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AMENDED PROFFERS

THESE PROFFERS, made as of this 26th day of April, 1993, by IRONBOUND COMPANY, L.C., a Virginia limited liability company ("Owner").

RECITALS:

A. Owner is the owner of certain real property in James City County, Virginia (hereinafter referred to as the "Property") and more particularly described as follows:

That certain parcel of land containing 35.06 acres at the intersection of Ironbound Road and State Route 5 in James City County, Virginia, set out and shown on the plat hereto attached entitled "REZONING FOR FIVE FORKS ASSOCIATES -SCHEMATIC PLAN," made by Langley and McDonald, Engineers - Planners - Surveyors, revised 6/22/88 and 9/5/89.

B. The Property is zoned B-1 with proffers and a portion is zoned R-3 with proffers. Owner desires to amend Condition 9 of the existing proffers to permit a maximum of 63 single family detached residential lots on the R-3 portion of the Property.

C. Owner, for itself and its successors and assigns, desires to offer to the County certain conditions on the development of the Property that are not generally applicable to land zoned B-1 or R-3 for the protection of the community that are intended to mitigate possible impacts from the development on the surrounding area.

NOW THEREFORE, for and in consideration of the ap-

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proval by the Board of Supervisors of the County of James City of the requested rezoning, and pursuant to Section 15.1-491.1 et. seq. of the Code of Virginia, 1950, as amended, Owner agrees that it will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. a. The turn lanes described below shall be constructed prior to issuance of a certificate of occupancy for the B-1 property:

(i) for southbound traffic on Route 615, a left turn lane into the principal business entrance shown on the Schematic Plan prepared by Langley and McDonald entitled "REZONING FOR FIVE FORKS ASSOCIATES - SCHEMATIC PLAN", revised 6/22/88 and 9/5/89 submitted herewith (the "Schematic Plan") having a minimum taper of fifty (50) feet and a minimum length of two hundred (200) feet;

(ii) for traffic entering the principal business entrance from northbound Route 615, a right turn lane having a minimum taper of seventy five (75) feet and a minimum length of one hundred seventy (170) feet;

(iii) for northbound traffic on Route 615 turning westerly onto Route 5, a left turn lane having a minimum taper of fifty (50) feet and a minimum length of one hundred eighty-five (185) feet; and

(iv) for westbound traffic on Route 5 turning southerly on Route 615, a left turn lane (including curbing along the

southern right of way of Route 5, if needed) with a minimum taper and length as required by the Virginia Department of Transportation ("VDOT").

b. The turn lanes described below shall be constructed prior to issuance of a certificate of occupancy for the R-3 property:

(i) for southbound traffic on Route 615, a left turn lane into the residential entrance shown on the Schematic Plan with a minimum taper of eighty (80) feet and a minimum length of one hundred twenty (120) feet; and

(ii) for traffic entering the residential entrance from northbound Route 615, a right turn lane having a minimum taper length of seventy five (75) feet and a minimum length of hundred seventy (170) feet.

c. No certificates of occupancy shall be issued for buildings (i) on the B-1 property until the turn lanes described in subparagraph a. above, or (ii) for buildings on the R-3 property until the turn lanes described in subparagraph b. above, have been completed or the completion thereof is bonded, with surety, to the satisfaction of the County Attorney.

2. Owner shall, upon the request of County, dedicate to County all of the 26' strip located on the Property shown on the Schematic Plan as Additional R/W Dedication along the frontage of the Property on Route 615 that has not previously been conveyed to VDOT to permit the widening of Route 615.

3. There shall be two (2) entrances to the property

zoned B-1 from Ironbound Road. The center line of the principal entrance shall be located four hundred-eighty (480) feet south of the south right of way line of Route 5. The service entrance to the business zoned property shall be constructed opposite and, to the extent possible, aligned with the entrance to the Clara Byrd Baker Elementary School. If and when requested by VDOT, Owner shall make the necessary alterations and improvements to the entrances proffered above to install (or pay the costs of installation of) a traffic signal at the intersection of the service entrance to the B-1 property and the entrance to the Elementary School and to take such steps requested by VDOT to prevent traffic from turning left from southbound Ironbound Road into the principal entrance to the B-1 property or from leaving the principal entrance and turning left onto southbound Ironbound Road.

4. Between May 1 and June 30, 1990 Owner shall have conducted by their environmental consultants, retained by Owner and acceptable to the County, a field survey of the area designated on the Schematic Plan as "Potential Small Whorled Pogonia Habitat" to determine the existence of small whorled pogonias on the Property. Owner shall furnish the County a copy of the results of such study or on or before the date of submittal of any subdivision or site plan.

