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Clerk, Supreme Court of Appeals
Richmond, Va.

# Record No. 6955

In the
Supreme Court of Appeals of Virginia
at Richmond

## JAMES P. WHITMAN, ET AL., ETC., ET AL.

v.

## DUDLEY C. WALTRIP, ET AL., t/a, etc.

FROM THE STATE CORPORATION COMMISSION

### RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

# Supreme Court of Appeals of Virginia

AT RICHMOND

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**Record No. 6955**

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VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Friday the 19th day of April, 1968.

JAMES P. WHITMAN AND RICHARD W. COAKLEY, IN THEIR OWN RIGHT AND ON BEHALF OF THE BIRCHWOOD PARK CIVIC ASSOCIATION; WILLIAMSBURG-JAMES CITY COUNTY PUBLIC SCHOOLS; AND RAWLS BYRD PARENTS AND TEACHERS ASSOCIATION, Appellants,

*against*

DUDLEY C. WALTRIP AND MARY S. WALTRIP, TRADING AS WILLIAMSBURG COLONIAL AIRPORT, Appellees.

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From the State Corporation Commission

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Upon the petition of James P. Whitman and Richard W. Coakley, in their own right and on behalf of the Birchwood Park Civic Association; Williamsburg-James City County Public Schools; and Rawls Byrd Parents and Teachers Association, an appeal of right is awarded them from an order entered by the State Corporation Commission on the 6th day of October, 1967, in a certain proceeding then therein depending, entitled, In Re: Application of Dudley C. Waltrip and Mary S. Waltrip, trading as Williamsburg Colonial Airport, for a license to establish and operate the Jamestown Airport, etc.; upon the petitioners, other than Williamsburg-James City County Public Schools, or some one for them, entering into bond with sufficient security before the clerk of the said State Corporation Commission in the penalty of $300, with condition as the law directs.

## RECORD

* * * * *

page 1 } COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF AERONAUTICS

APPLICATION FOR A LICENSE OR PERMIT FOR THE ESTABLISHMENT, MAINTENANCE AND OPERATION OF AN AIRPORT, LANDING AREA OR DROP ZONE, IN ACCORDANCE WITH PROVISIONS OF TITLE 5 CODE OF VIRGINIA, COMMONWEALTH OF VIRGINIA

At the relation of Dudley C. Waltrip and Mary S. Waltrip T/A Williamsburg Colonial Airport

(Name of Applicant)

TO THE STATE CORPORATION COMMISSION OF VIRGINIA:

Application is hereby made, pursuant to the provisions of Title 5.1 of the Code of Virginia and the Rules and Regulations of the Commission adopted pursuant thereto for a license or permit to establish, maintain and operate an airport, landing area or drop zone.

1. Name under which business is to be conducted is:
D. C. Waltrip and Mary S. Waltrip T/A Williamsburg Colonial Airport
1a. Name of airport, landing area or drop zone:
Williamsburg Colonial Airport
1b. If applicant is owner of property, he must furnish evidence of same. If applicant is not owner, a copy of lease agreement between owner and applicant must accompany this application.
2. Post Office address of applicant is:
Route 1 Box 11 Williamsburg, Virginia 23185
3. If incorporated in Virginia, furnish full name of corporation as shown in its articles of incorporation:

.....

3a. If a foreign corporation, file a copy of its certificate of authority to do business in Virginia.

4. Name and address of all persons having an interest in the business. (If a corporation, give names and addresses of all officers and directors, and if a partnership or unincorporated association, names and addresses of all partners, active, silent, etc.)

..... .....
..... .....
..... .....
..... .....

5. Names and addresses of the persons or person who will be in actual charge and management of the airport, landing area or drop zone should a license or permit be granted.

..... .....
..... .....
..... .....
..... .....

page 2 } 6. State proposed rates for service if different from the prevailing rates in area.

7. Proposed airport, landing area or drop zone will be operated in accordance with Title 5.1 Code of Virginia, the latest Rules and Regulations adopted by the State Corporation Commission and the Federal Aviation Regulations.

8. Location and description of the proposed airport, landing area or drop zone are as set forth in Exhibit A.

(NOTE): Exhibit will include a drawing showing accurate geographical coordinates in degrees, minutes and seconds of the proposed field, indicating runway locations and length and width, direction of prevailing winds, location of buildings and other hazards adjacent to the field. This exhibit shall also include an aeronautical chart and a county map showing location on both, and the name under which the property is commonly referred to.

9. Statement of financial responsibility of all applicants, the proposed plan of operation together with a description of devices and step which will be furnished for the safety and protection of the public and of applicant's patrons shall be set forth in Exhibit B.

Given under the hand of the applicants at Williamsburg, Virginia this 26 day of May, 1967.

Note: Exhibit A and Exhibit B mentioned herein have been transmitted with the exhibits filed with the evidence in this case

DUDLEY C. WALTRIP

(Signature of Applicant)

MARY S. WALTRIP

.....

(Title of Officer or position of person signing for corporation or firm.)

STATE OF VIRGINIA.
COUNTY (OR CITY) OF JAMES CITY, to wit:

This day personally appeared before me, the undersigned, a Notary Public in and for the State and County aforesaid Mary S. and Dudley C. Waltrip who is personally known to me, and who, being duly sworn, deposes and says that they are of the owner (one of the members of the firm or partnership) which is the applicant in the foregoing application, that they have read the foregoing application and all exhibits referred to therein and knows the contents thereof, and that the statements therein, both application and exhibits, are true to the best of their knowledge and belief.

Given under my hand this 26th day of May 1967.

My commission expires on the 24 day of May 1969.

CHARLES E. GARY

NOTE: A fee in the amount of $100.00 for a license or permit for an airport, landing area or drop zone, payable to the State Corporation Commission, must accompany this application. The application must be in duplicate, one copy notarized, and *both* copies returned to this office.

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* * * * *

AT RICHMOND, MAY 29, 1967

APPLICATION OF CASE NO. 18465

DUDLEY C. WALTRIP AND MARY S. WALTRIP, t/a WILLIAMSBURG COLONIAL AIRPORT

For a license to establish and operate the Williamsburg Colonial Airport on land owned by the applicants fronting on and lying east of State Route 617 and west of College Creek about 3/4 of a mile south of the intersection of State Routes 31 and 617 in James City County, Virginia.

ON A FORMER DAY came Dudley C. Waltrip and Mary S. Waltrip, t/a Williamsburg Colonial Airport, and filed their application pursuant to Sections 5.1-7 and 5.1-8 of the Code of Virginia and the Rules and Regulations adopted by the Commission for a license to establish, operate and conduct an airport for the landing and departure of civil aircraft engaged in commercial aviation to be known as the Williamsburg Colonial Airport on property owned by the applicants and consisting of tract of approximately 177 acres and a tract of approximately 12-18 acres located in the Jamestown District of James City County, Virginia, approximately 1-1/2 miles southwest of the City of Williamsburg, fronting on and lying east of State Route 617 and west of College Creek and approximately 3/4 of a mile south of the intersection of State Routes 31 and 617.

IT IS THEREFORE ORDERED:

(1) That this proceeding be instituted, assigned Case No. 18465 and docketed;

(2) That the Director of the Division of Aeronautics investigate said application and determine: (a) the location of said proposed airport with relation to its proximity to any other airport or landing field; (b) the provisions made for the safety of aircraft alighting thereon and departing therefrom; (c) whether the proposed airport is so situated as to endanger aircraft using the same or any other airport or landing field in close proximity thereto; and (d) whether proper provisions have been made in all other respects for the safety of aircraft alighting thereon or departing therefrom, and report to the Commission on or before July 3, 1967;

page 4 } (3) That the applicants give notice of their application by publishing once a week for two successive weeks, commencing not later than June 8, 1967, the following notice in a newspaper or newspapers of general circulation in James City County, Virginia and furnish proof of such publication not later than July 3, 1967:

"NOTICE TO THE PUBLIC

"Notice is hereby given that Dudley C. Waltrip and Mary S. Waltrip, t/a Williamsburg Colonial Airport, have applied to the State Corporation Commission for a license to establish and operate the Williamsburg Colonial Airport for the landing and departure of civil aircraft engaged in commercial aviation on property owned by the applicants and consisting of a tract of approximately 177 acres and a tract of approximately 12.13 acres located in the Jamestown District of James City County, Virginia approximately 1-1/2 miles southwest of the City of Williamsburg, fronting on and lying east of State Route 617 and west of College Creek and being about 3/4 of a mile south of the intersection of State Routes 31 and 617. The Commission has instituted an investigation of such application in Case No. 18465 to determine whether such license should be granted.

"Any interested person who objects to the granting of such license or desires to be heard with respect thereto should advise the Director of the Division of Aeronautics of the Commission, 909 Blanton Building, Richmond, Virginia, of such objection or desire to be heard before July 3, 1967.

"DUDLEY C. WALTRIP AND MARY
S. WALTRIP, t/a WILLIAMSBURG
COLONIAL AIRPORT"

and,

(4) An attested copy hereof shall be sent to the applicants, Route 1, Box 11, Williamsburg, Virginia 23185, and to the Director of the Division of Aeronautics.

* * * * *

page 5 }

* * * * *

D. C. WALTRIP
SAND—GRAVEL—TOP SOIL—FILL DIRT
EQUIPMENT RENTAL
Williamsburg, Va.

June 24 1967

Virginia Division of Aeronautics
909 Blanton Building
Richmond Virginia 23219

Gentlemen:

We hereby give official notice that we are changing the name of the proposed airport, Williamsburg Colonial, to Jamestown Airport. This change in names was effective as of June 14, 1967.

We would like to request that you change the name on the applications that we recently sent to you.

We hope this will meet with the approval of all parties concerned.

Thank you for your attention in this matter.

Verly truly yours,
(MRS.) D. C. WALTRIP
(MARY S.)

(MR.) D. C. WALTRIP

Received Jun. 26, 1967 State Corp. Comm. Div. of Aero.

DCW/bm

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* * * * *

AT RICHMOND, JULY 17, 1967
CASE NO. 18465

* * * * *

ON JUNE 24, 1967 came again the applicants and amended their application so as to change the name of the airport for

which they have applied for a license or permit in this proceeding from Williamsburg Colonial Airport to Jamestown Airport.

ON JULY 14, 1967 came the Director of the Division of Aeronautics and filed his report of investigation of the application which was directed to be made by the order entered by the Commission on May 29, 1967.

NOW, ON THIS DAY the Commission having received objections to the application of Dudley C. Waltrip and Mary S. Waltrip, trading as Williamsburg Colonial Airport for a license or permit to establish, maintain, conduct and operate the Jamestown Airport for the landing and departure of civil aircraft engaged in commercial aviation as proposed in the amended application filed herein and requests to be heard with respect thereto.

IT IS ORDERED:

(1) That the amended application herein be set for hearing at 10:00 A.M. on October 3, 1967 in the Courtroom of the State Corporation Commission, Blanton Building, Richmond, Virginia at which time the Commission will hear the applicants and all parties in interest with respect to the amended application herein; and

(2) That an attested copy hereof as and for the notice of the hearing upon the amended application be sent to the following: Dudley C. Waltrip and Mary S. Waltrip, Route 1, Box 11, Williamsburg, Virginia 23185; Lyle C. Schroeder, 737 Adams Drive, Apartment 5B, Newport News,
page 7 } Virginia 23601; Marilyn W. Hearn, 106 Glenwood Drive, Virginia M. McCall, 122 Shore Drive, Vernon M. Geddy, Jr., Attorney at Law, 137 York Street, Claude C. Slauson and Lettie M. Slauson, Route 1, Box 41, City of Williamsburg, Attention: Mary Inman, City Attorney, Lionel Serating, 104 Shore Drive, Williamsburg School Board, Attention: M. H. Bell, Superintendent of Schools, Post Office Box 179, James City County School Board, Attention: M. H. Bell, Superintendent of Schools, Post Office Box 179, Ludwell H. Johnson, Chairman, Department of History, College of William and Mary, William C. Lindler, President, Kingsport Community Association, R. W. Coakley, President, Birchwood Park Civic Association, 110 Redbud Lane, R. W. Coakley, 110 Redbud Lane, all of Williamsburg, Virginia 23185; to Eugene C. Marlin, Executive Director, Peninsula Airport Commission, Patrick Henry Airport, Newport News, Virginia; and, to the Director of the Division of Aeronautics.

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AT RICHMOND, OCTOBER 6, 1967

* * * * *

THE APPLICATION herein was heard on October 3, 1967 and taken under advisement. The applicants were represented by Henry L. Lam, their counsel. The following appeared as interveners herein and objected to the granting of the application: Williamsburg-James City County School Board by John W. Harbour, Jr.; Richard W. Coakley and James P. Whitman on behalf of the Birchwood Park Civic Association; and Mrs. James S. Darling on behalf of the Rawls Byrd Parent Teachers Association. The Commission was represented by its counsel.

NOW, ON THIS DAY the Commission having considered the application herein, the investigation made by the Director of the Division of Aeronautics, the evidence on behalf of the applicants and of the objectors and interveners, a majority of the Commission, Chairman Hooker dissenting, is of the opinion and finds that the proposed Jamestown Airport is so situated as not to endanger aircraft using the same or any other airport or landing field in close proximity thereto; that proper provisions have been made in all respects for the safety of aircraft alighting thereon or departing therefrom; that the proposed airport meets or exceeds all safety criteria established by Chapter 1 of Title 5.1 of the Code and the Rules and Regulations of the Commission adopted pursuant thereto; and that the license applied for should be granted.

IT IS THEREFORE ORDERED that Dudley C. Waltrip and Mary S. Waltrip, trading as Williamsburg Colonial Airport be, and they are, hereby authorized to establish,
page 9 } operate and conduct an airport for the landing and departure of civil aircraft engaged in commercial aviation to be known as the Jamestown Airport on property owned by the applicants and consisting of a tract of approximately 177 acres and a tract of approximately 12.13 acres located in the Jamestown District of James City County, Virginia approximately one and one-half miles southwest of the City of Williamsburg, fronting on and lying east of State Route 617 and west of College Creek and approximately 3/4 of a mile south of the intersection of State Routes 31 and 617.

AN ATTESTED COPY hereof shall be sent to Henry L. Lam, Princess Anne Courthouse, Virginia Beach, Virginia, counsel for the applicants; the applicants, Route 1, Box 11, Williamsburg, Virginia 23185; Richard W. Coakley, 110 Redbud Lane, Williamsburg, Virginia 23185; James P. Whitman, 119 Chestnut Drive, Williamsburg, Virginia; Mrs. James S. Darling, Williamsburg, Virginia; John W. Harbour, Jr., c/o Williamsburg-James City County School Board, Williamsburg, Virginia; and, to the Director of the Division of Aeronautics of the Commission.

* * * * *

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Opinion, CATTERALL, *Commissioner:*

Last May the applicants sought permission to establish an airport for commercial aviation on land owned by them near Williamsburg in James City County. They first proposed to call it the Williamsburg Colonial Airport but changed the name to Jamestown Airport when Colonial Williamsburg objected to the use of Williamsburg Colonial.

By order of May 29th the Commission instructed Colonel Plentl to investigate and determine:

The location of said proposed airport with relation to its proximity to any other airport or landing field;

The provisions made for the safety of aircraft alighting thereon and departing therefrom;

Whether the proposed airport is so situated as to endanger aircraft using the same or any other airport or landing field in close proximity thereto; and

Whether proper provisions have been made in all other respects for the safety of aircraft alighting thereon or departing therefrom.

The same order required the applicants to publish a newspaper advertisement inviting all persons who objected to the establishment of the proposed airport to notify the Division of Aeronautics. The practice of the Commission is not to hold a public hearing if no member of the public wishes to be heard, and in most cases no member of the public does object.

In this case, however, a great many members of
page 11 } the public did object, and a well-attended public hearing was held on October 6, 1967.

The report of his investigation by Colonel Plentl was:

"Attached is a letter signed by Mary S. Waltrip and D. C. Waltrip requesting that the name of the proposed airport be changed from Williamsburg Colonial Airport to Jamestown Airport. I would like to recommend that the change in names as requested, be granted.

"The proposed Jamestown Airport is to be constructed on approximately 189 acres of land owned by the applicants in Jamestown District of James City County, Virginia, approximately 1-1/2 miles southwest of the City of Williamsburg, fronting on and lying east of State Route 617 and west of College Creek, approximately 3/4 of a mile south of the intersection of State Route 31 and 617.

"It is proposed that the initial Landing area will be graded 3400′ long and 300′ wide with a paved runway 3200′ long and 100′ wide. The runway will lie on compass hearings of 310 degrees and 130 degrees. The southeast end of the runway will be located approximately 200′ from College Creek and the northwest end of the runway will be located approximately 2500′ from State Route 617. This means that the approach to runway 13 would be over property owned by the applicant. The approach to runway 31 would be over College Creek and swampland which is uninhabited.

"The proposed Jamestown Airport will be located approximately 11 miles northwest of the Fort Eustis Felker Army Air Field and approximately 16 miles northwest of the Patrick Henry Airport. The location is outside of the Felker Army Air Field and Patrick Henry Airport control zones and aircraft traffic utilizing the Jamestown Airport will not conflict with that of any other airport. The planned approach departure slopes will be 20 to 1 or better, and the proposed airport will meet or exceed the minimum requirements for licensing as required in Rule 19.

"The preliminary layout plan of the Jamestown Airport does not indicate a stub taxiway and parking ramp, however, I have been assured a taxiway and parking ramp will be constructed so as to provide a safe facility for the enplaning and deplaning of passengers and crew.

"Federal airspace clearance has been obtained and a copy is attached.

"Notice to the public as required by the Commission has been complied with and Certificate of Publication is attached.

"Opposition to the proposed airport has been received and a file of opposition letters is attached.

"The proposed Jamestown Airport meets or exceeds all safety criteria as established by the Virginia Aviation Law and its Rules and Regulations. I recommend that the license be granted."

One of the duties imposed by statute on the State
page 12 } Corporation Commission is the promotion of aviation. §5.1-3 of the Code provides:

"The Division of Aeronautics of the Department of Corporations is hereby continued. The Commission shall administer the laws of the Commonwealth relating to (1) the licensing of airports, landing fields, drop zones, aircraft and airmen, (2) the construction, maintenance and improvement of public airports, landing fields and other aviation facilities, and (3) the promotion of aviation in the interest of the public."

Before granting permission to establish a commercial airport the Commission is required by §5.1-8 of the Code to consider the following aspects of the proposed operation:

". . . Before issuing such permit the Commission shall investigate the location of such airport or landing field with relation to its proximity to any other airport or landing field and provisions made for the safety of aircraft alighting thereon or departing therefrom, and if the proposed airport or landing field shall be so situated as to endanger aircraft using the same or any other airport or landing field in close proximity, or proper provisions have not been made in other respects for the safety of aircraft alighting thereon or departing therefrom, the permit shall not be granted. . ."

The Commission's jurisdiction is limited to matters involving the public safety. *Batcheller* v. *Commonwealth,* 176 Va. 109. An airport near a residential neighborhood is bound to be objectionable to most of the neighbors. The legislature has left it to the governing bodies of the localities to adopt zoning ordinances to restrict the uses to which private property may be put. The Corporation Commission cannot authorize a landowner to ignore such restrictions. In *Richmond* v. *Southern Railway,* 203 Va. 220, the court held that the Commission could not authorize a railroad to run its tracks over property zoned against railroad tracks, saying (p. 225):

"The enactment and enforcement of zoning regulations are an exercise of the sovereign power of the State. In Virginia this police power in both its aspects has been delegated to counties, cities and towns. Code, §§15-819, 15-844. Neither the enactment nor the enforcement of zoning regulations has been delegated to the Commission by the Constitution or legislative act."

James City County has not adopted a zoning
page 13 } ordinance. The Executive Secretary of James City
County wrote to the Division of Aeronautics on
September 6, 1967:

"At the request of Mr. Larry Waltrip, the Board of Supervisors of James City County, Virginia, wish to state that they have no objection to the construction of Jamestown Airport, on Lake Powell Road, provided there are no safety hazards and the airport is built subject to state regulations."

The airport will be built subject to state regulations, and there will be no safety hazards other than those inherent in flying. There are hazards associated with every human activity. The widespread adoption of Workmen's Compensation Acts recognizes the fact that there are hazards in all occupations. Since this airport complies with all the requirements of the laws and regulations, the Commission could not, without ignoring the provisions of the applicable statute and its own regulations, refuse to issue the permit.

DILLON, *Commissioner,* concurs.

HOOKER, *Chairman,* dissents.

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* * * * *

At Richmond, December 13, 1967

* * * * *

James P. Whitman, Richard W. Coakley and others representing and on behalf of the Birchwood Park Civic Association, interveners herein, having filed due notice of appeal in this case.

IT IS ORDERED that the exhibits accompanying the application and all of the original exhibits filed with the evidence, numbered and described as follows, be certified and forwarded to the Clerk of the Supreme Court of Appeals of Virginia, to be returned by him to this Commission with the mandate of that Court:

*Exhibits accompanying the application:*

A. Norfolk Sectional Aeronautical Chart and Deed describing the Airport Property.

B. Statement of Financial Condition.

*Exhibits filed with the evidence:*

1. Report of Division of Aeronautics regarding establishment of Airport.
2. Resolution of Williamsburg and James City County School Boards regarding Airport.
3. Excerpt from The Virginia Gazette, dated Friday, September 22, 1967, Williamsburg, Virginia, newspaper.

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CERTIFICATE

Pursuant to an order entered herein on December 13, 1967, the original exhibits listed therein are hereby certified to the Supreme Court of Appeals of Virginia, to be returned by the Clerk thereof to this Commission with the mandate of that court.

It is further certified to the Supreme Court of Appeals of Virginia that the foregoing transcript of the record in this proceeding, with the original exhibits, contains all of the facts upon which the action appealed from was based, together with all of the evidence introduced before or considered by this Commission.

Witness the signature of Ralph T. Catterall, Acting Chairman of the State Corporation Commission, under its seal and attested by its Clerk this 13th day of December, 1967, at Richmond, Virginia.

RALPH T. CATTERALL
Acting Chairman

[SEAL]

Attest:

WILLIAM C. YOUNG
Clerk

CERTIFICATE

I, William C. Young, Clerk of the State Corporation Commission, certify that within sixty days after the final order in this case, James P. Whitman, Richard W. Coakley and

others, interveners herein, filed with me a notice of appeal therein which had been delivered to Henry L. Lam, Princess Anne Courthouse, Virginia Beach, Virginia, opposing counsel, to Counsel for the State Corporation Commission and to the Attorney General of Virginia, pursuant to the provisions of Section 13 of Rule 5:1 of the Rules of Supreme Court of Appeals of Virginia.

Subscribed at Richmond, Virginia, December 13, 1967.

WILLIAM C. YOUNG
Clerk

* * * * *

page 1 } Commissioner Dillon: All right, Mr. Lam, you may proceed.

Mr. Lam: May I make one correction. The name of this Airport has been redesignated to Jamestown Airport, and I think it appears by that information which was sent to the Commission since the time of the original Airport.

Commissioner Dillon: The application will be amended.

Mr. Lam: I think it has already been amended from the standpoint of a letter to the Division of Aeronautics.

Mr. Elliott: That was changed by order dated July 17, 1967.

Commissioner Dillon: All right, you may proceed.

Mr. Lam: I would like to call, if I may, the Director of the Division of Aeronautics, Colonel Plentl. Colonel Plentl, will you take the stand, please.

Mr. Elliott: Prior to the taking of testimony, I would like to pass to the file a copy of the letter received
page 2 } from the—Garland L. Woody, Executive Secretary, James City County, of the Board of Supervisors, with respect to the attitude of the Board of Supervisors of James City County towards this application, in which they express no objection.

Commissioner Dillon: It will be passed to the file for what it is worth.

page 3 } COLONEL WILLARD PLENTL, a witness called on behalf of Applicant, being first duly sworn, testified as follows:

*Colonel Willard G. Plentl*

DIRECT EXAMINATION

By Mr. Lam

Q. Will you state your name and your occupation or position, please?

A. Willard G. Plentl, Director of Aeronautics for the State Corporation Commission's Division of Aeronautics.

Q. Colonel Plentl, pursuant to the Rules and Regulations of this Commission, was an application made for an airport in James City County by Mr. and Mrs. Waltrip?

A. Yes, Sir.

Q. And pursuant to an earlier order of this Commission did you make an investigation of this?

A. Yes, Sir.

Q. And have you made a report of such investigation?

A. I have, Sir.

Q. All right. Would you please — would you
page 4 } prefer reading it or how would you like to state your report to the Commission?

A. I would be glad to read it.

Q. All right, Sir.

A. In accordance with the direction of the Commission in Order dated May 29, 1967, a site investigation is hereby submitted.

Attached is a letter signed by Mary S. Waltrip and D. C. Waltrip requesting that the name of the proposed airport be changed from Williamsburg Colonial Airport to Jamestown Airport. I would like to recommend that the change in names as requested, be granted.

The proposed Jamestown Airport is to be constructed on approximately one hundred and eighty-nine acres of land owned by the Applicants located in Jamestown District of James City County, Virginia, approximately one and one-half miles southwest of the City of Williamsburg, fronting on and lying east of State Route 617 and west of College Creek, approximately three-quarters of a mile south of the intersection of State Routes 31 and 617.

page 5 } It is proposed that the initial landing area will be graded thirty-four hundred feet long and three hundred feet wide with a paved runway thirty-two hundred feet long and one hundred feet wide. The runway will lie on compass headings of three hundred and ten degrees and one hundred and thirty degrees. The southeast end of the runway will be located approximately two hundred feet from College Creek and the northwest end of the runway will be located

approximately twenty-five hundred feet from State Route 617. This means that the approach to runway 13 would be over property owned by the Applicants. The approach to runway 31 would be over College Creek and swampland which is uninhabited.

The proposed Jamestown Airport will be located approximately eleven miles northwest of the *Forst* Eustis Felker Army Air Field and approximately sixteen miles northwest of the Patrick Henry Airport. The location is outside of the Felker Army Air Field and Patrick Henry Airport control zones and aircraft traffic utilizing the Jamestown Airport will not conflict with that of any other airport. The planned approach departure slopes will be twenty to one
page 6 } or better, and the proposed airport will meet or exceed the minimum requirements for licensing as required in Rule 19.

The preliminary layout plan of the Jamestown Airport does not indicate a stub taxiway and parking ramp. However, I have been assured a taxiway and parking ramp will be constructed so as to provide a safe facility for the emplaning and deplaning of passengers and crew.

Federal airspace clearance has been obtained and a copy is attached.

Notice to the public as required by the Commission has been complied with and Certificate of Publication is attached.

Opposition to the proposed airport has been received and a file of opposition letters is attached.

The proposed Jamestown Airport meets or exceeds all safety criteria as established by the Virginia Aviation Law and its Rules and Regulations. I recommend that the license be granted.

Q. Colonel Plentl, with respect to the—

Mr. Elliott: Should not that report be filed as
page 7 } an exhibit, Mr. Lam?

Mr. Lam: Yes.

Commissioner Dillon: It will be received as Exhibit No. 1. Do you have proof of your notices?

Mr. Lam: Yes, Sir. I think that I do, Sir.

Q. Colonel Plentl, were the notices to which you made reference, were they forwarded to you?

A. Yes, Sir, they were.

Commissioner Dillon: Are they in the file?

A. Yes, sir.

Commissioner Dillon: They will be received as Exhibit A.

Mr. Lam

Q. Colonel Plentl, I wanted to ask one further question with respect to this minimum requirement, as required by our regulations for an airport, does that take into consideration the surrounding area with reference to the safety, and so forth—the surrounding area?

page 8 } A. Yes, it does.

Q. And from your investigation it met all these safety requirements?

A. Yes, sir.

Mr. Lam: All right, Sir. I have no further questions.

Commissioner Dillon: Anyone want to ask Colonel Plentl any questions?

Mr. Elliott: No questions.

Chairman Hooker: What about the density of population around this proposed airport?

A. Well, for somebody who is right off the end of the runway, it would be taken into consideration; but I met with the Assistant Area Manager, Bob Nicholsberg, who accompanied me down there on the inspection, and he said there was—

Chairman Hooker: Who is he?

A. Bob Nicholsberg, who is the Assistant Manager of the Washington Area Office of the Federal Aviation Administration, and due to the difference from the end of the

page 9 } runway to the adjoining property, he felt there was no hazard at all, and really that the aircraft shouldn't be flying over the area that is of greatest concern to the people down there with the property under the traffic pattern. Now, of course, this doesn't say that some pilots will not wander off the prescribed pattern.

Chairman Hooker: Now, this route you are talking about there, I'm trying to get exactly where this is located. I thought you said a connection with Route 5. Is it to the south of Route 5 towards Jamestown? Route 5 runs to Richmond and connects with the Jamestown Road. Is the Jamestown Road Route 31?

A. That's the Old Jamestown Road, I think, that goes about twenty-five hundred feet to the north of the end of the runway, but it's not the main—

Chairman Hooker: I'm trying to get this Route 5 straight. College Creek, is it—

Mr. Lam: That is to the west of this. I think the Route 5 you have reference to, as I recall the intersection where you turn off at the Jamestown Road, is to the west of this airport.

page 10 } Chairman Hooker: That's true, and the airport is on—

Mr. Lam: Over a mile farther.

Chairman Hooker: On the other side?

Mr. Lam: Yes, Sir, to the west of it.

Commissioner Catterall: The point is too little to identify it on these maps.

Mr. Elliott

Q. Colonel Plentl, may I ask a question? Is there any other airport in Williamsburg?

A. No, Sir. The College Airport has been closed permanently.

Q. And that was there for many years, I believe?

A. That's right.

Q. And was operated by the College of William and Mary?

A. Well, it was owned by them, but operated by a private individual.

Q. I mean, it was owned by the Board of the College of William and Mary?

A. Yes.

page 11 } Q. And the Board of the College of William and Mary closed that airport, and petitioned for it to be closed, and the Commission pursuant to that request—that airport has been authorized to be abandoned?

A. That is right.

Commissioner Dillon: Any other questions of Colonel Plentl?

Commissioner Catterall: I wonder if the Colonel could put an "X" mark on this map to give an idea of the location. After you have done it, cut that out.

A. We will put in the file the large—the chart.

Mr. Lam: Let me see if I have a chart here.

Commissioner Dillon: He's probably got a more detailed map than that.

Mr. Elliott: Here's the Court file. Maybe the Court file will be of assistance, Judge.

*Colonel Willard G. Plentl*

NOTE: Colonel Plentl points to location on map.

page 12 } Commissioner Dillon: It is right below the Williamsburg Inn Golf Course?

A. Right. It's near, southwest of the Golf Course.

Chairman Hooker: What I am trying to get is its location. It's between the Golf Course and James River?

Commissioner Catterall: Maybe this is the clearest way to put it in. Here is College Creek and there's the runway.

A. Yes, sir.

Commissioner Catterall: That represents the runway?

A. Yes, sir.

Chairman Hooker: This is College Creek that runs that way. They've got the dam there.

Commissioner Catterall: There's College Creek that runs down—

A. No, Sir. There is a marina back here into the runway on College Creek, so the dam, if there is a dam, it is over here.

page 13 } Mr. Lam: This clearly indicates the location of the runway with respect to other groups in the area.

NOTE: Parties identified it on map before the Commission.

Chairman Hooker: Colonial Parkway is the road down this way, isn't it?

A. What is that, Sir?

Chairman Hooker: Colonial Parkway from Jamestown is down this way?

A. It comes right here, yes, Sir. Yes, Sir, this is Colonial Parkway.

Chairman Hooker: It's pretty close to that, isn't it?

A. No, sir. It's quite a ways. This isn't an accurate layout.

Commissioner Dillon: You can take these back if you want to do so.

Mr. Lam

Q. Colonel Plentl, I want to add only one more question. So far as the funds for the building and services and so forth of this airport are concerned, to your knowl-

page 14 } edge, no request has been made for any public funds?

A. No, Sir, that's right.

Mr. Lam: I have no further questions.

Commissioner Dillon: Any of the Interveners want to ask Colonel Plentl any questions? If not, you—come on up.

Mr. Johnston: I am Ludwell Johnston, of James City County, and I want to ask Colonel Plentl if he is aware of the degree of military traffic at Fort Eustis in the proposed area and the degree of the low flying helicopter traffic?

A. Yes, Sir. Well, as soon as the airport is established, of course, it will have a control zone which will prohibit them from flying through the area, so it might eliminate some of the problems that the people in the area presently have with low flying helicopters.

Q. Is this airport, do you know, on the flight path of any regular flights to Patrick Henry Airport?

A. No, Sir, it is not.

Q. Is it to the Norfolk Airport?

page 15 } A. No, Sir.

Mr. Johnston: They are all the questions I have.

Commissioner Dillon: All right, Colonel, you may stand aside.

Witness stood aside.

page 16 } Mr. Lam: We would rest at this time and probably call people in rebuttal if we find it necessary, Sir.

Commissioner Dillon: All right. I would like to hear a little something about the financial condition.

Mr. Lam: All right, Sir. Mr. Waltrip, will you take the stand, please, Sir?

page 17 } LARRY WALTRIP, a witness introduced on behalf of Applicant, being first duly sworn, testified as follows:

## DIRECT EXAMINATION

By Mr. Lam

Q. You have already stated your name as Larry Waltrip?

A. Yes.

Q. You are the son of Mr. and Mrs. W. C. Waltrip?

A. Yes, Sir.

*Larry Waltrip*

Q. And the proposed airport that we are here concerning today is on property owned by your parents?
A. Yes.
Q. And you intend to run it yourself?
A. Well—
Q. I mean, is it under your general supervision more than your parents'?
A. Yes, Sir.
Q. With respect to the finances in this, are the funds involved in the construction and so forth of this air-
page 18 } port, are they personal funds or from what source?
A. Well, they will be from the personal funds.
Q. Have you made any application or do you intend to make any at this time that you know of for any State funds or Federal funds?
A. No.
Q. And the construction at this time has been a question of bulldozing; and has construction started yet?
A. No, Sir, it has not.
Q. It has not gotten to that stage?
A. No, Sir.

Commissioner Dillon: The Applicants will be financially able to construct these runways?
A. I am sure of it.
Commissioner Dillon: Mr. Elliott, do you have any questions you want to ask him?
Mr. Elliott: No, Sir.
page 19 } Commissioner Dillon: Anybody else want to ask any questions about the finances?

NOTE: No response.

Commissioner Dillon: All right. You may stand aside.

Witness stood aside.

page 20 } Mr. Lam: With that we will rest at this time, Sir, and maybe we will have to call somebody in rebuttal.
Commissioner Dillon: All right. Now, the Interveners, if they want to do so, may proceed. How about Mr. Harbour; do you want to make a statement?
Mr. Harbour: Yes, Sir.
Commissioner Dillon: Come around, Sir.

*John W. Harbour, Jr.*

JOHN W. HARBOUR, JR., appearing on behalf of Interveners, being first duly sworn, testified as follows:

Commissioner Dillon: Give the Reporter your full name.

A. John W. Harbour, Jr., Chairman, Williamsburg School Board.

Commissioner Dillon: You can just go ahead and make your statement.

A. All right, Sir.

Well, on behalf of the School Board, I simply wanted to state that on the basis of a resolution adopted
page 21 } June 12, 1967, and communicated to the Commission by letter, the School Board voted to go on record as objecting to the construction of this airport in the vicinity of the Rawls Byrd Elementary School because of the safety factor and the distraction of pupils, both from sight and sound, the disturbance in the area.

Chairman Hooker: How far is the school from that?

A. I think it would be better for us to check the chart here and show the exact distance—four thousand feet. This is four thousand feet from the end of the runway.

And we understand that the exit traffic pattern from that end of the runway provides for a turn to the left prior to the time that it reaches the school campus, but that the combination in elevation and shortened distance at that point would bring planes into such proximity of the school as to be a considerable noise factor.

Chairman Hooker: Does this pattern, as you understand it, go over this school?

A. No, Sir. It does not go over the school, that
page 22 } is, the accepted pattern, but, as the Colonel said a moment ago, we know that some planes do wander off the pattern.

Commissioner Dillon: Do you have a copy of the Resolution of your Board?

A. Yes, Sir.

Commissioner Dillon: Do you want to file that as an exhibit?

A. It was sent in.

Commissioner Dillon: It will be received as Exhibit No. 2.

Commissioner Dillon: Mr. Lam, do you have any questions you want to ask?

Mr. Lam: Yes, Sir.

*John W. Harbour, Jr.*

CROSS EXAMINATION

By Mr. Lam

Q. Mr. Harbour, this is, when you say the Williamsburg School Board, this is the joint School Board?

A. Yes, Sir.

Q. Of Williamsburg and James City County?

A. Williamsburg and James City County.

page 23 } Q. And this resolution was adopted on what date, on the 12th?

A. Yes, Sir, June 12th.

Q. And who appeared before you and moved at that time and requested the adoption?

A. The Rawls Byrd P. T. A. I might add, Sir, they are also represented here today.

Q. Yes; and the members, do you understand that some of the members of the Rawls Byrd P. T. A. are some of the same people who live in that immediate vicinity, the Birchwood vicinity?

A. Yes. We also had explained to us, Sir, the general layout and the range of the proposed airport by Mr. Waltrip. He was quite cooperative in giving us full information.

Q. And was that at this same meeting or at some subsequent meeting?

A. I believe, Sir, that the meeting with Mr. Waltrip was at a previous meeting. Again, I will have to check the records on that one to be positive.

Q. Now, let me ask, just as a matter of concern, I think the noise factor was the thing primarily concerning

page 24 } you?

A. The distraction, yes, Sir. We recognize that there is a little safety factor, but the distraction is the primary one.

Q. Well, now, as a practical matter, is this predicated on any scientific finding or is it a result of general knowledge? I mean, is it in any way—we are having a hard way of testing it, but if we took up planes out there, this was suggested to you or to your Board from the Parents—Teachers Association that this would be a distraction?

A. And a matter of just common general knowledge.

Q. Now, let me ask this, just for the purposes of comparison. James Blair High School, that's under your jurisdiction too?

A. Yes.

*John W. Harbour, Jr.*

Q. With reference to the old College Airport, which is now not in existence as an airport, where was that with reference to distance and so forth from that airport?

A. Again, I think for accuracy we had better
page 25 } check the charts on this.

Q. Well, now, of course, you do live there in the area?

A. I live in the eastern part of town.

Q. Yes, but I mean you are generally familiar with it. Would you say that distancewise they are approximately the same distance from the airports?

A. I couldn't say specifically, Sir.

Q. You do not know?

A. I do not know specifically.

Q. All right, Sir. Now—

Chairman Hooker: That airport hasn't been used for quite some time, has it? The College Airport?

A. It has been closed recently, yes, Sir.

Mr. Lam

Q. Well, what I guess—maybe I don't understand, and this is two things. One, if the school was built, while the airport was already in operation; is that correct?

A. Yes, Sir.

Q. And although it is closed, there have been
page 26 } murmurs of comments and so forth by the various officials that it should be reopened, am I correct, to an enlarged type of traffic?

A. There has been some public discussion about that. I am not aware of specific individuals' comments.

Q. Well, I mean, are you generally familiar with the fact that there has been advertised in the newspaper and so forth that the Peninsula Airport Authority, which runs Patrick Henry, has been in favor of reopening it, and that Mr. McManus, who is a member of your City Council, has spoken in favor of it?

A. I am aware of the continuing need of facilities for air service in the area.

Q. I want to ask this, whether at any time this Board of yours has taken into consideration relative to the consideration they have taken here that this also may be the same factor so far as health and hazard and so forth or noise interference and probably more so because of the type of planes that would

fly. Has that come before your Board; has your Board taken that up?

A. It has not come before us as an active matter as yet.

page 27 } Q. And no one from your Board has by foresight or anything taken any position in opposition to the re-establishment of that airport?

A. They have taken no action one way or the other.

Mr. Lam: All right, Sir. Thank you, Mr. Harbour.

Mr. Elliott: No questions.

Commissioner Dillon: All right. You may stand aside, and thank you for coming, Sir.

Witness stood aside.

page 28 } Commissioner Dillon: Mrs. Darling, do you want to make a statement?

Mrs. Darling: Yes.

MRS. JAMES S. DARLING, appearing on behalf of Interveners, being first duly sworn, testified as follows:

Mrs. Darling: This is a statement from the Rawls Byrd P. T. A.:

"The Rawls Byrd P. T. A. opposes the licensing and operation of the proposed airport in a location which is so close to the Rawls Byrd Elementary School. We object to the hazards of sight and sound, as well as the life and property hazards presented by take-off and, or landing. Open land is available in the vicinity of Williamsburg so that the city need not be denied the construction of an airport facility; therefore, we question the wisdom of an airstrip so close to an elementary school and to a highly developed residential area.

page 29 } "We are concerned too, in that plans indicate the proposed facility will be used for flight training which would, we feel, increase the potential hazard and most certainly extend the periods of sight and sound aggravation to our school, its teachers, and students. We respectfully request that the petition for this airport be denied."

Commissioner Dillon: Do you have anything else, Mrs. Darling?

A. No.

Commissioner Dillon: Do you have any questions, Mr. Lam?

## CROSS EXAMINATION

By Mr. Lam

Q. May I ask, Mrs.—is it Mrs. James Darling?

A. Yes.

Q. Mrs. James Darling, the P. T. A. of Rawls Byrd School adopted this resolution; is that correct?

A. That's correct.

Q. And who appeared before that group sponsoring this particular resolution?

page 30 } A. No one appeared before it. It was brought to our attention by our own Executive Board members.

Q. Are any of the Executive Board members who brought it to your attention also members of the Birchwood Civic League and so forth?

A. As a matter of fact, they are not.

Q. They are not. Mrs. Darling, in there you referred to the safety factor. Did *A*nyone present any evidence to you that it was a safety hazard?

A. Any time that you have small planes and trained pilots, you are certainly going to—any time anything is up there, you are certainly going to increase the hazards; and, if you are bringing them into the area, you are certainly increasing the hazards.

Q. Now, Mrs. Darling, let me ask you, and you may well do it, do you fly?

A. No, I do not.

Q. Now, you do drive an automobile, don't you?

A. Yes.

Q. Do you consider the automobile as dangerous?

page 31 } A. It depends on who is behind the wheel.

Q. Well, let us assume then—

A. I don't think that has any—

Q. You don't think it has any bearing. Well, let's see if I can tie it in. Do you consider from what statistics you read that it is a highly dangerous vehicle?

A. Why, certainly it is.

Q. Now, would increased traffic of automobile traffic at that school area, do you consider that would be any additional hazard?

A. Yes, I do.

Q. Now, at this present time there is a lot of automobile traffic to the school, going to and coming from it, isn't there?

A. Yes.

Q. And certainly no one is trying to prevent that, even though this hazard is there, have they?

A. I think that if someone were going to build something next door that was going to greatly increase the traffic, I think there definitely would be objections.

Q. Well, I think what I had reference to more
page 32 } is to the parents and to the teachers, and so forth,
that have to go there. They don't consider the risks to offset the fact that they would rather drive; is that correct? I mean, it's—

A. Well, I think driving is a necessity for that.

Q. And you put this as sort of a non-necessity?

A. In this particular location, yes, I do.

Q. Now, you spoke of some other land that was land available around there for it. Do you know of any specifically that anyone has?

A. No. I have no intentions of building an airstrip and I have not gone out and surveyed the County to find land, but there are open areas that would undoubtedly be available.

Q. Well, I think what I was going by was your statement that there were land areas available. Isn't that what it says?

A. I think that's what it says.

Q. Do you have any proof of that?

A. No, but I don't have any proof that there—
page 33 } Q. So this is conjecture, so far as that particular statement is concerned?

A. Yes.

Mr. Lam: All right. Thank you, Mrs. Darling.

A. All right.

Commissioner Dillon: Thank you for coming.

Witness stood aside.

page 34 } Commissioner Dillon: Mr. Whitman?
Mr. Whitman: Yes, Sir?

Commissioner Dillon: Would you like to make a statement?

Mr. Whitman: I ask if I may make my statement in conjunction with Mr. Coakley's statement.

Commissioner Dillon: I don't have any appearance slip for you.

Mr. Coakley: I have it here.

Commissioner Dillon: Will you come around?

Mr. Coakley: I have some slides that I would like to show in conjunction with my organization.

Commissioner Dillon: Are you going to be able to show them in this light, do you think?

Mr. Coakley: I think probably the light will be good enough for the Commission to see them.

Commissioner Dillon: All right.

RICHARD W. COAKLEY, appearing on behalf of Interveners, being first duly sworn, testified as follows:

page 35 } Commissioner Dillon: Will you give the Reporter your name and address?

A. Richard W. Coakley, 110 Redbud Lane, Williamsburg.

As President of the Birchwood Park Civic Association, I speak for the hundred and ten property owners and one hundred and forty-five resident families of the community. I have submitted to you a petition signed by many of these families. They are alarmed over the prospect of having this airport constructed so near their homes and so near their schools, mainly from safety considerations.

We have pursued a rather thorough investigation of the location of this airport as proposed by Dudley and Mary Waltrip in the Jamestown District of James City County. This investigation has uncovered certain facts which make the location of this airport a potential menace to our families, homes, and our schools.

First, I would like to acquaint you with the area by means of some thirty-five millimeter color slides taken recently from altitudes of one thousand and four thousand feet. May I have the Commission's permission to show these slides?

page 36 } This is Slide No. 1, looking west northwest from an altitude of four thousand feet with the airport clearing in the foreground, and the adjacent residential area in the background.

Slide No. 2, looking west, the altitude is four thousand feet, the airport clearing is in the foreground, and the adjacent residential area is in the background. You will notice in the upper righthand corner the round buildings are Rawls Byrd Elementary.

Slide No. 3,—Slide No. 3 is looking west southwest, and the

altitude is four thousand feet with the airport clearing in the *Froeground,* the adjacent residential area in the background.

Slide No. 4 is looking north northeast across the final approach and climb-out path.

Slide No. 6—

The altitude on No. 4 is again four thousand feet.

Slide No. 5 is looking southeast, altitude one thousand feet with concerned residential area in the foreground and airport clearing in the background.

page 37 } Slide No. 6 is looking west, altitude one thousand feet, with airport clearing in the foreground, and adjacent residential area in the background.

Commissioner Dillon: The school is in the very righthand tip?

A. Yes, Sir.

Slide No. 7 is looking north northwest, with airport clearing in the foreground and the adjacent residential area in the background. Again, the altitude is one thousand feet.

That's the end of the slides, for now.

Commissioner Catterall: Will you identify the school on that by going up and pointing to it?

NOTE: Mr. Coakley points out school area to Commission.

A. From these slides, you will observe that the proposed location site for this airport is extremely close to a developed population center (one hundred and fifty homes and thirty-five apartments) and is also close to two schools and a kindergarten. The proposed location is particularly a threat to Rawls Byrd Elementary School where there are some eight

page 38 } hundred students. We estimate the distance between the east end of the runway and this school to be less than seveny-five hundred feet. The school yard presents the largest flat, open space in the area. Visiting pilots do not know that these buildings are a school.

Commissioner Catterall: May I interrupt? The previous witness said four thousand feet.

A. That was from the other end of the runway, I believe.

Mr. Elliott: And that is the—

A. Close end; and this is the far end.

Commissioner Catterall: And what is this seventy-five?

A. I am speaking from the far end, seventy-five hundred.

*Richard W. Coakley*

Commissioner Catterall: Seventy-five hundred is the far end?

A. The far end, yes, sir.

Commissioner Catterall: A mile and a half?

A. Yes, sir.

Visiting pilots do not know that these buildings are a school. From the air the round shape of the buildings could be taken as a waste treatment plant. Wouldn't
page 39 } this area make a tempting emergency landing site for a troubled pilot?

Our homes are even closer to this proposed airfield than the school. We estimate the distance between the east end of the runway and the eastern edge of the populated area to be no more than fifty-five hundred feet. Some homes on Lake Powell Road may be even closer, that is, State Route 617. Our investigation has revealed that even under optimum conditions this proposed airport would be only borderline with respect to the safety of our families, our homes, and our schools. To illustrate this we have made some calculations involving the performance of a light plane, a Cessna 150.

Although not a high speed aircraft a Cessna 150 could be considered as being representative of the climbout characteristics possessed by traffic using this airfield. A Cessna 150 would require a minimum of fifty-one hundred and fifty feet overland distance from the starting end at full power to reach an altitude of four hundred feet, that is, on a standard sea level day. On hot, humid days, you may increase this overland distance by another fifteen to two thousand
page 40 } feet, and the aircraft could be as low as three hundred feet over this populated area. Only with an unrealistically severe maneuver can the adjacent residential area be avoided. Touch and go landings would make the problem even more severe with aircraft flying at altitudes as low as two hundred and fifty feet over the populated area.

I would like to read you a letter recently written to all Virginia pilots from the State Corporation Commission, Division of Aeronautics entitled "Avoidance of the National George Washington Shrine at Mount Vernon, Virginia", "Attention All Pilots, Avoidance of National George Washington Shrine at Mount Vernon, Virginia":

"The Federal Aviation Administration has received reports indicating considerable concern over low-flying aircraft in the vicinity of the George Washington Mansion at Mount

Vernon, Virginia. Most of the concern appears to involve small fixed wing or helicopter type aircraft. The George Washington Mansion and associated buildings constitute a national shrine with great historical interest for
page 41 } citizens of our country. It is considered one of the most important sight-seeing attractions in the Washington area. Should any of these structures be destroyed or receive major damage, replacement would be impossible. In order to minimize such an occurrence and to alleviate some of the concern, the FAA is requesting voluntary assistance from all pilots, to operate low altitude flights in such a manner to avoid this area. Cooperation will be greatly appreciated."

Certainly the George Washington Shrine at Mount Vernon is irreplaceable and should be avoided by low flying aircraft. The fact is that however valuable this building might be, it's still just a building. Aren't our families and those eight hundred children at Rawls Byrd Elementary School more valuable than any structure in existence?

As originally proposed this airport was to have had forty-three hundred foot runway. Since then the proposed runway has been shortened to thirty-two hundred feet. Was this done in the interest of safety with respect to the
page 42 } populated area? I don't think so.

Mr. R. A. Reynolds, a FAA representative recently was interviewed at a convention in Williamsburg and was quoted in the September 22, 1967, Virginia Gazette. When asked about this proposed airport he said "It would have to have an extremely good tower control, being so near a residential area." Yet this airport is not to have a control tower.

Asked his opinion of the "safety" precaution promised and explained by "cutting down the length of runways, so that only small planes could use the proposed airport, he said:

"You must be kidding. The shorter the strips, the more dangerous the airport—for any kind of plane. It would double the danger, not make it safer."

Now, if the Commission would allow me permission, I would like to introduce Mr. James P. Whitman, who is the person who has done these tabulations concerning the Cessna 150. Mr. Whitman is a Birchwood resident. He is an aeronautical engineer and a pilot. Mr. Whitman has studied this

proposed airport in great detail and he would
page 43 } like to present some facts and figures to you.

Commisioner Dillon: Would you like to introduce this newspaper clipping into evidence?

A. Yes, sir, and this letter, if I may.

Commissioner Dillon: All right. We will pass the letter to the file, and we can take judicial notice of that.

A. And you have copies of the petition that I sent in?

Commissioner Dillon: Yes, we have this. And this is the next exhibit, Exhibit No. 3.

Witness stood aside. Temporarily.

page 44 } Commissioner Dillon: All right, Mr. Whitman, you may come around.

JAMES P. WHITMAN, a witness appearing on behalf of Interveners, being first duly sworn, testified as follows:

Commissioner Dillon: Give your name and residence to the Reporter.

A. James P. Whitman, 119 Chestnut Drive, Williamsburg.

This morning I would like to share with you a few of the considerations that I have run into since the airport has been announced.

First of all, I would like to commend the Waltrips for proposing an airport in the Williamsburg and James City County's time of need, and I feel they need one very badly.

I was quite excited about having an airport very close to the house that I might be able to even walk to, but I have had to make many considerations, and I would like to tell you some of my conclusions.

With the airport as situated, basically traffic to the south-
east represents, I think, a very safe situation. Take-
page 45 } off traffic to the southeast and landing traffic to
the northwest present quite a safe situation. It's over relatively open country and represents no particular problem.

Mr. Coakley referred to the Cessna 150 we have selected as a difficult aircraft to be using this airport, and I would like to show you how this actually looks and how the flying paths are affected by temperatures and how this relates to our adjacent area, if I might put the slides here. We will skip over these first two slides.

*James P. Whitman*

NOTE: Witness displayed slides to the Commission.

Mr. Whitman: The safety consideration that I have observed in analyzing this airport, and I say "analyzing" it because certainly being as close as it is, it is one in which I would be very desirous to have my own airplane at. Yet I would analyze very closely before I did this.

The runway in itself is relatively short which in itself is not particularly a safety hazard. Coupled with
page 46 } this, however, there is only two thousand feet approximately to the closest residential area. Even though it's short, it qualifies as what is known as a "Basic Utility Stage Two Airport" by the FAA, and its traffic would be restricted only by the pilots that would like to bring their aircraft into a runway thirty-two hundred feet long. This could actually, as far as aircraft performance is concerned, accommodate up to DC-3's and as high as even B-26's.

It appears from my consideration of this the most significant problem of this would be an engine failure with a northwest take-off. This would be the most significant thing, although the traffic pattern situations appear reasonably safe, in my opinion.

It is difficult to calculate all possibilities where an aircraft would go in a glide following an engine failure on take-offs. It might be interesting to note that a Cessna 150 could not possibly turn three hundred and sixty degrees with less than three hundred and thirty foot altitude loss. It would more likely be *clooser* to a five hundred foot altitude loss in a three sixty degree turn.

page 47 } However, as many variables involved as there are, let's look at the area that would be encountered by a pilot if he encountered an engine failure on a take-off to the northwest.

We are looking now essentially toward the southeast and the northwest end of the runway is in approximately the center of the picture with the remaining part of the runway going in a straight line toward the upper lefthand corner of the picture.

Now, following the center line extension of the runway we see very little area on which a satisfactory forced landing could be made. Now, we can't see the entire departure leg in this picture, and we would like to look at it more, so we look at *if* as if we were to the right of this picture looking toward the left, and this is the view we would see.

*James P. Whitman*

The center line of the runway would go approximately from a point about the middle of the right side of the picture in a straight line up toward the upper lefthand corner of the picture. Now, even in here there is a very limited area on which a forced landing could be made. There is a little straight line of open area available, the largest page 48 } being the open school yard in the upper righthand corner of the picture.

We see in the middle of the lefthand corner of the picture what might appear to be some open area, which is assumed to be residential area. The wooded area which you will see in the upper righthand corner of the picture might present some problem for a forced landing. but there is a kindergarten hidden in those trees along the road that goes up through the center of the picture. It's about a thousand feet short of the water towers coming up through there that are filled with water.

We have seen that a pilot in case of an engine failure would have really very little choice. If he is in complete control of his aircraft, he still has little choice where to go, and not until such time as he has either entered or completed his first turn in traffic is he assured that he could make a reasonable forced landing, depending on the many variables as a type of take off, whether they would use the full length of the runway or whether it was a touch and go landing, the wind and the temperatures of the day.

Perhaps this situation would require a quality page 49 } of the pilot, both in skill and sacrifice, in case he lost an engine that I don't believe many of us would like to have to make.

I realize, as has been pointed out, the many problems here are not many, but primarily ones that are associated with a northwest take-off.

Usually, if you present a problem, you should have perhaps some kind of alternate solution. If there would be such a thing as to have southeast take-offs only, I think it would be an entirely satisfactory situation. I have seen some airfields, not many, that this is done. Re-orientation by approximately twenty degrees of the runway would almost completely alleviate the situation.

I think these are things that should certainly be considered. Generally James City County needs an airport, but general aviation and James City County as a whole couldn't afford the type of accident that happened in Dallas within the last week in which an aborted landing at the airport there in Love Field wound up in a school building.

*James P. Whitman*

I think that Mr. Coakley might have some follow-
page 50 } up.

Commissioner Dillon: Let me ask you—

A. Yes, Sir.

Commissioner Dillon: What is this property zoned for by the County Board. Do they have zoning ordinances?

A. Zoning has been attempted to be initiated. There is a County Use Map. It is my understanding that it is not zoning as recognized as yet as a zoning law, and there is a form that is proposed and there is a Land Use Map which I understand is in accordance with this proposal, but as yet zoning *per se* does not exist.

Chairman Hooker: Let me ask you a question. I notice the testimony here has made some reference about a swamp. Is there any possibility of fog danger from that swamp?

A. I'm sorry, Sir. I did not hear you.

Chairman Hooker: This fog—do they have much fog off that swamp?

A. This would be a VFR airport to be used in favorable weather conditions only; so, if there were, the airport wouldn't
be operating, and I don't think it is very much a
page 51 } consideration.

Chairman Hooker: They wouldn't be using it.

Commissioner Dillon: Do you want to ask any questions, Mr. Lam?

Mr. Lam: I did want to ask him some.

CROSS EXAMINATION

By Mr. Lam

Q. It's Mr. Whitman, is it not?

A. Yes, Sir.

Q. Mr. Whitman, for the record, because I know the Commission asked you about the land use there, now so that we will know, this similar or almost the same opposition that you are presenting now has been presented both to the Planning Commission and to the Board of Supervisors of James City County, has it not?

A. I believe there has been to the Planning Commission, but I don't think there has been—I have not—

Q. You have not appeared before the Board. Has Mr. Coakley appeared before the Board?

A. I can't answer that, I did not appear there.
page 52 } Q. Well, anyway, it has been opposed there,

has it not? It seems to me that they have had quite a few articles where the thing is favorable—people for and against it appeared before the Board?

A. The Board or rather the Planning Commission had no power to judge on that because zoning *per se* was not yet effected. It was heard there, however.

You ask about the Board of Supervisors? The primary discussion, as I understand this, was held, but only in the absence of the Supervisor from the area that this concerned; so this is—

Q. He did appear at a later time again and requested a different thing. That was with reference to the letter that the Board wrote.

A. They wrote a letter.

Q. Yes, and he appeared the next time and raised quite a rumpus over the fact that the action had been taken in his absence.

A. I believe so.

Q. And he requested it be rescinded, did he not?

A. I believe this was his request.

page 53 } Q. Yes.

A. I don't know what the outcome was.

Q. I don't believe they adhered to that, did they? The majority of the Board?

A. I'm not aware that they did rescind it.

Q. Now, let me ask you, because I think you said you fly, and this particular point interests me, you are flying at the present time?

A. No, I'm not.

Q. I thought you said that you wanted to use this air—or would like to, just as an ordinary proposition?

A. My family is flying, and I am in the process of learning to fly.

Q. Oh, I see.

*A*. I thought you said you had several hundred thousand hours the last time I heard you.

A. I have approximately two and a half thousand hours now.

Q. But I understand you are not presently flying?

A. Not currently flying.

page 54 } Q. Now, you, I assume, have flown around the State of Virginia at various airports, have you not?

A. Yes.

Q. Are you familiar with Northfield here in Richmond?

*James P. Whitman*

A. I have not flown into Northfield.

Q. All right, Sir. Are you familiar with Washington, Virginia?

A. Not by flying into it. I will state that most of my flying in Virginia, the majority of it, has been military.

Q. All right. Have you flown into Norfolk, into the Norfolk Municipal?

A. Yes, I have.

Q. You are familiar with that?

A. Not intimately, but somewhat, yes.

Q. Well, with respect to the location of the school and so forth, I don't guess—would you remember that from your flight in there?

A. Not specifically. I am now familiar with the school locations in Highland Springs and Richmond here, if that's any help to you.

page 55 } Q. No, Sir. I don't think they are with reference to the airport here.

Let me ask you, one of the things that you said, I think you underestimate pilots generally. It seems to me that in most accidents, always the pilot has been sort of self-sacrificing and has taken to the bushes or anything else to avoid any area wherever it is populated, if he had any controls at all, hasn't he?

A. We hear a lot about this, and we likewise hear about the ones that people didn't think they did that enough too, and that they should have, and they might almost have been better off if they had died in the accident.

Q. Well, I said there are exceptions to any rule, but as a general proposition. You made mention of the fact in the losses altitude, you were using the 150 Cessna, I think, as your basis of a three hundred and sixty degree turn, you would lose somewhere from three to five hunrded feet, were you not?

A. Yes.

Q. Now, if you were leaving this airport, and there's an inherent danger in everything that moves, isn't it; I mean, in an automobile or bus, train, some inherent

page 56 } danger that it may not always function, isn't it?

A. Yes, if we recognize these and operate them the best we can under those circumstances.

Q. We take the risk because of the pleasure it brings us, don't we, in our testing?

A. Go ahead.

*James P. Whitman*

Q. I have reference to your three hundred and sixty degree turn. Why would you make, if you ran into difficulties when leaving this airport, why would you make a three hundred and sixty degree turn?

A. I only mentioned that as information as to the amount of loss of altitude you would get during a turn and did not mean to imply you would make a three sixty turn.

Q. All right. Then, using your figures of three to five hundred feet in a three hundred and sixty degree turn, if you made a ninety degree turn, which would be left away from anything and towards the bushes out here, wouldn't it, if you were taking off to the north, which would be away from the area?

A. If you want to talk about that, I would like, if you wish to pursue that, I would like to refer back to our
page 57 } picture of Birchwood because there are certain hazards in doing this that prevent you from doing that.

Q. Let me see if I cannot, if we can't just do it here in the light so we can see each other. Your picture that you made the dry dams with was showing the take-off; in other words, you say that so far as take off and landing in the other direction, there is no hazard, so far as you can see, at all?

A. Certainly not to the surrounding area?

Q. Now, then, your picture showed only, your graph and so forth showed only reference to your take-off over or in the direction of this populated area where you live?

A. Well, it's the direction that you go in take-offs. It's merely an extension of the same.

Q. That's what the graph was about?

A. Yes.

Q. And you predicated this on a four hundred foot level at the turn, did you not?

A. I would think anything less than four hundred feet would be a very low first turn pattern.

Q. And when you say you would "think", is this
page 58 } a result of a scientific proposition or studies or instruction or where do you get the four hundred foot?

A. I have never seen any traffic pattern first turn prescribed at any airport that is less than four hundred feet. That's all. And I believe it was the pattern altitude that you prescribed at the Planning Commission in Williamsburg. So the four hundred is your number.

Q. I didn't prescribe it.

*James P. Whitman*

A. Well, excuse me—the one presented.

Q. The four hundred foot altitude is not a positive proposition, that you just read this automatic figure, when you start turning it?

A. Let me—

Q. I mean, according to your—

Any pilot, with your hot days' period, is going to angle off, is he not?

A. No, he normally climbs straight out.

Q. Like going through a school zone without slowing down, the same thing; I mean, nobody uses discretion when they are doing it?

A. No, that's not a valid comparison.

Q. It's not a valid comparison. All right, Sir.

page 59 } A. That's just a limitation of performance of the aircraft and you can't make it do any better than that, regardless of how hard you try.

Q. And every aircraft has a little different performance?

A. They would all be quite similar to the 150 with respect to angle of climb, which would change their altitude. Some would be better, some would be worse.

Q. Well, other than the fact that we have this potential hazard, Mr. Whiteman, you have made a good study of this thing. I made reference to Washington, Virginia, Airport. Are you familiar with it is completely surrounded by developments?

A. Yes.

Q. And the Northfield here at Richmond, are you familiar with that it is completely surrounded by housing developments?

A. Yes, Sir.

Q. You know of no instance in Virginia of an airplane crashing into houses on take off and landing, do you, other than in civilian aircraft?

page 60 } A. Only because the area around the airport was clear.

11:25 A.M. Commissioner Dillon: The Commission will recess five minutes.

11:35 A.M. The Commission resumes its session.

Mr. Lam

Q. With regard to the diagrams, going back to those that you showed, they were based on a static proposition, weren't they—correct—no wind?

*James P. Whitman*

A. That's right.

Q. The figures would be greatly changed with any wind in that direction, which would be if you were taking off, you would normally take off into the wind?

A. That's right, though they sometimes do it downwind, though—

Q. But this is—

A. —but sometimes during the traffic pattern change, they take off or even leave downwind.

Q. I think though what I would like to get you is to suggest that normally take-offs and landings are

page 61 } made into the wind.

A. That's right. You can't depend upon the wind to clear your area.

Q. And Federal Aviation regulations require this as the general basis of take-offs and landings, do they not?

A. Yes.

Q. It is like you've got rules today that you should drive at fifteen or twenty-five or thirty-five and so forth?

A. Right.

Q. And your particular display does not account for any wind conditions; is that correct?

A. That is correct.

Q. Now, one other thing, with respect to miles traveled, are you prepared to say which has the greater safety factor at this time, this stage of life, anywhere, the airplane or the automobile?

A. I don't have the statistics you suggest.

Q. Well, as a general proposition, would you say from what you would remember, without going to statistics, that the automobile is not as safe as the airplane for

page 62 } miles traveled? You don't know?

A. I would not say it was.

Mr. Lam: Then I'll ask you no further questions.

Commissioner Catterall: One thing you left me confused about. You said that changing the axis of the runway by twenty degrees would make the difference between safety and non-safety.

A. Yes, Sir. I think you would have a situation in which your departure, first of all, is not over as densely populated area, it's further away from the school, the center line of the runway would not extend over the school, over the Rawles Byrd School, and it would bring in the pilot even closer to an

*James P. Whitman*

area in which he could make a safe forced landing, than he has available to him as proposed.

Commissioner Catterall: You mean the swamp?

A. No. The swamp is on the other end.

Commissioner Catterall: Oh.

A. I am speaking primarily to departing in a northwesterly direction. As it is now, he would depart over the
page 63 } swamp, in either case, in a southeasterly direction when he is going that way. That represents no hazard.

Commissioner Catterall: What did you have in mind when you said that it would be easier to land if you started off twenty degrees to the right?

A. He's more nearly headed toward open areas already.

Commissioner Catterall: You mean if you switched twenty degrees to the right, that would be towards the ocean?

A. That would be to the left, as I was saying.

Commissioner Catterall: To the river; to the left?

Commissioner Dillon: To the west?

A. Actually, it's the west end of the runway, moved toward the south.

Commissioner Dillon: That's right, towards the south.

A. Or counter-clockwise, as you would look at it in a map.

page 64 } Commissioner Catterall: Would it be perfectly feasible to make that twenty degree shift on a terrain that is as high as that?

A. I really don't know.

Commissioner Catterall: Thank you.

Mr. Elliott

Q. You have stated that and in the graph presented that you took into consideration no wind conditions. As an example, can you tell the Commission what modifications would be made in the figures presented by, say, a ten mile wind?

A. They would be more favorable.

Q. Would it not be in the neighborhood of approximately twenty per cent?

A. No, Sir.

Q. What would it be?

A. I would estimate it would be—you did say ten miles an hour, did you not?

Q. Yes, Sir.

A. I would estimate ten to fifteen per cent.

Mr. Elliott: That's all.

Commissioner Dillon: Any other questions of
page 65 } this witness?

NOTE: No response.

Commissioner Dillon: You may stand aside.

Witness stood aside.

page 66 } Commissioner Dillon: Do you want to cross examine Mr. Coakley?

Mr. Lam: Mr. Coakley? I don't think he is complete.

Mr. Coakley: I'm not complete yet.

RICHARD W. COAKLEY, resuming the stand, testified as follows:

Mr. Coakley: The construction of the airport at the proposed location would certainly bring in added nuisance. The narrow, heavily traveled State Route 617 is already a problem to the area. Noises generated at the airport would certainly be a disrupting influence on the children at the schools in the area and on family life in general.

The location of this airport in a rapidly growing urban community would of necessity lower property values. A prospective home buyer simply would not purchase a home or lot if another location was available. Airports and urban developments do not make good neighbors. In a study entitled "Compatible Land Use Planning On and Around Airports" (AD650-267) for the Federal Aviation Agency dated June 1966, this conclusion was made, and I quote:

page 67 } "Residential and certain institutional uses are considered poor within approximately three miles of the airport, and particularly under the approach and climb-out surfaces because of both noise and hazard."

Further, the lack of demand for property near this proposed airport would, of course, result in the stagnation in the development of the area. This area lies between Birchwood Subdivision and metropolitan Williamsburg, an area destined to mushroom in the next ten years.

Finally, we do not think that adequate thought or planning

have been given the location of the proposed airport. The James City County Planning Commission has agreed that they have no legal control over its location. They did point out, however, that its location was in conflict with the Land Usage Plan for James City County. The Land Usage Plan was recommended by the Planning Commission and adopted by the James City County Board of Supervisors in 1966.

In conclusion, we would like to state that we
page 68 } feel that the Williamsburg—James City County needs an airport for small aircraft. There is available in the County much open land where an airport could be built without endangering the lives and property of the residents. The area selected for this airport could not have been more deliberately chosen as a threat to the safety of our school children, our families and our homes.

Commissioner Dillon: All right, Mr. Lam, you may proceed.

Mr. Lam: All right.

## CROSS EXAMINATION

By Mr. Lam

Q. Mr. Coakley, let's see if I have these correct. You live in the Birchwood area and you are what—President of the Civic League there?

A. That's right?

Q. You were the one who secured most of the signatures to the application?

A. That's right.

Q. If I understand correctly, you are civically opposed to it; is that correct?

page 69 } A. Opposed to the airport?

Q. Yes.

A. Yes.

Q. And they are the same people who signed the petitions; isn't that correct?

A. There was no formal meeting.

Q. I see. This was proposed by the Executive Committee or something?

A. No, no executive.

Q. Now, I almost gathered that you thought that Mr. Waltrip designed this thing, in one of your latter statements there, with an intent to harass this particular area. Did you mean that?

A. No.

*Richard W. Coakley*

Q. Do you know of any other area—I think there is one a Mr. Carr has some idea of an airport in another area near Norge; is that correct?

A. That's correct.

Q. Which, I think, Mr. McManus said was as far from Williamsburg as was Patrick Henry, didn't he?

A. I am not familiar with what Mr. Carr said.

Q. No, I say Mr. McManus.

page 70 } A. His statement is correct.

Q. Well, Mr. McManus said, I think, that this was about as far from Williamsburg as was the Patrick Henry Airport was?

A. It probably is, yes.

Q. And that would be about how far?

A. I would guess sixteen miles.

Q. Now, do you know of any other proposal by any private parties wishing to build an airport on their own land at this time, and you say there are so many other areas, do you know of any private citizens who are willing to make this expenditure?

A. I do not.

Q. You referred to—of course, noise was one of the incidents—do you know, as a practical matter, whether the noise level from the small private airplanes that would be using this would be as great, greater or less than that of an ordinary lawnmower?

A. I think that probably it would—it depends on the altitude of the plane.

Q. Then in your answer you are saying that there is some consideration that the lawnmower might be noisier

page 71 } than the airplane?

A. Under certain conditions.

Commissioner Dillon: On a Sunday morning, yes.

Mr. Lam

Q. And you referred to increased traffic on the roads to this area by reason of people going to and from the airport?

A. That's correct.

Q. Now, can you suggest any other development, any other development, that Mr. Waltrip may make on his land that would cause less traffic?

A. It's not really up to me to tell Mr. Waltrip what to do with his property.

Q. I didn't ask you that. You stated it would cause increased traffic. My only question was: Can you think of any other use he might make of his land, use now, not just letting it lie idle? Can you think of any other use that he might make which would create any less traffic situation?

Commissioner Catterall: He could grow wheat on it, and there would be less traffic.

page 72 } Mr. Lam: It's mostly woods, I think.

A. No, I can't think of any offhand now.

Mr. Lam: That's all.

Mr. Elliott: No questions.

Commissioner Dillon: You may stand aside, and thank you for coming.

Witness stood aside.

page 73 } Commissioner Dillon: Anyone else want to make a statement?

NOTE: No response.

Commissioner Dillon: Do you have any other evidence?

Mr. Lam: I would like to, if I may, probably call one or two people. Mr. Richards, could you come forward and take the stand, please?

Commissioner Dillon: You want to make a statement, Sir?

Mr. Lam: I would like to call him as a witness, please.

Commissioner Dillon: Oh, you are going to call him?

Mr. Lam: I was anyway, so I see he is coming. All right.

page 74 } CHARLES W. RICHARDS, a witness introduced on behalf of Applicant, being first duly sworn, testified as follows:

## DIRECT EXAMINATION

By *Me.* Lam

Q. Will you please state your name, Sir?

A. Charles W. Richards.

Q. Mr. Richards, I think that you are a resident of James City County, are you not, Sir?

A. That's true.

Q. You are one of the members of the Board of Supervisors?

A. That is true.

Q. You are one of the persons that took action on this particular thing when it came before the Board saying they were not in opposition; is that correct?

A. That's correct.

Q. Now, do you have any statement that you would wish to make—may I say this, have essentially the same arguments and so forth as have been made, have they been made or been brought to your attention, as a member of the Board?

page 75 } A. Yes, very much the same. I might say, I don't think—I think it has been implied here this morning, and it's certainly implied in the newspapers, that there was something out of the way of the Board's taking—in fact, the Board took no direct action, but the Board discussing the matter when one member of the Board was not present. Well, now, I've been on the Board of Supervisors for almost eight years now, and there have been a good many meetings which anybody would know that all the members could not be present.

This is the first time that a member who was absent criticized the Board at the next meeting for any action they took because he was absent. I don't think that the Board could hold up discussion on the absence of a member.

Now, this proposition that we are discussing this morning had been brought before the Board by the group that proposed the airport at least two times before this, and there had been rather large delegations before the Board. The Board had simply not taken any action whatever. At this time, why we thought that it would be probably

page 76 } worthwhile to take some action and let them know that apparently from the action that the Board had no opposition to the location of this airport at the place where it was asked for.

Mr. Lam: All right, Sir.

Commissioner Dillon: Any other questions of this witness?

NOTE: No response.

Commissioner Dillon: You may stand aside, Sir, and thank you for coming.

Witness stood aside.

page 77 } Mr. Lam: Mr. Weeks, take the stand, please, Sir.

*R. Kenneth Weeks*

R. KENNETH WEEKS, a witness introduced on behalf of Appellant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lam

Q. Please state your name, Sir.

A. R. Kenneth W*E*eks.

Q. Mr. Weeks, what is your occupation, Sir?

A. I'm a Consulting Engineer.

Q. As a Consulting Engineer, your office is where, Sir?

A. In Norfolk.

Q. Were you retained by Mr. and Mrs. Waltrip to perform any services for them?

A. Yes, Sir.

Q. And as a result of that, is the design layout and so forth, the matters which I think have already been presented here concerning this airport, were they designed and laid out by you?

A. Yes.

page 78 } Q. Or by your firm?

A. Yes.

Q. Now, with respect to the center line of this proposition, the location from the end of the runway to the—what was the maximum length of the runway that was ever contemplated, to your knowledge?

A. The maximum length that I've ever known of was thirty-two hundred feet.

Q. All right, Sir. What is the present paid part to be?

A. Thirty-two hundred feet.

Q. And at the south end of this—let's see, it's the northern end of this towards the area where is the Birchwood area, what is the make-up of property in between that and the subdivision known as "Birchwood"?

A. That property is generally, it's the property of the owners through the highway; I mean, most of this.

Q. Yes. And what is the general make-up; is it cleared, trees or what?

A. Well, there are trees in there.

Q. A*S* a practical matter, this entire airstrip

page 79 } has been bulldozed out of a completely wooded area, has it not?

A. Yes, Sir, yes.

Q. Now—

*R. Kenneth Weeks*

A. A little bit of barefoot area in there, but the majority of it is clear, but was wooded.

Q. With respect to your measurements, the end of the runway to this subdivision is what length; do you have that information?

A. Exactly to the subdivision? I have some lengths that I think that I can approximate it. The length, roughly, from the end of the runway to the State Route that we have discussed, Lake Powell Road, it is approximately a half mile to the subdivision that's beyond.

Q. Now, with respect to the—it is true that a portion of the subdivision on the straight line from the end of the runway would lie under this?

A. Yes, Sir.

Q. The school buildings in the area, what are they with reference to measurements off of this?

A. Roughly, three-quarters of a mile, and along
page 80 } with, they are, roughly, four hundred and fifty
feet north of the center line of the runway projection.

Q. All right.

A. In other words, if you projected the center line of the runway, it would not pass over the school buildings proper. It would be, roughly, four hundred and fifty feet north.

Q. All right, Sir.

A. Now we are going in a northwesterly direction rather than north.

Q. With respect to this, I ask you because of its relative position—you are familiar, of course, with the Norfolk Municipal Airport, are you not?

A. Yes, Sir.

Q. And it has been in existence for numbers of years, has it not?

A. Yes.

Q. And is there a school or what is there main active instrument runway?

A. Their main active instrument runway is four twenty-two.

Q. In other words, a heading of forty degrees
page 81 } and a heading of two hundred and twenty?

A. That's right.

Q. There has been built there a school, an elementary school, has there not?

A. Yes, Sir.

Q. When was that built?

A. That school was built in 1957.

Q. Precisely how far is that from the end of this active runway at the Norfolk Municipal Airport?

A. Just about four-fifths of a mile.

Q. A little bit further than this particular area we are talking about?

A. Yes, just a fraction.

Q. And with—

A. A couple hundred feet.

Q. With respect to the flight path, we are speaking of the same thing as to where you would draw a straight line in the flight path, where is it with reference to that?

A. Generally that goes over the school.

Q. Goes over the school. And this has been built and constructed there after the airport had been in

page 82 } operation?

A. Yes, Sir.

Q. And this is traversed by all of the commercial planes, is it not?

A. Yes.

Q. All right, Sir.—I ask you—someone has made reference with respect—I think it has already been said—but all of the approach areas in this more than exceed the minimum of our State requirements?

A. Yes, Sir. And incidentally those requirements are based on the performance characteristics of light aircraft, and this meets those requirements.

Q. All right, Sir. May I ask you this: Have you as a matter in your professional training made any study as to whether the relative safety between the automobile and the airplane, for passenger miles traveled?

A. No, Sir, I have never made any studies, but I have seen statistics.

Q. And do you recall what they showed?

A. The last one I saw, I think was some three years old now. On a mileage basis of travel, it showed the plane to be three point eight times as safe as the automobile.

page 83 } miles traveled.

Q. Now, with respect, let's assume — someone here brought up the increased traffic on the road—what is the normal amount of houses per acre you put in a subdivision?

A. Normally, I would say the average subdivision today was three and a half houses per acre, which would account for roads and everything.

*R. Kenneth Weeks*

Q. At my request, did you compute what this would be for Mr. Waltrip's area?

A. Yes, I did.

Q. Do you *hae* those figures before you?

A. It would be in the neighborhood of six hundred and fifty homes on his one hundred and eighty acre tract, and which would represent some two thousand people or in excess of two thousand people.

Q. And how many automobiles?

A. At least one per family.

Q. So, so far as any increased road traffic and houses are concerned, other than putting an industrial plant there, they probably couldn't get any other use that would increase the traffic on those roads, could they?

page 84 } A. That would increase the traffic, yes.

Mr. Lam: All right, Sir.

CROSS EXAMINATION

By Mr. Elliott:

Q. Mr. Weeks, do you concur in the statement of Colonel Plentl that the proposed airport meets or exceeds all safety criteria as established by the Virginia Aviation Law, and its Rules and Regulations?

A. Yes, Sir.

Q. You concur in it?

A. I concur in it, yes, sir.

Mr. Elliott: I have no further questions.

Commissioner Dillon: You may stand aside.

Witness stood aside.

page 85 } Commissioner Dillon: Any other evidence?

Mr. Lam: I think we would rest, Sir.

Commissioner Dillon: If not, the Commission will take this case under advisement.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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