

011316

## PROFFERS

THESE PROFFERS are made as of this 24th day of July, 1995, by Thomas A. Dow "Applicant" and Robert M. Hazelwood together with its successors and assigns, the "Owner".

## RECITALS

A. Applicant is the contract purchaser and Owner is seller of a certain tract or parcel of land known as the Hazelwood Tract (the "Property") containing approximately 86 acres located in James City County, Virginia, and identified in Rezoning case #Z-8-95. In regards to these Proffers, the terms "Applicant" and "Owner" shall be interchangeable and binding on both parties.

B. Applicant and Owner have applied for a rezoning of the Property from A-1, Agricultural District, to R-2, General Residential District, with proffers. Said rezoning is case #Z-8-95.

C. Applicant and Owner desire to offer to James City County ("County") certain conditions on the development of the Property not generally applicable to land zoned R-2, General Residential District and the Special Commissioners desire to consent to said proffers.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.1-491.2:1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Zoning Ordinance, Owner agrees that the development of the Property shall meet and comply with all of the following

conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. Additional On-Site Improvements. Prior to any final subdivision plan approval of the Property, the Owner of the Property shall construct, or have constructed, to Virginia Department of Transportation ("VDOT") required standards, right and/or left turn lane(s) from Old Stage Road to the Property and a right turn lane from the Property onto Old Stage Road provided such turn lanes are determined to be necessary by VDOT. The turn lanes shall be constructed on or before the time they are required by VDOT.

2. Sewer and Water Connections. The Owner proffers that he shall be responsible to design and build the public sewer and public water lines to the Property such that each home in the subdivision shall have sufficient utilities to meet peak demand. Adequate domestic and fire flows shall be required and provided by the owner.

3. The Owner, his successors and/or assigns shall cause to be built the following recreational facilities:

A) Basketball court 84' x 50' with poles and baskets. The court shall be constructed of concrete or asphalt and shall include striping and poles. The basketball court shall be constructed prior to final approval being granted to the 90th lot within the subdivision.

B) Hiking - Jogging trail, a trail 5' - 6' wide of soft surface such as rock, gravel, sand or wood chips shall be provided generally around the perimeter of the Property. Appropriate stream crossings shall be placed wherever necessary. The intent of this trail is to provide a natural trail through the woodland areas, disturbing the natural setting only as absolutely necessary. If said construction causes areas of erosion, the addition of appropriate erosion control shall be required. The trail shall be shown on the subdivision plans.

C) Children's playground not less than 1.5 acres, complete with equipment shall be built by the Owner but shall be maintained by the Homeowners Association. The playground shall be constructed prior to final approval being granted for the 60th lot within the subdivision. The playground shall include, but not be limited to, one swing set, one see-saw and one set of monkey bars.

4. No home shall be constructed closer than 200' to the existing Interstate 64 right-of-way or the proposed Stonehouse Interchange right-of-way. These setbacks shall be shown on the subdivision plan for the Property.

5. Only one entrance shall be provided to and from Old Stage Road unless otherwise required by VDOT.

6. The "Archaeological Condition Policy", (Exhibit A) which is attached to and made a part of these Proffers, shall be adhered to by Owner prior to development.

The undersigned consent to the foregoing proffers.

Thomas A. Dow

Thomas A. Dow, Applicant

Robert M. Hazelwood, Jr.

Robert M. Hazelwood, Jr., Owner

STATE OF VIRGINIA,

City of Newport News, to-wit:

The foregoing instrument was acknowledged before me on this 17th  
August 1995, by Thomas A. Dow as applicant.

Patricia J. Sutto

Notary Public

My Commissions expires: 12/31/95

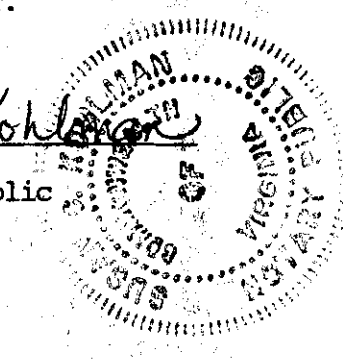
STATE OF VIRGINIA,  
County of James City  
~~City of Newport News~~, to-wit:

The foregoing instrument was acknowledged before me on this 17th  
day of August, 1995, by Robert M. Hazelwood, Jr., as owner.

Susan C. Kohlman

Notary Public

My Commission expires: 6/30/96



## EXHIBIT "A"

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Archaeological Condition Policy

12/21/92

It is the goal of the Development Management Department to identify and protect significant archaeological sites in the County. To achieve this goal a condition has been developed and staff will recommend it be added to all special use permit cases and rezonings where it appears significant archaeological potential exists.

*A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.*

The purpose of this policy is to explain how the condition is to be interpreted. The following procedures and guidelines will be followed:

1. *A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. Since the County lacks the expertise to review such documents, the County will send the studies to the Virginia Division of Historic Resources (VDHR) for review. VDHR's responsibility is to determine if the study meets the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. This is the preferred option for review of these studies.*

The developer may request staff to hire an independent archaeologist to review the study. The Director of Planning shall select the independent archaeologist. The developer will pay the full costs of this review. It would be the independent archaeologist's responsibility to determine if the study meets the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management

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Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. The developer will take full risk in this matter. If at some point in the future the developer needs to go before the VDHR, and comments are made regarding previous studies, it will be the County's position that all VDHR issues need to be resolved. The County's archaeologist will not participate in this process.

2. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition and shall include, at a minimum, the extent of impact to the area, a description of the probable boundaries and recommendations for treatment of the area. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline #1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase II study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preserving the site in a manner acceptable to the Director of Planning.
3. If a Phase II study is undertaken such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. The study will be reviewed as outlined in Guideline #1.  
  
The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition. If there is a question as to whether or not sites are impacted by development, staff will examine these sites and determine if a treatment plan is necessary. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline #1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase III study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preservation of the site in a manner acceptable to the Director of Planning.
4. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. The developer shall pursue the nomination of eligible sites. However, submission of the application to initiate this process will fully satisfy the condition.
5. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. The study will be reviewed as outlined in Guideline #1.
6. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

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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

23 day of July, 1995. This Proffer was presented with certificate annexed and admitted to record at 12:33 o'clock

Teste: Helene S. Ward, Clerk

by [Signature]  
Deputy Clerk

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT  
DEED RECEIPT

DATE: 08/23/95 TIME: 12:36:10 ACCOUNT: 095CLR950011316 RECEIPT: 95000019410  
CASHIER: CHB REG: WBO4 TYPE: OTHER PAYMENT: FULL PAYMENT  
INSTRUMENT : 950011316 BOOK: 0 PAGE: 0 RECORDED: 08/23/95 AT 12:33  
GRANTOR NAME : DON. THOMAS EX: N LOCALITY: CC  
GRANTEE NAME : JAMES CITY COUNTY EX: N PERCENT: 100%  
AND ADDRESS :  
RECEIVED OF : JCCO DATE OF DEED: 07/24/95

CHECK : \$15.00  
DESCRIPTION 1: 86 AC THE HAZELWOOD TRACT  
2:

CONSIDERATION:	.00	ASSUME/VAL:	.00	MAP:	
CODE DESCRIPTION		PAID	CODE DESCRIPTION		PAID
301 DEEDS		14.00	145 VSLF		1.00

TENDERED : 15.00  
AMOUNT PAID: 15.00  
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD