

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF FEBRUARY, 1998, AT 7:03 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
David L. Sisk, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Ronald A. Nervitt, Powhatan District
M. Anderson Bradshaw, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

Mr. Edwards introduced the members of the Board of Supervisors and led the audience in the Pledge of Allegiance in honor of Presidents Day, February 16, 1998.

Mr. Edwards explained the new agenda procedure of having a fifteen minute Public Comment period at the beginning of each meeting. He stated that each speaker would be allotted five minutes at either the early Public Comment period or the regular Public Comment period near the end of the meeting.

B. PUBLIC COMMENT

1. Mr. L. T. Jones, Chairman of Country Village Mobile Home Park Steering Committee, asked for discussion of why the mobile home park has different rules than a home and apartment complex and expressed a need for a security guard gate at the mobile home park entrance.

Mr. Edwards advised that staff would be in contact with the Committee regarding the issues.

2. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, expressed dissatisfaction with the procedure of action taken on Case No. SUP-11-96, Virginia Metronet/360° Communications, at the January 27, 1998, Board of Supervisors' meeting.

Mr. Edwards apologized that the Board did not clarify its procedure.

Mr. Sisk left the meeting at 7:10 p.m.

3. Mr. Fred Kern, 3006 Seaford Road, Seaford, Virginia, gave an update on the Neighborhoods Conference of 42 workshops for all ages on Saturday, February 28, 1998, 8:30 a.m. to 3:30 p.m., sponsored by James City County, York County, and City of Williamsburg.

**C. MINUTES - January 20, 1998, Recessed Meeting
January 27, 1998, Regular Meeting
January 28, 1998, Work Session**

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

Mr. McGlennon made a motion to approve the three sets of minutes.

On a roll call, the vote was: AYE: McGlennon, Bradshaw, Nervitt, Edwards (4). NAY: (0). ABSENT: Sisk.

D. PUBLIC HEARINGS

1. Case No. SUP-37-97. PrimeCo Personal Communication Systems

Mr. Paul D. Holt, III, Planner, stated that Mr. Vernon Geddy, III, on behalf of PCS PrimeCo, had applied for a special use permit to construct a 185-foot tall wireless communications facility, zoned R-8, Rural Residential, located at 4315 John Tyler Highway, further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (46-2).

Staff determined that the facility was inconsistent with surrounding land uses; the scale, size and design was inconsistent with structures generally located in residential areas and inconsistent with the Comprehensive Plan; the visual impact would be great; and the proposal does not meet two components of the County's tower policy.

Staff recommended denial of the proposal and the Planning Commission denied approval by a vote of 2-5.

Mr. Edwards opened the public hearing.

Mr. Sisk returned to the meeting at 7:25 p.m.

1. Mr. Bill Broaddus, representative for the applicant, detailed the benefits of convenience and safety and public demand for service. He stated that the facility met 18 of the 20 County policy criteria and that the tower would be a mile from the historic farm and not noticeable from the Route 5 corridor. He stated that the community would prefer fewer and taller towers rather than numerous at lower heights. He asked for approval of the special use permit.

Mr. Edwards stated that a work session had been scheduled for March 25, 1998, Board of Supervisors' meeting to discuss the County's Wireless Communication Facilities Policy. He asked whether the case could be remanded to the Planning Commission meeting the first Monday in April, with case being brought back to the Board after the Planning Commission's recommendation.

Mr. Broaddus responded that schedule would be acceptable to the applicant.

Board members discussed consideration of lower range in height; stealth towers; and use of coverage from existing tower sites.

2. Mr. Gary Bohlken, 119 Rothbury Drive, spoke in opposition to the application for environmental, health and visual impact concerns.

3. Mr. George Wright, President of Historic Route 5 Association, speaking for 16 member communities, Village Square and St. George's Hundred, stated opposition to the tower location behind the Clara Byrd Baker Elementary School and the visual impact to the area that will be the focal point of Celebration 2007, founding of Jamestown.

4. Mr. Michael Ludwick, 4493 Village Park Drive West, spoke in agreement with public demand for the facilities and asked that less obtrusive options be used.

5. Mr. Mark Sexton, 8 Prestwick, stated satellites were alternatives to towers, and the proposed tower posed a safety hazard for the elementary school located near the airport. He urged the Board to deny the application for safety, environmental and historical reasons.

6. Mr. Keith Nowadly, 4702 Wood Violet Lane, voiced concern that each new technology could not use existing towers. He endorsed the Board work session.

Mr. Edwards continued the public hearing, and referred the case back to the Planning Commission's April 6, 1998, meeting following the Board's March 25, 1998, work session.

Board members agreed the work session was important to understanding the technology and the need for it, along with maintaining the quality of the County and citizens' concerns.

2. Case No. SUP-32-97. Virginia Trusses/Mini Mix Concrete Plant

Mr. Gary A. Pleskac, Senior Planner, stated that Mr. Robert Heavner had applied on behalf of Virginia Trusses and John Thayer-Smith of Mini Mix Concrete for a special use permit to operate a ready-mix concrete production plant in Skiffe's Creek Industrial Park, zoned M-2, General Industrial, located at 136 Blow Flats Road, further identified as a portion of Parcel No. (1-29C) on James City County Real Estate Tax Map No. (59-2).

Mr. Pleskac further stated that the proposed plant, with conditions, was consistent with surrounding zoning and development and the Comprehensive Plan; the number of vehicle trips would not significantly add to existing traffic; and the small business would add to the diversity of local business mix.

In concurrence with staff, the Planning Commission, by a vote of 7-0, recommended approval of the case with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Mr. John Thayer-Smith, applicant, was available for questions.

2. Mr. Ed Oyer, 139 Indian Circle, reiterated that no applications should be approved in the Skiffe's Creek area until the County has access to BASF Road.

Mr. Wanner responded that the BASF property owner rebuffed several County efforts on this road for over five years.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards, (5). NAY: (0).

RESOLUTION

CASE NO. SUP-32-97. VIRGINIA TRUSSES/MINI-MIX CONCRETE PRODUCTION FACILITY

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on January 5, 1998, recommended approval of Case No. SUP-32-97 by a vote of 7-0 to permit the construction of a ready-mix concrete production facility in the Skiffe's Creek Industrial Park, Lot No. 3, at 136 Blow Flats Road, further identified as a portion of Parcel No. (1-29C) on James City County Real Estate Tax Map No. (59-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-32-97 as described herein with the following conditions:

1. If construction has not commenced on the project within twelve (12) months from the issuance of the special use permit, the permit shall become void. During this twelve-month period, permits pertaining to construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. A Spill Prevention and Control and Counter Measure Plan shall be approved by the Director of Code Compliance prior to the issuance of a Final Certificate of Occupancy for the ready mix concrete plant.
3. A dust collection system shall be utilized on the ready mix concrete plant. The manufacturer's specifications for the system shall be submitted with the site plan and shall be approved by the Director of Planning prior to final site plan approval.
4. No flags or signage on any silo, hopper, or any other piece of permanent equipment shall be permitted.
5. All exterior light fixtures on the property shall have recessed fixtures with no lens, bulb, or globe extending below the casing, and there shall be no direct visibility of the light source from adjacent residential property or from a public road.
6. The "reverse warning beepers" on all equipment which serve the ready mix concrete plant shall be turned down to their lowest volumes.
7. Rock, gravel, sand, cement and/or similar materials shall be stored in bins to control runoff and scattering of such materials onto adjacent property.

3. Case No. Z-13-97. Ironbound Road Self Storage

Mr. Matthew W. Maxwell, Senior Planner, stated that Mr. Alvin Anderson, on behalf of Mr. Bernard J. Levey, had applied to rezone approximately 12 acres from R-2, General Residential, to B-1, General Business, with proffers, to construct a self storage facility, located at 3970 and 4010 Ironbound Road, further identified as Parcel Nos. (1-25A) and (1-20) on James City County Real Estate Tax Map No. (38-4).

Mr. Maxwell further stated that the proposed use was consistent with surrounding land uses; proffers safeguard interests of nearby residences and environmental consideration of rare plant species; development should exceed Chesapeake Bay Act requirements; and proposed development with proffers was consistent with the Community Character Corridor standards.

In concurrence with staff, the Planning Commission unanimously recommended approval of the application with proffers.

Board and staff discussed screening, signage, buffer on Route 199, and timing of planting endangered plant species.

Mr. Edwards opened the public hearing.

1. Mr. Alvin Anderson, representative for Mr. Levey, stated the exterior would be brick on the residential scale design building; applicant would plant 133 percent of the requirement within undisturbed buffer along Route 199 and had addressed environmental concerns by identifying and transplanting rare plant species at appropriate time. He asked the Board to approve the case.

Mr. Bradshaw made a motion to approve the resolution.

Board and staff discussed negative impact of construction on wetlands and use of 1994 traffic counts for traffic impact.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CASE NO. Z-13-97. IRONBOUND ROAD SELF STORAGE

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-13-97 for rezoning approximately 12 acres from R-2, General Residential, to B-1, General Business, to allow the construction of a mini-storage warehouse facility. The property is further identified as Parcel Nos. (1-25A) and (1-20) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the Planning Commission of James City County, Virginia, recommended approval of Case No. Z-13-97 by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-13-97 and accepts the voluntary proffers.

4. Case No. SUP-34-97. Fenwick Hills Sewage Pump Station, Sewer Force Main, and Water Distribution Lines

Mr. Bradshaw stated that he would abstain from consideration of this case due to professional conflict.

Ms. Tamara A. M. Rosario, Senior Planner, stated that Mr. Frederick D. Blake, on behalf of R. M. Hazelwood, Jr., had applied for a special use permit to construct a sewage pump station, sewer force main, and water distribution lines to serve Fenwick Hills Subdivision and surrounding areas, zoned A-1, located at 8794 Six Mount Zion Road, further identified as Parcel No. (1-7) on James City County Real Estate Tax Map No. (12-2).

Ms. Rosario further stated the proposed facilities were consistent with the Comprehensive Plan and surrounding development and zoning.

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

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

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CASE NO. SUP-34-97. FENWICK HILLS SEWAGE PUMP STATION, SEWER FORCE MAIN,

AND WATER DISTRIBUTION LINES

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, Virginia, following its public hearing on January 5, 1998, unanimously recommended approval of Case No. SUP-34-97 to permit a sewage pump station, an eight-inch sewer force main, and 12-inch and 16-inch waterline extensions to the Fenwick Hills subdivision. The sewage pump station would be constructed on property identified as Parcel No. (1-7) on James City County Real Estate Tax Map (12-2). The sewer force main would tie into the existing Hampton Roads Sanitation District (HRSD) force main at the intersection of Barhamsville Road and Old Stage Road and proceed east along Old Stage Road until it connected to the pump station. The proposed 16-inch waterline would tie into an existing JCSA waterline at the intersection of Barhamsville Road and Old Stage Road, and run parallel to the sewer force main along Old Stage Road until it reached the entrance of the Fenwick Hills Subdivision. An additional 12-inch waterline would be laid cross-country through private property to connect the new 16-inch waterline on Old Stage Road to an existing eight-inch waterline on Rochambeau Drive.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-34-97 as described herein with the following conditions:

1. Construction, operation and maintenance of the sewage pump station, sewer force main, and water distribution lines shall comply with all local, State and Federal requirements.
2. The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook, as amended.

3. All required permits and easements shall be acquired prior to the commencement of construction.
4. For construction within 150 feet of existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property.
5. In areas of the construction easement that have been cleared, but do not need to remain clear for service and maintenance purposes, seedlings shall be planted in accordance with the Virginia Department of Forestry guidelines and shall be shown on a reforestation plan to be approved by the Planning Director within one year of clearing the easement. The reforestation of this easement shall be completed as approved by the Planning Director within two years of clearing the easement. It shall be the responsibility of the developer to secure the necessary means to plant on the construction easement after the easement reverts back to the property owner.
6. If construction has not commenced on the project within a period of 24 months from the date of issuance of the permit, it shall become void. Construction shall be defined as the clearing, grading and excavation of trenches necessary for the construction of the sewage pump station, sewage force main, or water distribution lines, and obtaining permits to do the same.
7. A copy of the final construction plans and specifications and as-built drawings shall be provided to the James City Service Authority. The James City Service Authority shall be notified 72 hours in advance of the construction of the proposed facility where it might interfere with existing James City Service Authority water or sewer mains.
8. The pump station building shall be made of natural colored brick and have a gable or hip roof. The color of the brick shall be approved by the Planning Director prior to construction of the pump station.
9. Any fencing material shall be black or of a material and color acceptable to the Planning Director and shall be approved prior to construction of the pump station.
10. The site design for the pump station and a landscaping plan to screen the pump station shall be approved by the Planning Director prior to final site plan approval and shall be designed in manner that minimizes the visibility of the facility and that retains as much natural vegetation as possible. All landscaping shall be provided in accordance with this plan before the end of the planting season immediately following the date when the facility is operational. The site shall contain no more paving, tree clearing, or land disturbance than reasonably necessary to accommodate parking, circulation, and the pump station structures as approved by the Planning Director.
11. Upon completion of construction, the sewage pump station, sewer force main, and water distribution lines shall be dedicated to the James City Service Authority.

5. Case No. HW-1-98, Williamsburg/James City County Courthouse

Ms. Rosario stated that Mr. Bernard M. Farmer, Jr., on behalf of James City County, had applied for a height limitation waiver to allow construction of the Williamsburg/James City County Courthouse, zoned MU, Mixed Use, located at 5201 Monticello Avenue, further identified as Parcel No. (1-47) on James City County Real Estate Tax Map No. (38-4).

Staff determined that the structure was in accordance with the original master plan; would not obstruct light to adjacent property; would not impair the enjoyment of historic features and surrounding area; would not impair property values; was safely designed; and would not be contrary to the public health, safety, and general welfare.

Staff recommended approval of the resolution.

Mr. Nervitt asked whether architects were aware of height limitations during design and were any designs rejected that were below 60 feet.

Staff responded that the design competition did not restrict architects from exceeding the local height ordinance conditions.

Mr. Edwards opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, stated the excess height and cost were unacceptable, and the County should set standard.

2. Mr. R. M. Hazelwood, Jr., 300 Old Stage Road, Toano, suggested cutting costs by deleting cupolas.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, Bradshaw, Edwards (3). NAY: McGlennon, Nervitt (2).

RESOLUTION

CASE NO. HW-1-98. WILLIAMSBURG-JAMES CITY COUNTY COURTHOUSE

WHEREAS, it is understood that all conditions for the application for a Height Limitation Waiver have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a Height Limitation Waiver be granted for the construction of the Williamsburg-James City County Courthouse to a maximum height of 95 feet above finished grade on property owned and developed by the applicant as described below and on the attached site location and elevation maps.

Applicant:	Bernard M. Farmer, Jr., on behalf of James City County
Real Estate Tax Map No.:	(38-4)
Parcel No.:	(1-47)
Address:	5201 Monticello Avenue
Election District:	Berkeley
Zoning:	MU, Mixed Use

E. BOARD CONSIDERATIONS**1. James City County Road Construction Revenue Sharing**

Mr. John T. P. Horne, Manager of Development Management, stated that the Virginia Department of Transportation must receive a letter of notification by March 27, 1998, notifying of the County's intention to participate in the Road Construction Revenue Sharing Program in an amount not to exceed \$500,000.

Mr. McGlennon made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION**JAMES CITY COUNTY ROAD CONSTRUCTION REVENUE SHARING**

WHEREAS, the James City County Board of Supervisors has decided to participate in the Virginia Department of Transportation (VDOT) Revenue Sharing Program for FY 98-99; and

WHEREAS, VDOT requires written notification of the County's intent to participate by March 27, 1998.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Chairman is authorized to notify VDOT of the County's intention to participate in the Revenue Sharing Program for FY 98-99, in an amount not to exceed \$500,000.

2. Award of Contract, Williamsburg/James City County Courthouse

Mr. Bernard M. Farmer, Jr., Capital Project Administrator, stated that bids were received with low bid submitted by Oyster Point Construction in the amount of \$10,945,450, and the Courthouse Steering Committee met and recommended changes with a net contract amount of \$9,857,054.

Mr. Farmer further stated that review of the cost reduction recommendations had been approved, and the County Administrator recommended approval of the resolution awarding the contract with a net contract amount of \$10,060,132 to Oyster Point Construction.

Board and staff discussed the costs of addition of courtroom after completion of construction and whether future maintenance was considered.

Mr. Farmer stated that the project budget amount of \$13,200,000 with a contingency of five percent of construction cost should be manageable without expending more than the five percent.

Mr. Jorge Hernandez, architect, spoke of the design competition and stated that aesthetics, internal space, and landscaping were reviewed to reduce costs. He stated that the cupolas were an ornament against the sky line to the long rectangular building and admitted natural light into the court rooms.

Mr. Edwards made a motion to approve the resolution.

The Board expressed gratitude to all who had participated in negotiations to reduce the contract bid and keep priority items to reflect importance of the Courthouse to the community.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

AWARD OF CONTRACT - WILLIAMSBURG/JAMES CITY COUNTY COURTHOUSE

WHEREAS, bids have been received for construction of the Williamsburg/James City County Courthouse; and

WHEREAS, staff has negotiated with Oyster Point Construction, the low bidder, to achieve cost reductions to the bid; and

WHEREAS, a review of cost reductions and the recommendations of the Courthouse Steering Committee has been completed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of bid to Oyster Point Construction for the construction of the Williamsburg/James City County Courthouse in the amount of \$10,060,132.

F. PUBLIC COMMENT

1. Mr. R. M. Hazelwood, Jr., 300 Old Stage Road, Toano, stated opposition to the limitation of designated times for speaking as improper for citizen participation.

2. Mr. Ed Oyer, 139 Indian Circle, reiterated that the cost of the Courthouse, when finished, would exceed the project budget.

G. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated the U. S. Senate Productivity and Quality Award evaluation team visited the County on Friday, February 6, 1998; Boy Scout Commitment to the Community was observed on February 7, 1998; and Emergency Medical Services were recognized in a publication for Call of the Year regarding rescue of the diver at Diascund Reservoir in Fall 1997.

Mr. Wanner recommended an executive session pursuant to Section 2.1-344(A)(5) of the Code of Virginia to discuss a prospective industry and Section 2.1-344(A)(1), of the Code of Virginia to consider a personnel matter, appointment of individuals to County boards and/or commissions.

H. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon requested staff to have the VDOT representative, at the next Board of Supervisors meeting, speak to what citizens can expect at Route 5/Route 199 intersection in the coming months.

Mr. Edwards made a motion to go into executive session as recommended by the County Administrator, at 10:05 p.m.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board at 11:10 p.m. and made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

CERTIFICATION OF EXECUTIVE MEETING

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

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(5) prospective industry and Section 2.1-344(A)(1) appointment of individuals to boards and/or commissions, convening the executive meeting.

Mr. Edwards made a motion to appoint David Sisk, Vincent Campana, Jr., Dennis Lutz, Johnella Carter, Roland Wallace, and Doug Powell to the Local Enterprise Zone Association for a four-year term, term expiring February 10, 2002.

Mr. Edwards made a motion to approve the resolution recommending appointment of Darline Layer to a three-year term on the Board of Equalization, term expiring 12/31/00.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

TO RECOMMEND APPOINTEES TO THE JAMES CITY COUNTY

BOARD OF EQUALIZATION

WHEREAS, Section 20-30 of the Code of the County of James City, Virginia, requires the Board to recommend to the Circuit Court qualified freeholders of the County for appointment to the James City County Board of Equalization; and

WHEREAS, the term of Darline H. Layer expired on December 31, 1997, and the Board of Supervisors of James City County seeks to reappoint her for a three-year term; and

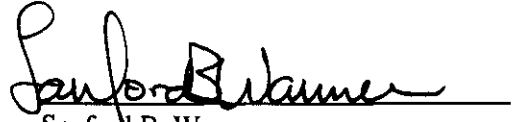
WHEREAS, Darline H. Layer is a qualified freeholder of the County.

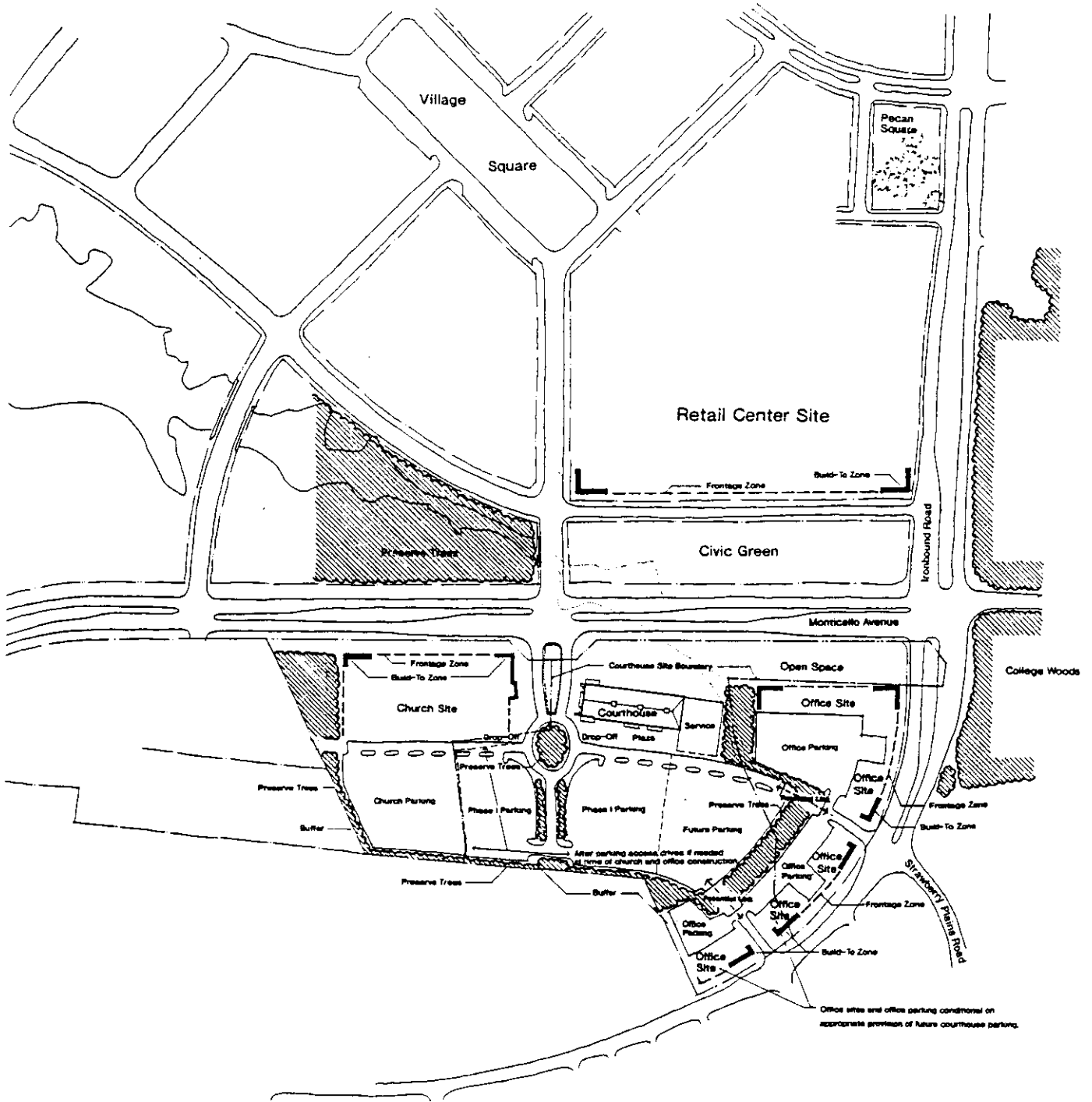
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recommends to the Circuit Court the appointment to the James City County Board of Equalization of the following qualified freeholder, Darline H. Layer, for a three-year term.

Mr. Sisk made a motion to recess until Saturday, February 21, 1998, at 10:00 a.m. at the Jamestown Visitor Center for a presentation and tour of the Greenspring unit of Colonial National Historical Park.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

The Board recessed at 11:11 p.m.


Sanford B. Wanner
Clerk to the Board



Please refer to the Southern Civic District MU Plan Sheet for the maximum floor area of development and proposed use allocation.

Southern Civic District MU Plan

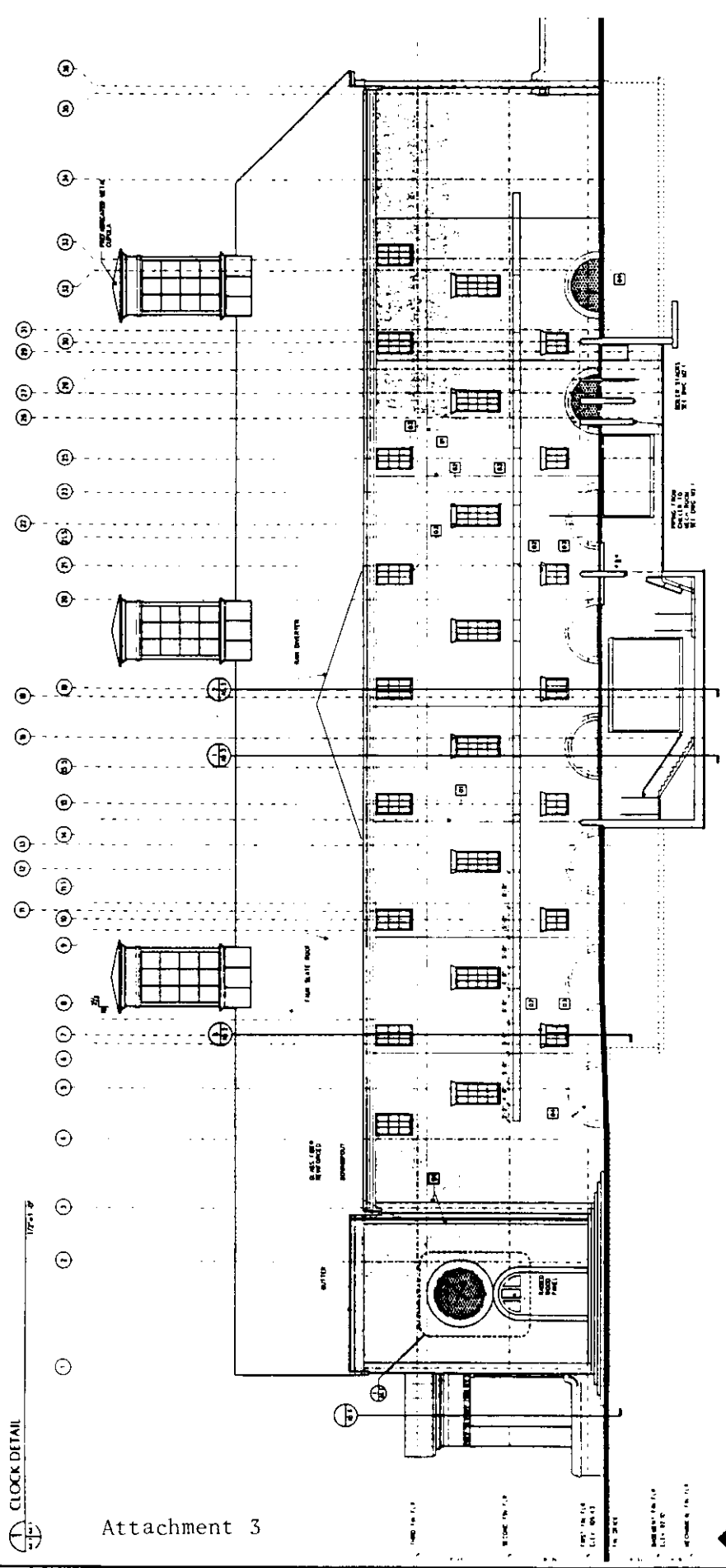
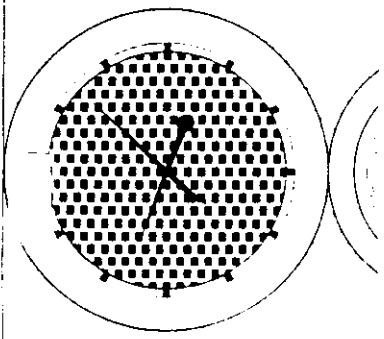
Attachment 2

HERNANDEZ & LY
and
MOBLEY
HARRIS &
MCLINTOCK
Architects
1455 Louisiana Boulevard
New Orleans, LA 70112
Phone: (504) 525-2334
Fax: (504) 525-2334

WILLIAMSBURG - JAMES CITY COUNTY COURTHOUSE

PROGRESS PRINT
NOT FOR CONSTRUCTION
RENDERING
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DATE: 11/14/00
PROJECT NO: 00-011
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SOUTH ELEVATION

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Attachment 3

980010989

PROFFERS

These Proffers are made as of the 15th day of January, 1998, by CEL DEVELOPMENT, the owner of record of the Property (as hereinafter defined) and IRONBOUND ROAD ASSOCIATES, L.L.C., the contract purchaser of the Property (as hereinafter defined) (collectively "the Owner" or "the Owners"), together with their respective successors and assigns, which Owners collectively own and/or have a contract interest in certain real property shown on the James City County Tax Map 38-4 as Parcels 1-25A and 1-20, also known as 3970 Ironbound Road and 4010 Ironbound Road, Williamsburg, Virginia 23188.

RECITALS

A. CEL DEVELOPMENT is the owner of record of certain real property in James City County, Virginia, more particularly described as follows:

All that certain lot, piece or parcel of land situate in Berkeley District (formerly Jamestown District), James City County, Virginia, containing 5.42 acres and designated as Parcel "A" on a plat entitled "A SUBDIVISION OF RONALD T. CURTIS CUSTOM BUILDER, INC., JAMES CITY COUNTY, VIRGINIA" dated January 24, 1990 and made by The DeYoung-Johnson Group, Inc. Engineers-Architects-Surveyors, Williamsburg, Virginia, which plat is duly recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, in Plat Book 51, page 99, to which reference is hereby made.

Being the same property conveyed to CEL DEVELOPMENT by Deed dated March 12, 1990 from RONALD T. CURTIS CUSTOM BUILDER, INC. recorded in James City County Deed Book 470, page 369.

All that certain lot, piece or parcel of land situate, lying and being in the Jamestown Magisterial District, James City County, Virginia, shown and designated as lot numbered ten (10) on that certain plat entitled "ESTATE OF WILLIAM ALLEN JONES, DECEASED,

JUN 15 2000 0003

SITUATE IN JAMESTOWN DISTRICT, JAMES CITY COUNTY, VIRGINIA” dated October, 1931, prepared by Cedric M. Bozarth, C.L.S. and recorded in the Clerk’s Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, in Plat Book 5, at page 37, to which reference is here made.

Being the same property conveyed to CEL DEVELOPMENT by Deed dated July 11, 1989 from SOCIETY R. WARREN et als recorded in James City County Deed Book 440, page 230.

All of the above described properties are herein collectively referred to as “the Property.”

B. The Property is more particularly shown on a conceptual plan entitled “IRONBOUND ROAD SELF STORAGE, JAMES CITY COUNTY, VIRGINIA” dated 12/22/97 prepared by J. Calvin Holcombe, which conceptual plan is hereinafter referred to as “the Conceptual Plan.”

C. The Owners have applied for a rezoning of the Property. The rezoning requested is from the General Residential District, R-2 to the General Business District, B-1 with Proffers.

D. A portion of the Property is immediately adjacent to the proposed right-of-way of State Route 199 and directly across the street from properties zoned Limited Business/Industrial District, M-1.