5. If the study described in condition 4 above indicates no small whorled pogonias were found on the Property, or, if small whorled pogonias were found and the County

Environmental Engineer and the Owner's environmental consultant agree that all the pogonias found are located in an area where they would not be adversely affected by the stormwater Best Management Practices ("BMPs") proffered in this condition 5, then:

(a) BMPs shall be designed, installed and maintained to control surface water runoff from the B-1 property and the portion of the R-3 property within the stormwater detention basin drainage area shown on the Schematic Plan. Such BMPs shall include a stormwater detention basin, and may, if agreed upon by Owner, Owner's engineers and the County Engineer, include infiltration trenches and/or porous pavement (depending on parking lot grades and soil percolation rates). The stormwater detention basin shall be located in the lower reaches of the major ravine system in the northeastern part of the Property and shall be designed and constructed, subject to the approval of the County Engineer, either (i) as a wet pond providing two week detention in accordance with the criteria and recommendations set forth on pages 5-7 through 5-12 of the Final Report entitled "Water Quality Management Plan for Skiffe's Creek Reservoir Watershed" dated December 1984 and prepared by Camp Dresser, & McKee or (ii) as an extended dry detention pond in accordance with the criteria set forth in "Controlling Urban Runoff" by the Metropolitan Washington Council of Governments. Other sedimentation and erosion control structures, in addition to those discussed above, shall be designed, installed and

maintained as required in the site plan or subdivision review process, by the Virginia Erosion and Sedimentation Control Handbook and by the County Engineer's Guidelines for Erosion and Sediment Control on Highly Erodible Areas.

(b) The area shown as "Conservation Area" on the Schematic Plan shall be left undisturbed and shall remain in its natural state, except for stormwater BMPs and other sedimentation and erosion control structures and devices proffered pursuant to condition 5 (a) hereof. Except as permitted by the preceding sentence, no land disturbing, clearing or building shall take place in the Conservation Area. No lot platted in the R-3 area shall encroach into the Conservation Area.

6. If (i) the study described in condition 4 above indicates small whorled pogonias were located within the potential habitat area shown on the Schematic Plan, unless the County Environmental Engineer and the Owner's environmental consultant agree the pogonias are located in an area where they would not be adversely affected by the BMPs proffered in condition 5 (a) above, or (ii) Owner commences land disturbing or construction on the Property before the results of the field study proffered in condition 4 above are available, then:

(a) BMPs shall be designed, installed and maintained to control surface water runoff from the B-1 and R-3 property. Such BMPs shall include a stormwater detention basin, and may, if agreed upon by Owner, Owner's engineers and the County Engineer, include drop inlets and piping, infiltration trenches and/or

porous pavement (depending on parking lot grades and soil percolation rates). The stormwater detention basin shall be located in the southeastern part of the Property, with the exact location subject to the approval of the County Engineer. The detention basin shall be designed and constructed, with the approval of the County Engineer, in one of the two methods and in accordance with the criteria described in condition 5 (a) above. Other temporary or permanent sedimentation and erosion control structures, in addition to those discussed above, shall be designed, installed and maintained as required in the site plan or subdivision review process, by the Virginia Erosion and Sedimentation Control Handbook and by the County Engineer's Guidelines for Erosion and Sediment Control on Highly Erodible Areas.

(b) if the pogonias are found within the portions of the habitat area on the Property shown on the Schematic Plan not included within the Conservation Area designated on the Schematic Plan, the Conservation Area shall be expanded to include the portion of the potential habitat area within which the pogonias are found plus an additional 10' buffer strip immediately adjacent to such habitat area. If land disturbing or construction begins before the results of the proffered field survey are available, the Conservation Area shall be expanded to include the entire potential habitat area on the Property not already included in the Conservation Area, plus an additional 10' buffer strip immediately adjacent to such habitat area, until the

results of the survey are available.

BOOK 628 PAGE 842

(c) the area shown as "Conservation Area" as expanded pursuant to condition 6 (b) above, if necessary, shall be left undisturbed and in its natural state. No land disturbing, clearing or construction shall take place in the Conservation Area. No lot platted in the R-3 area shall encroach into the Conservation Area.

(d) Owner shall permit Dr. Donna Ware, curator of the William and Mary Herbarium, to accompany the Owner's environmental consultant onto the potential habitat area of the Property to assist in the field survey or to transplant small whorled pogonias if the Owner's environmental consultant, the County Environmental Engineer and Dr. Ware determine that transplanting is desirable.

7. The Conservation Area shall be conveyed to a property owners' association satisfactory to the County Attorney to be organized by the developer in which all lot owners shall be members and which shall be responsible for maintenance, including maintenance of stormwater BMPs and other sedimentation and erosion and control structures or devices located in such Conservation Area, and trash removal in such area. Until conveyance of such area to the property owners' association, Owner shall be responsible for such maintenance. If requested by the County, Owner or the homeowners' association shall grant to the County a conservation easement over the Conversation Area in form and substance satisfactory to the County and Owner or the

association.

8. The area to be rezoned from A-2 to B-1 (5.66 acres) shall not be developed and no improvements shall be erected thereon unless such development shall incorporate the area presently zoned B-1 (3.13 acres) and the entire 8.79 acres shall be used only for a "shopping center" as hereinafter defined. The shopping center shall contain no more than 70,000 square feet.

