a 5-1 vote to permit the continued operation of the Gabriel Archer Tavern, consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery; and

WHEREAS, the property is located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10B) on James City County Real Estate Tax Map No. (48-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 19-04 as described herein with the following conditions:

1. Prior to December 31, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, ("the Tavern"):
  - a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code, with all final inspections completed and approved;
  - b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service, and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA;
  - c. The Tavern shall have all sewer service bills paid up to date.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. SUP-20-04. AJC Woodworks. Inc. - SUP Amendment

Ms. Sarah Weisiger, Planner, stated that Tony Casanave applied to amend two conditions and alter the layout plan of SUP-11-03 for the construction of a woodworking shop behind an existing dwelling and garage on 1.52 acres at 8305 Richmond Road, zoned A-1, General Agricultural, and further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (12-4).

Staff found the proposal, with conditions, to be compatible with the main use of the property and generally consistent with the surrounding property and the Comprehensive Plan.

Staff believes any impacts on nearby historic and residential properties will be mitigated with the proposed amended conditions to the structure's height limit and to side yard landscaping.

At its meeting on July 12, 2004, the Planning Commission recommended approval of the proposal by a vote of 7-0.

Staff recommended the Board approve the resolution.

Mr. Goodson opened the Public Hearing.

1. Mr. Tony Casanave, applicant, inquired if the permit had a time limit.

The Board and staff assured the applicant that a timelimit condition is not part of the permit.

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

Mr. McGlennon made a motion to adopt the resolution and commended the applicant for the positive change in use of construction material for the proposal.

Mr. Bradshaw commented that the drainage concerns have been answered.

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

## **RESOLUTION**

### **CASE NO. SUP-20-04. AJC WOODWORKS, INC. -**

#### **SUP 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. Tony Casanave has applied for a SUP amendment to allow for the construction of a woodworking shop to be approximately 8,000 square feet including a basement garage/storage area; and

WHEREAS, the previously approved SUP was approved for a building for use as a woodworking shop to be located behind an existing house and garage at 8305 Richmond Road; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission, following its Public Hearing on July 12, 2004, voted 7-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-04 as described herein with the following conditions:

1. The property shall be developed generally in accordance with the Master Plan titled: "AJC Woodworks, Inc., 8305 Richmond Road," dated June 29, 2004, with minor changes approved by the Development Review Committee.
2. This SUP is for the use as a woodworking shop for the manufacture of wood products. The property shall not be used as a retail store or shop.
3. A site plan shall be submitted to and approved by the Planning Director.
4. Along the property line to the north and parallel to the area of the proposed workshop and parking area, enhanced landscaping, consisting of evergreen shrubs to be planted eight feet on center, shall be provided along the edge between the disturbed area and the undisturbed wooded buffer as shown on the Master Plan. Along the property line to the south and parallel to the area of the proposed workshop and proposed parking area, landscaping shall provide transitional screening and shall be planted in accordance with the General Area Landscape Standards Section 24-94 of the Zoning Ordinance. Additional landscaping shall be required in the area of the existing driveway to

sufficiently buffer views of the workshop from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and shall be approved by the Planning Director.

5. Only one entrance shall be allowed onto Route 60. The property shall have a commercial entrance that is designed to accommodate a shoulder bike lane as approved by the Planning Director.
6. Hours of operation, including the operation of power tools, truck deliveries and pickups, shall be limited to 7:30 a.m. to 7:00 p.m., Monday through Saturday.
7. All walls and doors shall have insulation for noise reduction. Plans and specifications shall be approved by the Planning Director prior to issuance of a building permit. Workshop doors and windows shall be closed while power tools are in operation.
8. One freestanding sign shall be permitted on site. The sign shall be limited to no larger than 16 square feet with a maximum height of 7 feet. The sign may only be externally illuminated by ground-mounted lights concealed by landscaping. The sign shall be approved by Planning Director.
9. The height of the proposed building shall not exceed 20 feet above natural grade. The building materials and colors of the structure shall be compatible with those of the existing structures. The colors and building materials for the structure shall be submitted to and approved by the Planning Director prior to final site plan approval.
10. The existing residence shall continue to be used primarily as a single-family dwelling but may contain an accessory office for the woodworking shop. Any exterior modifications to the dwelling shall be approved by the Planning Director.
11. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. ZO-02-04. Zoning Ordinance Amendment - Manufacturing of Stone in M-1 and M-2

Ms. Christy H. Parrish, Senior Zoning Officer, presented an amendment to the Zoning Ordinance to permit the manufacture of previously prepared stone products in the M-1, Limited Business/Industrial District, and M-2, General Industrial District.

Staff found the amendment provides consistency and flexibility within industrial zoning districts and would not negatively affect or impact any surrounding properties.

At its meeting on July 12, 2004, the Planning Commission recommended approval of the amendment by a vote of 6-0.

Staff recommended approval of the ordinance amendment.

The Board complimented staff on its initiative and proactive approach in this matter.

Mr. Goodson opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, inquired if a cement plant could be a by-right use of the property with the proposed amendment.

Mr. Rogers stated that the proposal will change what is permitted by special use permits regarding certain activity in the preparation of stone products.

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

Mr. Bradshaw clarified that the proposed amendment simply adds stone as a prepared product that can be assembled in these zones.

Mr. Brown made a motion to adopt the Ordinance as amended.

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

## **I. BOARD CONSIDERATION**

### **1. Appointment of the County Attorney**

Mr. Goodson stated that Leo P. Rogers, Jr., has proven his effectiveness and is deserving of the appointment of County Attorney, effective September 1, 2004.

Mr. Bradshaw made a motion to adopt the resolution appointing Leo P. Rogers, Jr., as the County Attorney effective September 1, 2004.

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

## **RESOLUTION**

### **APPOINTMENT OF COUNTY ATTORNEY**

WHEREAS, the Board of Supervisors has established the office of the County Attorney pursuant to Virginia Code Section 15.2-1542; and

WHEREAS, effective September 1, 2004, the position of County Attorney will be vacant; and

WHEREAS, Leo P. Rogers, Jr. has served as Assistant County Attorney from March 17, 1990, to July 17, 1994, and as Deputy County Attorney from July 17, 1994, to June 22, 2004, and as Acting County Attorney since June 22, 2004; and

WHEREAS, the Board of Supervisors unanimously supports the appointment of Leo P. Rogers, Jr., who has proven both his effectiveness and his commitment to the community; and

WHEREAS, details regarding salary and benefits are contained in an employment agreement signed by Mr. Rogers and the Board Chairman dated August 10, 2004.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Leo P. Rogers, Jr. is hereby appointed to the position of County Attorney for James City County effective September 1, 2004.

Mr. Rogers thanked the Board for its vote of confidence and to Mr. Wanner for his support. He expressed his gratitude to Frank Morton for working with him over the past 14 years to bring him to this point in his career.

**J. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, commented on an article in the *Wall Street Journal* regarding eminent domain.

Mr. Brown inquired if Mr. Oyer was aware of a local application of the comments concerning eminent domains.

Mr. Oyer stated that there is a case in the region but not in the County or in the City of Williamsburg and his comments regarding this issue are to be considered a public service announcement.

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that the Board does not need to convene into Closed Session to consider the reappointment of the Police Chief to the Colonial Community Criminal Justice Board.

Mr. McGlennon made a motion to reappoint the Police Chief to the Colonial Community Criminal Justice Board, term to expire on August 31, 2005.

Mr. Wanner reminded the citizens that the County Fair, to be held at Upper County Park, will be held on August 13 and 14.

Mr. Wanner recommended at the conclusion of the Board's meeting, it adjourn until 7 p.m. on September 14, 2004.

**L. BOARD REQUESTS AND DIRECTIVES**

Mr. Bradshaw invited citizens to attend and participate in the County Fair to be held August 13-14 at Upper County Park.

Mr. Bradshaw made a few remarks regarding the passing of Theodore Allen on July 28 and commented on the charming character of Mr. Allen.

Mr. McGlennon stated that Ms. Natalie Ford, in the audience, is finishing her William & Mary class pre-assignment this evening.

**M. ADJOURNMENT**

Mr. Harrison made a motion to adjourn until 7 p.m. on September 14, 2004.

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

At 7:59 p.m., Mr. Goodson adjourned the Board until 7 p.m. on September 14, 2004.

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Sanford B. Wanner  
Clerk to the Board