E. The proposed development will not be a burden on the public school system, the systems providing transportation, water and sewer, or fire, police or recreation facilities and because the proposed development will not adversely affect traffic, light or aesthetics and will be most appropriate for the existing neighborhood.

F. The James City County Land Use Plan Map of the James City County 1997 Comprehensive Plan designates the Property as “Low Density Residential” which

JUN 15 3 00 04

designation specifically envisions “very limited commercial establishments ... located on collector roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area”; however, the provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Property.

G. The Owners desire to offer to the County certain Proffers on the development on the Property not generally applicable to land similarly zoned for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by James City County (“the County”) of the rezoning set forth above, and pursuant to Section 15.2-2296 *et seq* of the Code of Virginia, 1950, as amended, and Section 24-16 of the County Code, the Owners agree that they will meet and comply with all of the following proffers in developing the Property. In the event all of the requested rezoning is not granted by the County, these proffers shall thereupon become null and void.

PROFFERS

1. Uses:

The uses of the Property shall be limited to the following:

- Apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises which is clearly secondary to the commercial use of the Property.
- Off street parking as required by Section 24-53.
- Warehousing with all storage limited to a fully enclosed building(s).

- Accessory buildings or structures as defined by Section 24-2 of the County Zoning Ordinance.
- Accessory uses as defined by Section 24-2 of the County Zoning Ordinance.

2. Architectural Design:

The architectural design of the manager’s office building shall be substantially in accordance with the rendering on file with the County entitled “View from Ironbound Road.”

The architectural design of the storage units shall be substantially in accordance with the rendering on file with the County entitled “Huguenot - Robious Mini Storage.”

The design and materials of the entrance gate and the entrance sign shall be subject to the review and approval of the County’s Director of Planning.

3. Building Materials:

Subject to the approval of the County’s Director of Planning, the buildings on the Property shall be constructed utilizing the following materials and such colors as may be approved by the County’s Director of Planning:

- Oversized “Colonial” #1-109 red bricks made by Lawrenceville shall be used on all exterior above grade perimeter walls and walls of buildings that face public roads or that face Mt. Pleasant Baptist Church. In all other above grade areas, concrete block shall be used and painted a color approved by the County’s Director of Planning.
- All brick masonry cement shall be “Flamingo type S” # C-81.
- Roof shingles shall be a color approved by the County’s Director of Planning (Class “A,” self sealing three tab type).

JUN 15 2006

- All exterior doors shall be painted a color approved by the County's Director of Planning.
- All wood trim shall be painted a color approved by the County's Director of Planning.
- All chain-link fencing used on the Property shall be black in color.

4. Lighting of Parking Area and Drive Isles:

All parking area and drive isle lighting shall be limited to ten (10) feet in height above finished floor elevation and shall be approved by the County's Director of Planning provided that all such exterior light fixtures on the Property shall be horizontally mounted recessed fixtures with no lens, bulb or globe extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture.

5. Access:

There shall be but one means of ingress and egress from Ironbound Road to the Property and from the Property to Ironbound Road and such ingress and egress point shall be located along the cul-de-sac road off of Ironbound Road.

6. HVAC Screening:

All heating, ventilation and air conditioning equipment shall be screened from public view at the ground level of each perimeter line of the Property in a manner approved by the County's Director of Planning.

JUN 15 2007

7. Central Trash Receptacles:

Central trash receptacles shall be screened from public view at ground level of each perimeter line of the Property in a manner approved by the County's Director of Planning.

8. Outside Speakers:

No outside audio speakers shall be permitted on the Property.

9. Refuse And Trash Pick-Up:

Refuse and trash pick-up from the Property shall be limited to the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday and no refuse or trash pick-up shall be permitted at any other time or at any time on either Saturday or Sunday.

10. Office Operating Hours:

Office operating hours shall not commence before 8:00 a.m. or extend after 6:00 p.m. on any day.

11. Storage Unit Access Hours:

Access to the storage units on the Property shall not commence before 7:00 a.m. or extend beyond 9:00 p.m. except in cases of bona fide emergencies.

12. Security:

The facility shall have a full-time on-site manager, twenty-four (24) hours per day.

13. Set Backs and Landscaping:

No building on the Property shall be located closer than fifty (50) feet to any perimeter line of the Property. In said set back area, the Owner shall provide a

JUN 15 8 00 00

natural buffer, a minimum of thirty (30) feet in width, which area shall remain undisturbed except for selective clearing, landscaping, entrances/exits, utilities, stormwater management facilities, grassed drainage ways, signs and easements for parking and/or drive aisles for the benefit of Mount Pleasant Baptist Church all of which must be approved by the County's Director of Planning.

The set back area of fifty (50) feet including the natural buffer thereon of thirty (30) feet shall be supplemented with landscaping and/or reforestation so that, when counted with all landscaping that remains, the required number of plants equals one hundred thirty-three percent (133%) of the County's Landscaping Ordinance requirements ("Enhanced Landscaping"). The plan for the Enhanced Landscaping shall be subject to the review and approval of the County's Director of Planning.

Along that portion of the lines of the Property adjacent to the property now or formerly owned by the Trustees of the Mount Pleasant Baptist Church (Tax Map 38-4 Parcel 1-21), said landscaping may be reduced, but only with the consent of the County's Director of Planning and only to accommodate an area for an easement on a portion of the Property to provide parking and/or drive aisles for the benefit of the Mount Pleasant Baptist Church.

Enhanced Landscaping, as defined above, subject to the County's Director of Planning approval, shall also be provided between the BMP and the Property's easterly property line.

Notwithstanding the aforesaid, along that portion of the Property adjacent to "Ramp B" of State Route 199, the location of the building set back and the natural buffer

JUN 15 2009 0009

and Enhanced Landscaping therein, shall be measured not from the perimeter line of the Property but from a line parallel to “Ramp B” which line is twenty (20) feet east of “Ramp B” and which line runs for a distance of four hundred sixty (460) feet in length from the property of Mount Pleasant Church in a southerly direction parallel to “Ramp B” to exclude from said set back area the existing easement granted to Virginia Power.

14. Building Arrangement:

In order to mitigate possible noise, light and dust impacts to adjacent property, the Owner of the Property shall construct all storage buildings, so that the doors of storage units adjacent to perimeter lines of the Property will face away from such lines of the Property unless appropriate screening is provided and approved by the County’s Director of Planning.

15. Environmental Protection:

In order to mitigate possible adverse environmental effects on the Property and on the Mount Pleasant Natural Area, the Owner shall:

- retain at its expense a qualified environmental consultant to determine the existence of any Virginia least trillium (Trillium pusillum var. virginianum) and New Jersey rush (Juncus caesariensis) on the Property and, if found, accomplish a transplanting of the same to another suitable habitat, the location of which shall be approved by the County’s Director of Planning;
- prior to the construction of any improvements on the Property, install an extended detention stormwater management wet pond, the design of which shall be approved by the County’s Environmental Director;

JUL 15 2010 00 10

- after the construction of the improvements on the Property, install within the fifty (50) foot set back area, grassed drainage ways to reduce pollutant loading, the design of which shall be approved by the County's Environmental Director.
- prior to the issuance of a building permit on the Property, the Owner shall pay to the County the sum of \$6,000.00 to fund a monitoring program of five (5) years in duration conducted by a qualified environmental consultant to assess the environmental condition of any wetlands and any plant life previously identified in the northwest headwaters of the Mount Pleasant arm of Mill Creek above Indigo Dam as well as the sites to which any Virginia least trillium (Trillium pusillum var. virginianum) and New Jersey rush (Juncus caesariensis) are transplanted.
- no fertilizer or pesticides shall be used on any open space on the Property without the prior approval of the County's Environmental Director.

GENERAL PROFFERS

1. Headings:

All section and subsection headings of these Proffers are for convenience only and are not part of these proffers.

2. Conceptual Plan:

The Property will be developed generally in accordance with the Conceptual Plan. The amount of impervious surface area on the Property after full development shall not exceed 46.75% of the total area of the Property. The Owner may, from time to time, in final plats or site plans submitted to the County relocate the specific uses shown on the Conceptual Plan (provided that such uses are permitted by the County Zoning Ordinance and these Proffers) provided that the County's Director of Planning

JUN 15 2011

determines that said relocations do not alter the basic concept or character of the development.

3. Phasing of Improvements and Landscaping:

The improvements and landscaping required pursuant to these proffers may be installed in phases in accordance with approved site plans.

4. Severability of Provisions:

If any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to the Owner or to any other government agency, person or circumstance.

WITNESS the following signatures and seals:

CEL DEVELOPMENT

By: Charles E. Lewis (SEAL)
President

JUL 15 2012

IRONBOUND ROAD ASSOCIATES, L.L.C.

By: Bernard J. Levey (SEAL)
Managing Partner

COMMONWEALTH OF VIRGINIA

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

The foregoing instrument was acknowledged before this 20th day of January, 1998 by Charles E. Lewis,

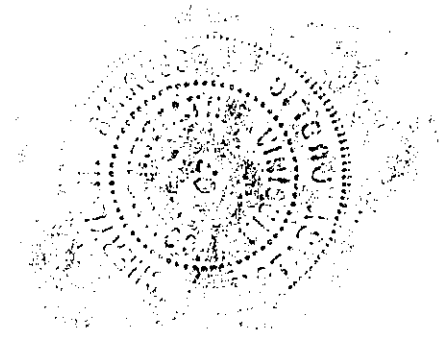
_____ of CEL DEVELOPMENT, its officer and on its behalf.

[Signature]
NOTARY PUBLIC

My Commission Expires March 31, 1998

My commission expires: _____

JUL 15 8 00 13



COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Henrico, to-wit:

The foregoing instrument was acknowledged before this 16th day of January, 1998 by Bernard J. Levey, Managing Partner of IRONBOUND ROAD ASSOCIATES, L.L.C., its officer and on its behalf.

Caralyn L. Wicks

NOTARY PUBLIC

Embossed Herein is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires March 31, 2000
CAROLYN L. WICKS

My commission expires:

DAWP6\AF&D\REALEST\DOCS\IRONBOUN\PROFFERS 115

IRONBOUND ROAD ASSOCIATES, L.L.C.
10000 IRONBOUND ROAD
HENRICO, VA 23151



JUN 15 8 00 14

VIRGINIA, City of Williamsburg and County of James City, to-wit:
I, the Clerk of the Circuit Court of the
City of Williamsburg and County of James City, the
15 day of June 1998, at this Proffer
acknowledged and
at 8:52 o'clock
Tested by Wade S. [Signature]
Deputy Clerk

Prepared by:
Alvin P. Anderson, Esquire
Anderson, Franck & Davis, P.C.
P.O. Drawer Q
Williamsburg, VA 23187
(757) 229-7322