For the purposes of this Proffer a shopping center is defined as:

A group of two (2) or more architecturally unified commercial establishments built on a site (which may include out parcels) which is planned, developed, owned or managed as an operating unit and which provides on-site parking in definite relationship to the types and sizes of the commercial establishments therein and which may include retail and office uses.

The following uses, which otherwise are permitted under the B-1 classification of the Zoning Ordinance, shall not be permitted on any of the area zoned or rezoned B-1:

- Automobile service stations;
- Hotels, motels, tourist homes and convention centers;
- Schools, fire stations, post offices, houses of worship and libraries;
- Cemeteries;
- Marinas, docks, piers, yacht, boat basins;
- Wholesale and retail marine or waterfront businesses,
- Radio and television stations and accessory antenna or towers,
- Fast food restaurants,
- Convenience store with sale of fuel.

9. A maximum of 63 single-family detached residential lots only shall be permitted on the property to be rezoned R-3. No other residential use shall be made of the property rezoned R-3. No more than one single family dwelling shall be built on

each lot.

BOOK 628 PAGE 844

10. Owner shall impose by restrictive covenant a buffer area at least 30' in width along the northern line of the R-3 property area where it abuts at the B-1 property. Such buffer shall remain in its natural state, except for stormwater BMPs and other sedimentation and erosion control structures and devices proffered pursuant to condition 4 hereof, and shall be augmented where necessary by additional evergreen planting, if requested, by the Development Review Committee of the County.

11. Areas shown as "Designated Open Space" in the R-3 area on the Schematic Plan shall be left in their natural vegetated state or landscaped in accordance with plans approved by the Development Review Committee. If grading, as approved by the Development Review Committee, of any part of such areas requires the removal of natural vegetation, such vegetation shall be replaced with appropriate screen planting approved by the Development Review Committee. Such Designated Open Areas shall be conveyed to the aforementioned property owners' association which shall be responsible for all maintenance and trash removal in such areas. Until conveyance of such areas to the association, Owner shall be responsible for such maintenance.

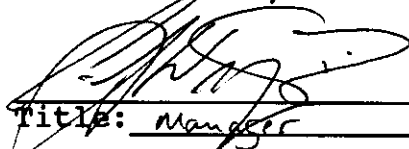
12. All streets and roads in the residential R-3 area shall be built to specifications of VDOT and shall be dedicated to it for maintenance.

13. The area to be rezoned from A-2 to B-1 (5.66 acres) shall not be developed and no improvements shall be erected

thereon unless the areas shown as "Designated Open Space" within the area presently zoned B-1 (3.13 acres) and the area to be rezoned B-1 (5.66 acres) shall be made subject to a scenic easement and shall be left in their natural vegetated state or landscaped in accord with plans approved by the Development Review Committee. If relocation of the entrance is made such "Designated Open Space" may be adjusted to accommodate such change. If grading of such area or any part thereof requires the removal of such natural vegetation, the owner of such parcel shall replace the same with appropriate screen planting approved by the Development Review Committee of the County. The owner of such parcel shall maintain such planting and shall keep the area free of trash and debris.

IN WITNESS WHEREOF, Owner, intending to be legally bound, has duly executed these Proffers.

IRONBOUND COMPANY, L.C.

By: 
Title: Manager

STATE OF VIRGINIA AT LARGE

CITY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 21st day of April, 1993, by C. Lewis Warrip, Manager of IRONBOUND COMPANY, L.C., on behalf of the company.

Janice M. Thompson
NOTARY PUBLIC

My commission expires: 2-28-95

PLAT RECORDED IN
P.B. NO. 57 PAGE 80

VIRGINIA: City of Williamsburg and County of James City, to Wit:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 9 day of July, 1993 This instrument

Proper was produced with certificate annexed and acknowledged to remain at 3:52 o'clock

To: Thomas S. Ward, Clerk

by *Thomas S. Ward*
Deputy Clerk

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 07/09/93 TIME: 15:52:54 ACCOUNT: 095CLR930008885 RECEIPT: 93000014966
CASHIER: CHB REG: WB04 TYPE: OTHERPL PAYMENT: FULL PAYMENT
INSTRUMENT : 930008885 BOOK: 0 PAGE: 0 RECORDED: 07/09/93 AT 15:52
GRANTOR NAME : IRONBOUND COMPANY LC EX: N LOCALITY: CO
GRANTEE NAME : JAMES CITY COUNTY EX: N PERCENT: 100X
AND ADDRESS :
RECEIVED OF : JCCO DATE OF DEED: 04/26/93

CHECK : \$31.00
DESCRIPTION 1: AMENDED PROFFERS & PLAT REZONING FOR FIVE
2: FORKS ASSOCIATES

CONSIDERATION:	.00	ASSUMPTION:	.00	MAP:	
CODE DESCRIPTION		PAID CODE DESCRIPTION			PAID
301 DEEDS		30.00 145 VSLF			1.00

TENDERED : 31.00
AMOUNT PAID: 31.00
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD