

AGENDA
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
March 12, 2024
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Amend Board Calendar to Add the Community Budget Meetings
2. Contract Award - \$130,000 - Fitness Court

G. PUBLIC HEARING(S)

1. An Ordinance to vacate a portion of that certain subdivision plat entitled "PLAT OF: DIVISION OF: J. W. MOORE, ESTATE" and more particularly described as the vocation of the 50-foot right-of-way known as Moore Drive
2. A resolution to grant an access easement along the area designated as a 50-foot right-of-way known as Moore Drive on that certain subdivision plat entitled "PLAT OF: DIVISION OF: J. W. MOORE, ESTATE" recorded in the Clerk's Office for the Circuit Court of the County of James City on May 29, 1973 in Plat Book 30, Page 60

H. BOARD CONSIDERATION(S)

1. Z-23-0010. Luck Stone Toano Proffer Amendment

I. BOARD REQUESTS AND DIRECTIVES

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. CLOSED SESSION

1. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; specifically, the New Town Section 7 and 8 Proffers, pursuant to Section 2.2-3711(A)(8) of the Code of Virginia

L. ADJOURNMENT

1. Adjourn until 8:30 am on March 15, 2024, for the Joint Meeting with Williamsburg City Council and WJCC School Board, to be held at the Stryker Center, 412 N Boundary St, Williamsburg, VA.

MEMORANDUM

DATE: March 12, 2024

TO: The Board of Supervisors

FROM: Teresa J. Saeed, Deputy Clerk

SUBJECT: Amend Board Calendar to Add the Community Budget Meetings

The Board of Supervisors will be holding Community Budget Meetings in their respective districts. As such, the Board Calendar needs to be amended to add the following dates and times:

April 3, 6 p.m.

Chair, Ruth Larson (Berkeley District): Legacy Hall, 4301 New Town Avenue.

April 4, 6 p.m.

Vice Chair, Jim Icenhour (Jamestown District): James City County Recreation Center, 5301 Longhill Road.

April 8, 6 p.m.

Supervisor Barbara Null (Stonehouse District): Toano Middle School, 7817 Richmond Road.

April 10, 6 p.m.

Supervisor Michael Hipple (Powhatan District): Lois S. Hornsby Middle School, 850 Jolly Pond Road.

April 11, 4 p.m.*

Supervisor John McGlennon (Roberts District): James City County Government Center, 101 Mounts Bay Road, Building F.

*Please note that the Roberts District meeting starts earlier than the others, at 4 p.m. We wanted to offer one earlier meeting to accommodate citizens who are unable to participate at 6 p.m.

Staff recommends that the Board amend its Calendar to add these Community Budget Meetings.

TJS/ap
AmdBdCal-mem

MEMORANDUM

DATE: March 12, 2024

TO: The Board of Supervisors

FROM: Carla T. Brittle, Tourism and Centers Administrator

SUBJECT: Contract Award - \$130,000 - Fitness Court

James City County Department of Parks & Recreation was awarded two grants to assist with the procurement and installation of an outdoor fitness court at the Warhill Sports Complex. The outdoor fitness court will provide multiple health benefits while allowing citizens to workout outside for free at the same location as their children while they are engaged in sports events.

The Williamsburg Health Foundation and the National Fitness Campaign have awarded James City County \$180,000 towards the court with an estimated price of \$210,000. The remaining funds will be obtained from existing Capital Improvements Program accounts.

The National Fitness Campaign Initiative is the only business that provides design and planning services, a trademarked outdoor infrastructure product, the fitness court, integrated digital ecosystem, the fitness court mobile app, engagement wall, and national grant funding. As a result, they meet the standards for a sole source contract award to provide the equipment for the court.

Staff recommends approval of the attached resolution and requests authorization for the contract award of \$130,000 to National Fitness Campaign, LP.

CTB/md
CA-FitnessCourt-mem

Attachment

RESOLUTION

CONTRACT AWARD - \$130,000 - FITNESS COURT

WHEREAS, James City County Department of Parks & Recreation desires to provide accessible outdoor recreational opportunities to improve the health of area citizens; and

WHEREAS, James City County received two grants for the procurement and installation of an outdoor fitness court at the Warhill Sports Complex; and

WHEREAS, the National Fitness Campaign meets the standards for a sole source contract award due to the integrated nature of its products and services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the contract award to National Fitness Campaign, LP, for the Warhill Fitness Court.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of March, 2024.

CA-FitnessCourt-res

MEMORANDUM

DATE: March 12, 2024

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Granting an Easement and Ordinance of Vacation Regarding Moore Drive

The right-of-way for Moore Drive was dedicated by a plat recorded in the Clerk's Office for the Circuit Court of the County of James City on May 29, 1973, in Plat Book 30, Page 60 (the "Plat"). Though the right-of-way for Moore Drive was dedicated to the County in 1973, Moore Drive was never improved and has not been brought into the Virginia Department of Transportation's ("VDOT") System of Secondary Roads. Though there are a total of 10 lots that are adjacent to Moore Drive, only two have completed houses. These two houses are accessed via a private road and do not use Moore Drive to access Route 60. One of the remaining eight unimproved lots on Moore Drive was recently sold and the builder has installed a gravel access path along Moore Drive pursuant to a license agreement with the County.

Staff estimates that improvement of Moore Drive necessary to bring it into VDOT's System of Secondary Roads will require several million dollars, none of which are budgeted and would only serve a maximum of 10 houses. Because it is unlikely that the County will ever seek to improve Moore Drive, staff is of the opinion that vacating the right-of-way will eliminate any current or future expectation that the County will improve the road and bring it into the VDOT System of Secondary Roads.

When the Board adopts an Ordinance to vacate right-of-way, the County's interest in the road is not immediately extinguished. Extinguishment of the County's interest occurs only when the Ordinance is recorded among the Land Records of the Clerk's Office for the County of James City and the City of Williamsburg (the "Clerk's Office"). Prior to recording the Ordinance, the County should record an access easement along Moore Drive to ensure that there is no question that the 10 lots may continue to use Moore Drive as a private access drive. The access easement will grant perpetual and complete rights of passage along the length of Moore Drive to all property owners, their heirs, successors, assigns, and invitees.

I recommend adopting the attached Ordinance to vacate the County's right-of-way along Moore Drive and the attached resolution authorizing the County Administrator to execute those documents necessary to grant a perpetual easement to all property owners, their invitees, heirs, successors, and assigns along Moore Drive.

ARK/ap
EsmtOrdVacMooreDr-mem

Attachment

ORDINANCE NO. 240

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT
ENTITLED “PLAT OF: DIVISION OF: J. W. MOORE, ESTATE” AND MORE PARTICULARLY
DESCRIBED AS THE VACATION OF THE 50-FOOT RIGHT-OF-WAY KNOWN AS MOORE
DRIVE

- WHEREAS, the right-of-way for Moore Drive was dedicated by plat entitled “PLAT OF: DIVISION OF: J. W. MOORE, ESTATE” recorded in the Clerk’s Office for the Circuit Court of the County of James City on May 29, 1973, in Plat Book 30, Page 60 (the “Plat”); and
- WHEREAS, Moore Drive was never brought into the Virginia Department of Transportation’s system of maintenance and was never improved; and
- WHEREAS, the County of James City (the “County”) has no surety to improve Moore Drive and has no intention of improving Moore Drive; and
- WHEREAS, there are two existing houses along Moore Drive that use an alternate driveway to access Route 60 and there is one new house planned at 117 Moore Drive that will use a newly-constructed gravel path along Moore Drive to access the property; and
- WHEREAS, notice that the Board of Supervisors of the County of James City, Virginia, would consider this vacation has been given pursuant to Section 15.2-2272 of the Code of Virginia, 1950, as amended (the “Virginia Code”); and
- WHEREAS, pursuant to Section 15.2-2274 of the Virginia Code, the County’s interest in the right-of-way is not extinguished unless and until an Ordinance of Vacation is recorded in the Clerk’s Office for the Circuit Court of the County of James City (the “Clerk’s Office”); and
- WHEREAS, at its meeting on March 12, 2024, pursuant to Section 15.2-1800 and following a duly-advertised public hearing, the Board of Supervisors approved granting a perpetual ingress/egress easement for all property owners and their heirs, successors, assigns, and invitees to use the entirety of Moore Drive, which easement shall be recorded in the Clerk’s Office prior to recordation of the Ordinance of Vacation; and
- WHEREAS, pursuant to Section 15.2-2274 of the Virginia Code, the Board of Supervisors held a public hearing and considered the vacation of the right-of-way along Moore Drive and the Board of Supervisors was of the opinion that the vacation would not result in any inconvenience, would not cause any irreparable damage to any owner of a lot shown on the Plat, and is in the interest of public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that:

1. The entire 50-foot right-of-way for Moore Drive shown as “50’ R/W” on that certain plat entitled “PLAT OF: DIVISION OF: J. W. MOORE, ESTATE” recorded in the Clerk’s Office for the Circuit Court for the City of Williamsburg and the County of James City on May 29, 1973, in Plat Book 30, Page 60 is hereby VACATED.
2. The County Attorney is directed to record this Ordinance among the records in the Clerk’s Office for the Circuit Court for the City of Williamsburg and the County of James City on or after April 11, 2024, with following entities or their successors in interest be listed as Grantees in the Real Estate records of the Clerk of the Circuit Court for the County of James City, Virginia:
 - a. Minos Henry Galanos, Trustee of the Louie Andreas Galanos Trust, dated July 26, 2010, James City County Real Estate Tax Map Parcel Nos. 3220600001 and 3220600003
 - b. Kim Suk Lee, James City County Real Estate Tax Map Parcel Nos. 3220600002, 3220600011, and 3220600012
 - c. Fred Douglas Moore, Sr., James City County Real Estate Tax Map Parcel No. 3220600004
 - d. Iluss M. Moore, James City County Real Estate Tax Map Parcel No. 3220600005
 - e. Martin Lewis Spikes, Jr., James City County Real Estate Tax Map Parcel No. 3220600005B
 - f. P.W. Development, Inc., a Virginia corporation, James City County Real Estate Tax Map Parcel No. 3220600006
 - g. Linda G. Christian, James City County Real Estate Tax Map Parcel No. 3220600007
 - h. Roy W. Thillberg, III, James City County Real Estate Tax Map Parcel No. 3220100104
 - i. Moore Family Cemetery, c/o Eddie Moore, James City County Real Estate Tax Map Parcel No. 3220600014

This Ordinance shall be in full force and effect from the date of its adoption.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of March, 2024.

MEMORANDUM

DATE: March 12, 2024

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Granting an Easement and Ordinance of Vacation Regarding Moore Drive

The right-of-way for Moore Drive was dedicated by a plat recorded in the Clerk's Office for the Circuit Court of the County of James City on May 29, 1973, in Plat Book 30, Page 60 (the "Plat"). Though the right-of-way for Moore Drive was dedicated to the County in 1973, Moore Drive was never improved and has not been brought into the Virginia Department of Transportation's ("VDOT") System of Secondary Roads. Though there are a total of 10 lots that are adjacent to Moore Drive, only two have completed houses. These two houses are accessed via a private road and do not use Moore Drive to access Route 60. One of the remaining eight unimproved lots on Moore Drive was recently sold and the builder has installed a gravel access path along Moore Drive pursuant to a license agreement with the County.

Staff estimates that improvement of Moore Drive necessary to bring it into VDOT's System of Secondary Roads will require several million dollars, none of which are budgeted and would only serve a maximum of 10 houses. Because it is unlikely that the County will ever seek to improve Moore Drive, staff is of the opinion that vacating the right-of-way will eliminate any current or future expectation that the County will improve the road and bring it into the VDOT System of Secondary Roads.

When the Board adopts an Ordinance to vacate right-of-way, the County's interest in the road is not immediately extinguished. Extinguishment of the County's interest occurs only when the Ordinance is recorded among the Land Records of the Clerk's Office for the County of James City and the City of Williamsburg (the "Clerk's Office"). Prior to recording the Ordinance, the County should record an access easement along Moore Drive to ensure that there is no question that the 10 lots may continue to use Moore Drive as a private access drive. The access easement will grant perpetual and complete rights of passage along the length of Moore Drive to all property owners, their heirs, successors, assigns, and invitees.

I recommend adopting the attached Ordinance to vacate the County's right-of-way along Moore Drive and the attached resolution authorizing the County Administrator to execute those documents necessary to grant a perpetual easement to all property owners, their invitees, heirs, successors, and assigns along Moore Drive.

ARK/ap
EsmtOrdVacMooreDr-mem

Attachment

RESOLUTION

TO GRANT AN ACCESS EASEMENT ALONG THE AREA DESIGNATED AS A 50-FOOT RIGHT-OF-WAY KNOWN AS MOORE DRIVE DEPICTED AS “50’ R/W” ON THAT CERTAIN SUBDIVISION PLAT ENTITLED “PLAT OF: DIVISION OF: J. W. MOORE, ESTATE” RECORDED IN THE CLERK’S OFFICE FOR THE CIRCUIT COURT OF THE COUNTY OF JAMES CITY ON MAY 29, 1973, IN PLAT BOOK 30, PAGE 60

- WHEREAS, the right-of-way for Moore Drive was dedicated by plat entitled “PLAT OF: DIVISION OF: J. W. MOORE, ESTATE” recorded in the Clerk’s Office for the Circuit Court of the County of James City on May 29, 1973, in Plat Book 30, Page 60 (the “Plat”); and
- WHEREAS, Moore Drive was never brought into the Virginia Department of Transportation’s system of maintenance and was never improved; and
- WHEREAS, the County of James City (the “County”) has no surety to improve Moore Drive and has no intention of improving Moore Drive; and
- WHEREAS, there are two existing houses along Moore Drive that use an alternate driveway to access Route 60 and there is one new house planned at 117 Moore Drive that will use a newly-constructed gravel path along Moore Drive to access the property; and
- WHEREAS, notice that the Board of Supervisors of the County of James City, Virginia, would consider this vacation has been given pursuant to Section 15.2-2272 of the Code of Virginia, 1950, as amended (the “Virginia Code”); and
- WHEREAS, pursuant to Section 15.2-2274 of the Virginia Code, the County’s interest in the right-of-way is not extinguished unless and until an Ordinance of Vacation is recorded in the Clerk’s Office for the Circuit Court of the County of James City (the “Clerk’s Office”); and
- WHEREAS, at its meeting on March 12, 2024, pursuant to Section 15.2-1800 and following a duly-advertised public hearing, the Board of Supervisors approved granting a perpetual ingress/egress easement for all property owners and their heirs, successors, assigns, and invitees to use the entirety of Moore Drive, which easement shall be recorded in the Clerk’s Office prior to recordation of the Ordinance of Vacation; and
- WHEREAS, pursuant to Section 15.2-2274 of the Virginia Code, the Board of Supervisors held a public hearing and considered the vacation of the right-of-way along Moore Drive and the Board of Supervisors was of the opinion that the vacation would not result in any inconvenience, would not cause any irreparable damage to any owner of a lot shown on the Plat, and is in the interest of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant an access easement along the area shown as a 50-foot right-of-way depicted as "50' R/W" on the plat entitled "PLAT OF: DIVISION OF: J. W. MOORE, ESTATE" recorded in the Clerk's Office for the Circuit Court of the County of James City on May 29, 1973, in Plat Book 30, Page 60, and directs the County Administrator to execute those documents necessary to grant such easement to the following entities or their successors in interest, who shall be listed as Grantees in the Real Estate records of the Clerk of the Circuit Court for the County of James City, Virginia:

1. Minos Henry Galanos, Trustee of the Louie Andreas Galanos Trust, dated July 26, 2010, James City County Real Estate Tax Map Parcel Nos. 3220600001 and 3220600003
2. Kim Suk Lee, James City County Real Estate Tax Map Parcel Nos. 3220600002, 3220600011, and 3220600012
3. Fred Douglas Moore, Sr., James City County Real Estate Tax Map Parcel No. 3220600004
4. Iluss M. Moore, James City County Real Estate Tax Map Parcel No. 3220600005
5. Martin Lewis Spikes, Jr., James City County Real Estate Tax Map Parcel No. 3220600005B
6. P.W. Development, Inc., a Virginia corporation, James City County Real Estate Tax Map Parcel No. 3220600006
7. Linda G. Christian, James City County Real Estate Tax Map Parcel No. 3220600007
8. Roy W. Thillberg, III, James City County Real Estate Tax Map Parcel No. 3220100104
9. Moore Family Cemetery, c/o Eddie Moore, James City County Real Estate Tax Map Parcel No. 3220600014

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of March, 2024.

EsmtOrdVacMooreDr-res

MEMORANDUM

DATE: March 12, 2024

TO: The Board of Supervisors

FROM: Suzanne Yeats, Planner

SUBJECT: Z-23-0010. Luck Stone Toano Proffer Amendment

On May 11, 1994, the Board of Supervisors approved a conditional rezoning of the properties shown on a plat entitled, “Cokes Lane Rezoning Legend” (Attachment No. 3) to include the following:

- 20.68 acres, from A-1, General Agricultural, and R-1, Limited Residential, to A-1, General Agricultural with Proffers and R-1, Limited Residential with Proffers (“The A-1/R-1 Property”).
- 20.39 acres, from A-1, General Agricultural, and R-1, Limited Residential with Special Use Permits (SUP-14-85, 4-89, and 14-90) to M-2, General Industrial with Proffers (“The M-2 Property”).
- 32 acres, from A-1, General Agricultural with Special Use Permits (SUP-14-85, 4-89, and 14-90) to M-1, Limited Business/Industrial with Proffers (“The M-1 Property”).

As a part of the existing proffers (Attachment No. 4), the following sections, “Proffers - The M-2 Property; 3. Industrial Access Road” and “Proffers - The M-1 Property; 6. Industrial Access Road”, include certain conditions that require the dedication of the internal Industrial Access Road 50 feet in width, to the Virginia Department of Transportation (VDOT) as a public use road, in accordance with the standards published by VDOT for similar industrial access roads.

Since 1994, operations at this facility have grown and the owners have acquired additional property along Cokes Lane. Luck Stone is now the sole user of the internal Industrial Access Road (locations: 7734 Richmond Road [Tax Map No. 1330100001] and 3920 Cokes Lane [Tax Map No. 1330100009]) from where it begins on U.S. Route 60. The internal roadway does not serve any other adjoining property owner. As part of a recent plan review for additional on-site improvements proposed by Luck Stone, staff brought the current Proffer requirement to the attention of the property owner.

The applicant, Ms. Kimberly Shepherd of Troutman Pepper, LLP, has now applied on behalf of Luck Stone Corporation to amend Nos. 3 and 6 of the Existing Proffers to remove the requirement to dedicate the access road for public use in accordance with the standards published by VDOT for similar industrial access roads, and the requirement for a 50-foot minimum right-of-way width. Specifically, this proposed amendment would change both Proffer No. 3 (“Proffers - The M-2 Property”), and Proffer No. 6 (“Proffers - The M-1 Property”) to read:

“Industrial Access Road:

The road providing direct access from U.S. Route 60 to the M-1 Property and the M-2 Property shall be constructed by the Owner(s) of the M-1 Property and the M-2 Property. This road shall be approximately 1300' to 1500' in length and be constructed with not less than 24' of paved surface. The road improvements shall also include moving the existing median break on U.S. Route 60 approximately 50 feet west to meet the access road and installing an eastbound left turn storage lane and taper and a westbound right turn storage lane and taper on U.S. Route 60. The length of all storage lanes and tapers shall be determined by the Virginia Department of Transportation.

The industrial access road, water service lines and sewer lines and/or force mains may be constructed in phases in accordance with approved plans of development. Upon completion of each phase, said utility lines will be dedicated to the James City Service Authority."

No other changes are proposed as part of this application and on January 22, 2024, VDOT informed staff it has no objections to this proposed proffer amendments.

The other safety-related improvements required by the current proffer language, including a median break on Richmond Road, an eastbound left-turn storage lane and taper, and a westbound right-turn storage lane and taper are all currently in place.

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the Board of Supervisors voiced no objection to the applicant's request to consider amending these proffers as a consideration item.

Planning Commission Recommendation

At its February 7, 2024, meeting, the Planning Commission, by a vote of 7-0, recommended approval of this proffer amendment.

Changes Made Since Planning Commission Meeting

None.

Staff Recommendation

Staff finds that the condition of the existing industrial road leading to aggregate stockpiles and other operations germane to Luck Stone Toano are currently unsuitable for general public access or use. The current internal industrial driveway was not constructed to VDOT standards, and it also does not meet the requirements necessary for VDOT to accept the road into the public system (e.g., the roadway must serve at least three separate property owners, which the current drive does not). Staff also finds the proposed proffer amendment would not negatively impact surrounding property owners. Staff recommends the Board of Supervisors approve and accept this proposed proffer amendment (Attachment No. 5).

SY/md

Z23-10LuckStTPAm-mem

Attachments:

1. Ordinance
2. Location Map
3. Cokes Lane Rezoning Legend
4. Existing Proffers_5-11-1994
5. Amended Proffers_1-23-2024
6. Unapproved Minutes of the February 7, 2024 Planning Commission Meeting

ORDINANCE NO. _____

AN ORDINANCE TO AMEND EXISTING PROFFERS RECORDED IN DEED BOOK 0687 AT PAGE 0105 (INSTRUMENT NO. 008224), PREVIOUSLY APPROVED AS PART OF Z-17-89, TO ELIMINATE THE REQUIREMENT TO DEDICATE THE INTERNAL ROAD TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION.
CASE NO. Z-23-0010. LUCK STONE TOANO PROFFER AMENDMENT

WHEREAS, on May 11, 1994, the Board of Supervisors approved Case No. Z-17-89 which included a conditional rezoning of the properties shown on a plat entitled, “Cokes Lane Rezoning Legend” and which included the acceptance of voluntary Proffers which were recorded in Deed Book 0687 at Page 0105 (Instrument No. 008224) (the “Existing Proffers”); and

WHEREAS, as a part of the Existing Proffers, the following sections, “Proffers - The M-2 Property; 3. Industrial Access Road” and “Proffers - The M-1 Property; 6. Industrial Access Road”, include certain conditions that require the dedication of the internal Industrial Access Road 50 feet in width to the Virginia Department of Transportation (VDOT) as a public use road, in accordance with the standards published by VDOT for similar industrial access roads, on the parcels located at 7734 Richmond Road and 3920 Cokes Lane, James City County, Virginia and further identified as James City County Real Estate Tax Map Nos. 1330100001 and 1330100009, respectively (together, the “Property”); and

WHEREAS, the applicant, Ms. Kimberly Shepherd of Troutman Pepper, LLP, has now applied on behalf of Luck Stone Corporation to amend Nos. 3 and 6 of the Existing Proffers to remove the requirement to dedicate the access road for public use in accordance with the standards published by VDOT for similar industrial access roads, and the requirement for a 50-foot minimum right-of-way width. Specifically, this proposed amendment would change both Proffer No. 3 (“Proffers - The M-2 Property”) and Proffer No. 6 (“Proffers - The M-1 Property”); and

WHEREAS, the Planning Commission, following its public hearing on February 7, 2024, recommended approval of Case No. Z-23-0010. Luck Stone Toano Proffer Amendment by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-23-0010 to be required by public necessity, convenience, general welfare, and good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that Case No. Z-23-0010 is hereby approved as described therein and the amended voluntary proffers are accepted.

Ruth M. Larson
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES			
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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_____	_____	_____	_____
_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of March, 2024.

Z23-10LuckStTPAm-ord

JCC-Z-23-0010
7734 Richmond Road
3920 Cokes Lane
Luck Stone Toano Proffer Amendment

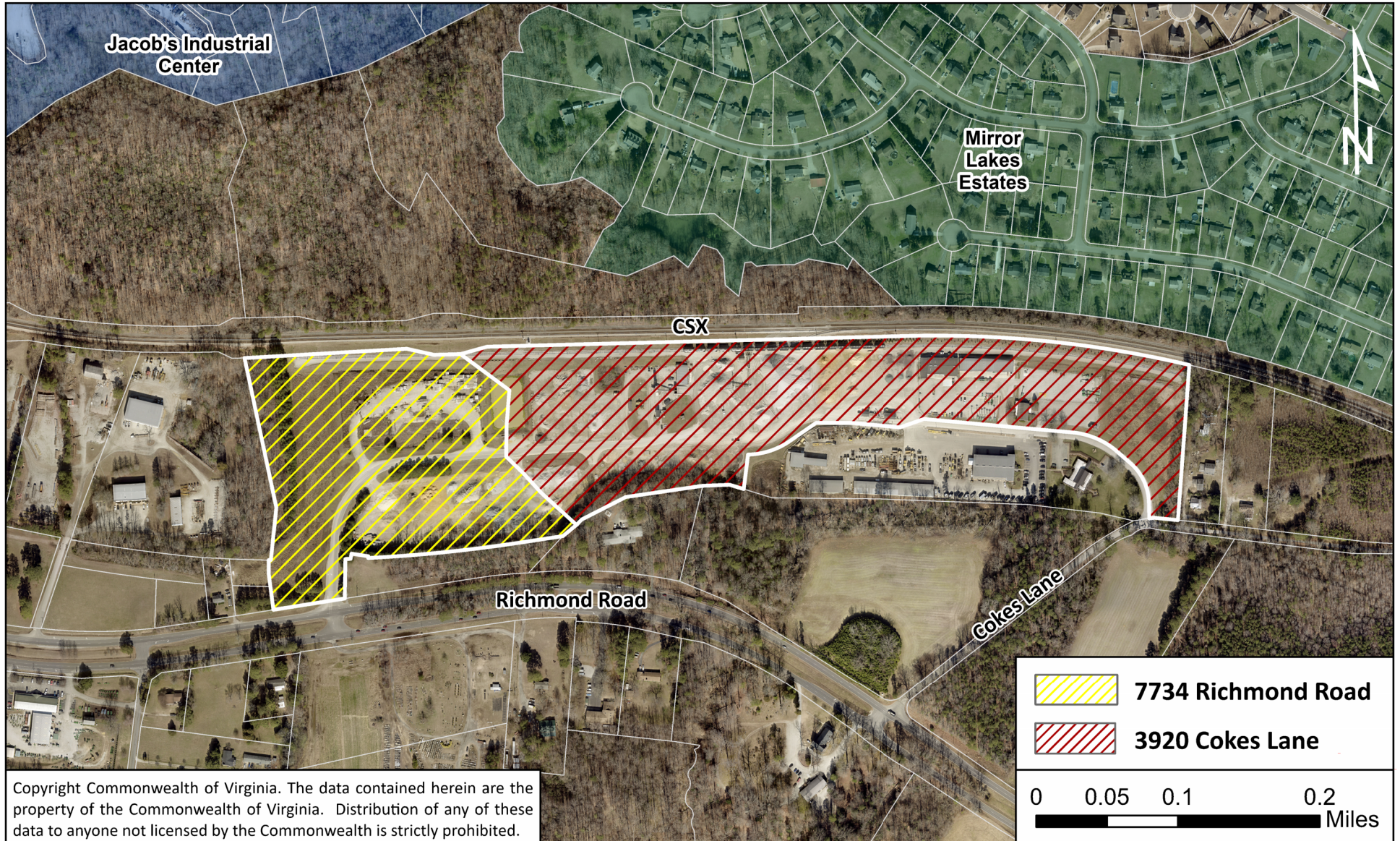
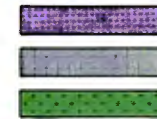


FIGURE 2
LAND USE MAP

(13-3) (01-9)
7-17-89

APPROX. AREA
20.3860 AC.
31.9997 AC.
20.6750 AC.
TOTAL 73.0607 AC



LIMITS OF M-2 ZONE W/ SUP
LIMITS OF M-1 ZONE
LIMITS OF A-1

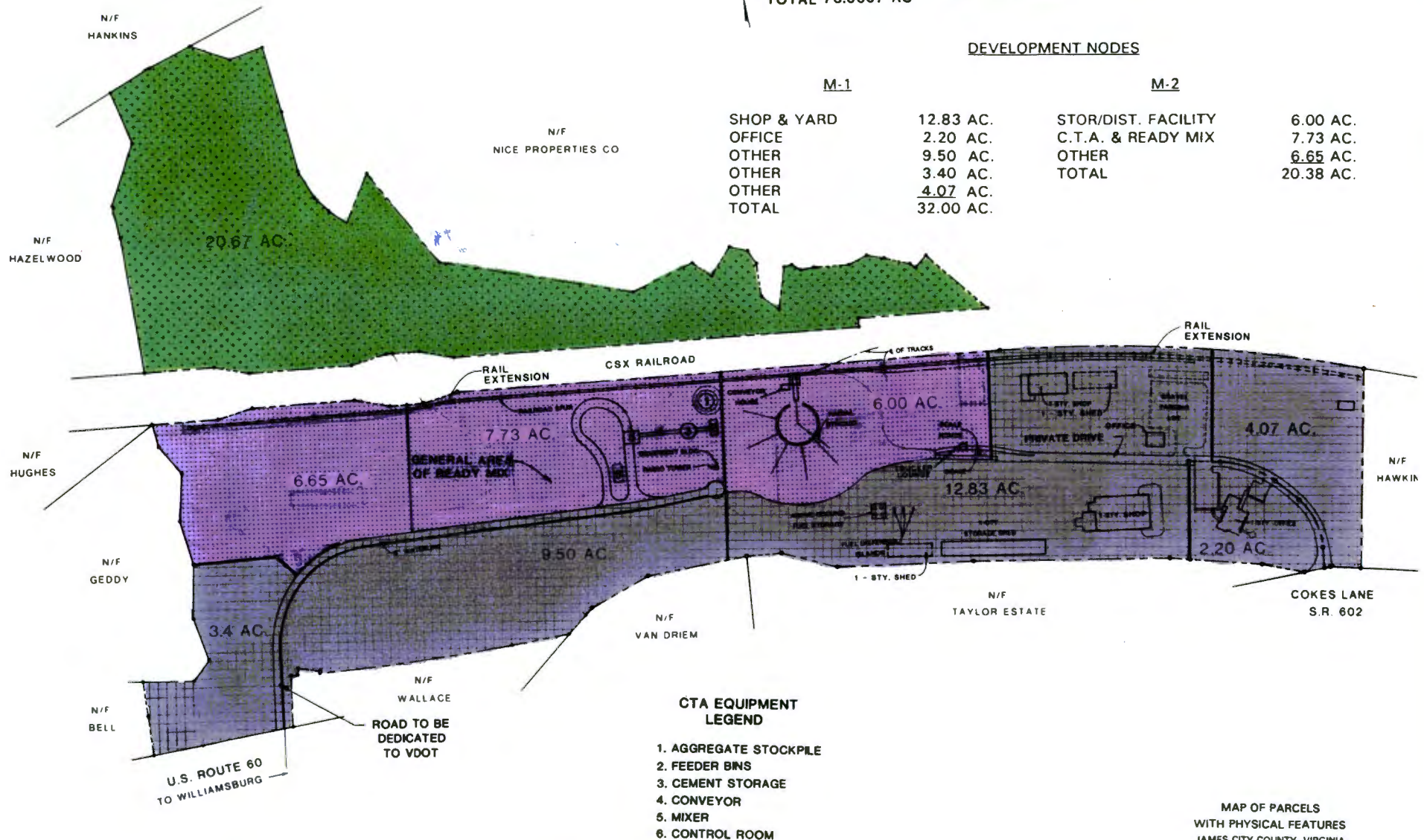
DEVELOPMENT NODES

M-1

SHOP & YARD 12.83 AC.
OFFICE 2.20 AC.
OTHER 9.50 AC.
OTHER 3.40 AC.
OTHER 4.07 AC.
TOTAL 32.00 AC.

M-2

STOR/DIST. FACILITY 6.00 AC.
C.T.A. & READY MIX 7.73 AC.
OTHER 6.65 AC.
TOTAL 20.38 AC.



CTA EQUIPMENT
LEGEND

1. AGGREGATE STOCKPILE
2. FEEDER BINS
3. CEMENT STORAGE
4. CONVEYOR
5. MIXER
6. CONTROL ROOM

200 100 0 200 400
GRAPHIC SCALE

MAP OF PARCELS
WITH PHYSICAL FEATURES
JAMES CITY COUNTY, VIRGINIA
DATE: 2/8/84 SCALE: 1" = 200'
LANGLEY and McDONALD, P.C.
ENGINEERS - SURVEYORS - PLANNERS

LANDSCAPE ARCHITECTS - ENVIRONMENTAL CONSULTANTS
VIRGINIA BEACH AND WILLIAMSBURG

08224

PROFFER AGREEMENT

These Proffers are made as of the 11th day of May, 1994, by JACK L. MASSIE CONTRACTOR, INC., a Virginia Corporation, MASSIE CORPORATION, a Virginia Corporation and SLEEPY HOLLOW CORPORATION OF TOANO, a Virginia Corporation (collectively "the Owner" or "the Owners"), together with their respective successors and assigns, which Owners collectively own certain real property shown on the James City County Tax Map 13-3 as Parcels 1-1, 1-9, 1-9B and 1-14 and on Tax Map 12-4 as a portion of Parcel 1-40.

RECITALS

A. JACK L. MASSIE CONTRACTOR, INC. is the owner of certain real property in James City County, Virginia, more particularly described as follows:

All that certain parcel of land in James City County, Virginia, containing by survey 34.48 acres, shown and described on that certain plat entitled "TOPOGRAPHIC PLAT OF 34.48 ACRES FOR JACK L. MASSIE CONTRACTOR, INC., JAMES CITY COUNTY, VIRGINIA", which plat is dated April 3, 1980, made by Evans Surveying Co., P.C., a copy of which is recorded in James City County Plat Book 41, Page 5.

Being the same property conveyed to Jack L. Massie Contractor, Inc. by Deed dated June 18, 1985 from George A. Marston, Jr., and Dorothy M. Marston, his wife, recorded in James City County Deed Book 274, Page 158, et. seq. on June 27, 1985.

MASSIE CORPORATION is the owner of certain real property in James City County, Virginia, more particularly described as follows:

All that certain tract or parcel of land situate, lying and being in Stonehouse Magisterial District, James City County, Virginia, fronting on Cokes Lane (State Route No. 602), containing 2.2076 Acres, shown and designated as "PARCEL B, AREA = 2.2076 ACRES" on plat of survey entitled, "PLAT OF PARCELS 'A' & 'B', BEING A SUBDIVISION OF PROPERTY STANDING IN THE NAME OF JACK L. MASSIE CONTRACTORS, INC., STONEHOUSE DISTRICT, JAMES CITY COUNTY", dated August 25, 1987, made by Langley and McDonald, P.C., Engineers, Planners, Surveyors, Virginia Beach and Williamsburg, Virginia, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia, in Plat Book 46, Page 59, to which plat reference is here made for a more accurate and particular description of the said property.

Together with a non-exclusive perpetual easement for ingress and egress over and along that fifty (50) foot street leading from Cokes Lane (State Route No. 602) in a generally northwesterly direction, shown and designated as "Entrance Road" on the plat of survey hereinabove referred to.

Being the same property conveyed to Massie Corporation by Deed dated May 27, 1988 from Jack L. Massie Contractor, Inc. recorded in James City County Deed Book 392, Page 556, et. seq. on May 31, 1988.

All that certain lot, piece or parcel of land situate, lying and being in Stonehouse District, County of James City, Virginia, containing $17.257 \pm$ Acres, and designated as "PARCEL "C" $17.257 \pm$ ACRES (FORMERLY PARCEL B)", as shown on that certain plat entitled, "PLAT OF PARCELS C and D STANDING IN THE NAME OF ALACO CORPORATION (D.B. 222, PG. 413) TO BE CONVEYED TO MASSIE CORPORATION, STONEHOUSE DISTRICT, COUNTY OF JAMES CITY, VIRGINIA," dated 9/21/88 and made by Langley and McDonald, P.C., Engineers, Planners, Surveyors, a copy of which plat is duly recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, in Plat Book 49, Page 72, to which reference is here made.

Being a portion of the same property conveyed to Massie Corporation by Deed dated October 4, 1988 from Alaco Corporation recorded in James City County Deed Book 411, Page 90, et. seq., and James City County Deed Book 431, Page 503, et. seq. on October 7, 1988 and April 17, 1989, respectively.

SLEEPY HOLLOW CORPORATION OF TOANO is the owner of certain real property in James City County, Virginia, more particularly described as follows:

All that certain tract or parcel of land situate, lying and being in Stonehouse District, James City County, Virginia, containing 12.465 Acres, more or less, designated "PARCEL "D" $12.465 \pm$ ACRES (FORMERLY PARCEL A)" as shown on that certain plat entitled, "PLAT OF PARCELS C and D STANDING IN THE NAME OF ALACO CORPORATION (D.B. 222, PG. 413) TO BE CONVEYED TO MASSIE CORPORATION, STONEHOUSE DISTRICT, COUNTY OF JAMES CITY, VIRGINIA", dated September 21, 1988, made by Langley and McDonald, P.C., Engineers, Planners, Surveyors, a copy of 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 49, Page 72, to which reference is here made.

Being the same property conveyed to Sleepy Hollow Corporation of Toano by Deed dated December 14, 1990 from Massie Corporation recorded in James City County Deed Book 498, Page 614, et. seq. on December 21, 1990.

All that certain tract or parcel of land situate, lying and being in Stonehouse District, James City County, Virginia, containing 8.21 Acres, more or less, as shown on that certain plat entitled, "PLAT OF LOT LINE ADJUSTMENT, PROPERTIES OF SLEEPY HOLLOW CORPORATION OF TOANO AND NICE PROPERTIES,

INC.", dated July 27, 1990, revised October 29, 1990, made by The DeYoung-Johnson Group, Inc., Engineers, Architects, Surveyors, Williamsburg, Virginia, a copy of which plat is to be recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia and to which plat reference is here made.

Being a portion of the same property conveyed to Sleepy Hollow Corporation of Toano by Deed of Exchange dated December 17, 1990 from Stonehouse, Inc. recorded in James City County Deed Book 498, Page 611, et. seq. on December 21, 1990.

All those two certain tracts or parcels of land situate, lying and being in Stonehouse District, James City County, Virginia, designated "PARCEL 1", containing 0.3261 Acres, and "PARCEL 2", containing 0.3232 Acres, all as shown on plat of survey entitled, "PLAT OF PROPERTY TO BE CONVEYED BY FRANK L. AND MARY KAY FERNANDEZ TO JACK L. MASSIE CONTRACTORS, INC., STONEHOUSE DISTRICT - COUNTY OF JAMES CITY, VIRGINIA", dated June 15, 1990, made by Langley and McDonald, P.C., Engineers, Planners, Surveyors, Virginia Beach and Williamsburg, Virginia, a copy of which plat of survey is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia, in Plat Book 52, Page 96, to which plat of survey reference is here made for a more accurate and particular description of the property herein conveyed.

Being a portion of the same property conveyed to Sleepy Hollow Corporation of Toano by Deed of Exchange dated August 28, 1990 with Delmarva Properties, Inc. and Stonehouse, Inc., recorded in James City County Deed Book 487, Page 124, et. seq. on August 30, 1990.

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

B. The Property is more particularly shown on a plat entitled "COKES LANE REZONING LEGEND" and "MAP OF PARCELS WITH PHYSICAL FEATURES, JAMES CITY COUNTY, VIRGINIA", dated 2/8/94, prepared by Langley and McDonald, P.C., which drawing is hereinafter referred to as "the Rezoning Legend".

C. The Owners have applied for a rezoning of the Property. The rezonings requested include the following:

- 20.6750 Acres, more or less, from General Agricultural District, A-1 and Limited Residential District, R-1 to General Agricultural District, A-1 with Proffers and Limited Residential District, R-1 with Proffers ("the A-1/R-1 Property").

- 20.3860 Acres, more or less, from General Agricultural District, A-1 with Special Use Permits (SUP 14-85, 4-89 & 14-90) to General Industrial District, M-2 with Proffers ("the M-2 Property").
- 31.9997 Acres, more or less, from the General Agricultural District, A-1 with Special Use Permits (SUP 14-85, 4-89 & 14-90) to Limited Business/Industrial District, M-1 with Proffers ("the M-1 Property").

D. The County's Comprehensive Plan Land Use Map specifically designates the A-1/R-1 Property as "Low Density Residential", the M-2 Property as "General Industry" and the M-1 Property as "Mixed Use".

E. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Property.

F. The Owners desire to offer to the County certain proffers on the development of 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 rezonings set forth above, and pursuant to §15.1-491.1, et. seq., of the Code of Virginia, 1950, as amended, and §20-16 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 rezonings are not granted by the County, these Proffers shall thereupon become null and void.

PROFFERS - THE A-1/R-1 PROPERTY

Uses:

The uses of the A-1/R-1 Property shall be limited to:

- Preserves and conservation areas for protection of natural features and wildlife.
- Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet, which impoundments shall be used for

stormwater management facilities for the A-1/R-1 Property, the M-2 Property and the M-1 Property.

- Extensions or private connections to utilities which are intended to serve existing or future customers and which are accessory to existing or proposed development.
- Open space as defined by the County's Zoning Ordinance required for the development of the portion of the Property south of the CSX railroad.
- The Owner shall use its best efforts to limit the clearing of the A-1/R-1 Property to maximize to the extent reasonably practicable its effectiveness as a visual screen between the developed portion of the Mirror Lakes subdivision and the M-2 Property. Accordingly, the Owner shall submit all of its clearing plans of the A-1/R-1 Property to the Development Review Committee of the County's Planning Commission for its review and approval.

PROFFERS - THE M-2 PROPERTY

1. Uses:

The following uses otherwise permitted under the County Zoning Ordinance on the M-2 Property shall be prohibited pursuant to these proffers:

- Boiler shops.
- Breweries and other necessary associated activities.
- Drop-forge industries, manufacturing forgings with a power hammer.
- Manufacture and processing of acrylic and other synthetic fibers.
- Manufacture and sale of manufactured homes, mobile homes, modular homes, and industrialized housing units.
- Manufacture of batteries.
- Manufacture of boats, marine equipment and boat trailers.
- Manufacture of cans and other metal products from previously processed metals.
- Manufacture of furniture.
- Manufacture of glass and glass products.
- Metal foundry and heavy weight casting.
- Drop hammers.
- Wood preserving operations.

2. Landscaping:

In conjunction with the development of the M-2 Property, the Owner(s) of the M-2 Property shall maintain a buffer of evergreen plant material consisting of Leyland Cypress or other buffering material as may be approved by the County Planning Director, placed between the railroad spur line and its mainline extending from the northeastern corner of the M-2 Property to the west approximately 315' until it

intersects the clear zone required for the crossover spur to the mainline. The plants shall be planted in 2 parallel rows each of which rows shall be approximately 4.5 feet apart. The plants in each row shall be staggered from the other row and be planted on approximately 12.5 foot centers.

3. Industrial Access Road:

The road providing direct access from U.S. Route 60 to the M-1 Property and the M-2 Property shall be constructed and dedicated to public use by the Owner(s) of the M-1 Property and the M-2 Property, all in accordance with the standards published by the Virginia Department of Transportation for similar industrial access roads. This road shall be approximately 1300' to 1500' in length and be constructed within a right of way not less than 50' in width with not less than 24' of paved surface. The road improvements shall also include moving the existing median break on U.S. Route 60 approximately 50 feet west to meet the access road and installing an eastbound left turn storage lane and taper and a westbound right turn storage lane and taper on U.S. Route 60. The length of all storage lanes and tapers shall be determined by the Virginia Department of Transportation.

The industrial access road, water service lines and sewer lines and/or force mains may be constructed in phases in accordance with approved plans of development. Upon completion of each phase, said roads and utility lines will be dedicated to the Virginia Department of Transportation or the James City Service Authority, as appropriate.

4. Ready-Mix Concrete Plant:

Prior to the issuance of a certificate of occupancy for the ready-mix concrete plant, the Owner(s) of the M-2 Property shall meet and satisfy all of the following conditions:

- a Spill Prevention and Control and Counter Measure Plan shall be approved by the Director of Code Compliance;
- all roads and parking areas shown as paved on the Rezoning Legend shall be paved;
- a dust collection system shall be provided equivalent or better in design and function to the C & W Manufacturing and Sales Company, Inc. Model No. CW-RA-140 portable dust collection system; and
- a facility shall be provided to control runoff from the wash area, cement loading area and waste storage area of the ready-mix concrete plant designed for a 25-year storm event of a 24-hour duration. This facility shall contain one additional foot of freeboard capacity in addition to the volume necessary for control of stormwater runoff.

5. Traffic signal(s) - U.S. Route 60:

The Owner shall, at its expense, commission a traffic study for the intersections of Cokes Lane with U.S. Route 60 and the Industrial Access Road with U.S. Route 60 prior to the issuance of a Certificate of Occupancy for any building which would exceed 200,000 square feet of building area on the M-1 Property and on the M-2 Property. Building area shall include all existing and new buildings, but not include the ready-mix concrete plant and the cement treated aggregate facility. The traffic study shall address the requirement, if any, of a traffic signal at either or both of said intersections based on the traffic generated by the Property at the point of study and at the full buildout stage of the Property, the then existing background traffic on U.S. Route 60 and safety considerations. After the review and approval of the traffic study by both the County and the Virginia Department of Transportation, the Owner shall pay for the cost of the purchase and installation of a traffic signal at either or both of said intersections if such signal(s) is(are) required as determined by the traffic study.

PROFFERS - THE M-1 PROPERTY

1. Uses:

The following uses otherwise permitted under the County Zoning Ordinance on the M-1 Property shall be prohibited pursuant to these proffers:

- Automobile sales
- Barber and beauty shops.
- Book stores.
- Candy stores.
- Carpet stores.
- Department stores.
- Dressmaking stores.
- Drugstores.
- Dry cleaners.
- Employment services or agencies.
- Farmer's markets.
- Feed, seed, and farm supply stores.
- Florist stores.
- Furniture stores.
- Furrier stores.
- Greeting card stores.
- Home appliance sales and service.
- Hotels, motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel or convention center for the principal benefit of the resident guest.
- Ice cream stores.
- Indoor sport facilities, health clubs, exercise clubs, and fitness centers.
- Jewelry sales and service.

- Locksmith and gunsmith shops excluding shooting ranges.
- Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.
- Manufactured home or mobile home sales.
- Music and record stores.
- Non-emergency medical transport.
- Pet stores.
- Picture framing stores.
- Places of worship.
- Plant and garden supply and hardware and paint stores.
- Post Offices.
- Tearooms and taverns.
- Retail food stores, bakeries and fish markets.
- Security service offices.
- Shoe stores.
- Sporting goods stores.
- Stamp and coin stores.
- Tailor shops.
- Tobacco and pipe stores.
- Toy stores.
- Travel bureaus.
- Veterinary hospitals and kennels.
- Wearing apparel stores.
- Yard goods stores.

2. Certain Permitted Uses with Additional Restrictions:

The signage for the following generally permitted uses shall not be visible from either U.S. Route 60 or Cokes Lane; the buildings for said uses shall neither face U.S. Route 60 or Cokes Lane nor be used by persons other than Owners, operators, employees, customers and subcontractors of the other generally permitted uses on the Property:

- Automobile service with major repair (limited to a fully enclosed building).
- Automobile service stations with or without the sale of fuel.
- Restaurants.
- Tire, transmission, glass, body and fender and other automotive product sales and service with major repair (limited to a fully enclosed building) and vehicle storage screened from adjacent property by landscaping and fencing.
- Vehicle and trailer sales and service, with major repair (limited to a fully enclosed building).

3. Landscaped Earthen Berms:

The Owner(s) of the M-1 Property shall maintain each of the following existing landscaped earthen berms on the M-1 Property:

- the 8' high landscaped berm located 20' from the southeastern corner of the M-1 Property adjacent to and paralleling the eastern boundary of the M-1 Property being approximately 350' in length; and
- the 10' high landscaped berm located adjacent to and paralleling the southern border of the M-1 Property (adjacent to property of Van Driem) being approximately 410' in length.

4. Additional Landscaping:

In conjunction with the development of the M-1 Property, the Owner(s) of the M-1 Property shall plant (or maintain in the case of existing landscaping) as necessary a buffer of evergreen plant material consisting of Leyland Cypress or other buffering material as may be approved by the County Planning Director. The plants shall be planted in 2 parallel rows each of which rows shall be approximately 4.5 feet apart. The plants in each row shall be staggered from the other row and be planted on approximately 12.5 foot centers at the following locations:

- along that portion of the southern and eastern boundaries of the M-1 Property abutting the Wallace property;
- along that portion of the western boundary of the M-1 Property abutting the Bell property;
- along that portion of the southern boundary of the M-1 Property abutting the Van Driem property, excluding that portion of said boundary along which is currently constructed a 10' landscaped earthen berm;
- along that portion of the southern boundary of the M-1 Property abutting the Taylor Estate property, excluding that portion of said boundary for which planting has previously been accomplished in conjunction with previously approved site plans; and
- along that portion of the northern boundary of the M-1 Property between the CSX railroad and the spur line on the M-1 Property.

5. Building and Site Lighting Arrangement:

In order to mitigate possible noise, light and dust impacts to adjacent property, the Owner(s) of the M-1 Property shall arrange all buildings, doors, points of access for shipping and receiving and site lighting (for all structures for which site plan approval has not been previously granted by the County) as follows:

- the front of buildings will face away from adjacent properties which are not zoned Industrial; and
- doors and points of access for shipping and receiving and site lighting shall be reviewed and approved by the Development Review Committee so as to minimize adverse impacts on adjoining properties which are not zoned Industrial; however, access to the approved railroad spurs and the meeting of all code requirements shall not be limited by this provision.

6. Industrial Access Road:

The road providing direct access from U.S. Route 60 to the M-1 Property and the M-2 Property shall be constructed and dedicated to public use by the Owner(s) of the M-1 Property and the M-2 Property, all in accordance with the standards published by the Virginia Department of Transportation for similar industrial access roads. This road shall be approximately 1300' to 1500' in length and be constructed within a right of way not less than 50' in width with not less than 24' of paved surface. The road improvements shall also include moving the existing median break on U.S. Route 60 approximately 50 feet west to meet the access road and installing an eastbound left turn storage lane and taper and a westbound right turn storage lane and taper on U.S. Route 60. The length of all storage lanes and tapers shall be determined by the Virginia Department of Transportation.

The industrial access road, water service lines and sewer lines and/or force mains may be constructed in phases in accordance with approved plans of development. Upon completion of each phase, said roads and utility lines will be dedicated to the Virginia Department of Transportation or the James City Service Authority, as appropriate.

7. Traffic signal(s) - U.S. Route 60:

The Owner shall, at its expense, commission a traffic study for the intersections of Cokes Lane with U.S. Route 60 and the Industrial Access Road with U.S. Route 60 prior to the issuance of a Certificate of Occupancy for any building which would exceed 200,000 square feet of building area on the M-1 Property and on the M-2 Property. Building area shall include all existing and new buildings, but not include the ready-mix concrete plant and the cement treated aggregate facility. The traffic study shall address the requirement, if any, of a traffic signal at either or both of said intersections based on the traffic generated by the Property at the point of study and at the full buildout stage of the Property, the then existing background traffic on U.S. Route 60 and safety considerations. After the review and approval of the traffic study by both the County and the Virginia Department of Transportation, the Owner shall pay for the cost of the purchase and installation of a traffic signal at either or both of said intersections if such signal(s) is(are) required as determined by the traffic study.

8. Landscaping of Buffer Along U.S. Route 60 (Richmond Road):

The Owner(s) of the M-1 Property shall submit for review and approval to the Development Review Committee of the County's Planning Commission a plan for an enhanced evergreen landscaping with berms and/or moguls along the U.S. Route 60 (Richmond Road) frontage of the M-1 Property to a depth of 50 feet. Except for the Industrial Access Road shown on the Rezoning Legend, no other roads or driveways shall cross this buffer area. The existing billboard within the buffer shall be removed within 62 months from the date hereof.

GENERAL PROFFERS

1. Headings:

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

2. Rezoning Legend:

The Property will be developed in accordance with the Rezoning Legend. The Owner(s) may from time to time, in final subdivision plats or site plans submitted to the County, relocate the specific uses shown on the Rezoning Legend (provided that such uses are permitted by the County's Zoning Ordinance and these proffers) provided that the Planning Commission determines that said relocations do not alter the basic concept or character of the development.

3. Phasing of Additional Landscaping:

The additional landscaping required pursuant to this Agreement may be installed in phases in accordance with approved site plans.

4. Conflict with Vested Rights:

These Proffers are subject and inferior to the Owner's vested rights pursuant to site plans previously approved by the County. Any conflict between the terms of these Proffers and the Owner's vested rights shall be resolved in accordance with the Owner's vested rights.

5. 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:

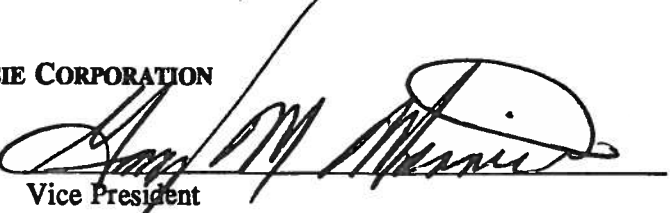
JACK L. MASSIE CONTRACTOR, INC.

By:


Vice President

MASSIE CORPORATION

By:


Vice President

SLEEPY HOLLOW CORPORATION OF TOANO

By:


Treasurer

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 11th day of May, 1994 by GARY M. MASSIE, Vice President of JACK L. MASSIE CONTRACTOR, INC., a Virginia corporation, its officer in this behalf first duly authorized, GARY M. MASSIE, Vice President of MASSIE CORPORATION, a Virginia corporation, its officer in this behalf first duly authorized, and GARY M. MASSIE, Treasurer of SLEEPY HOLLOW CORPORATION OF TOANO, a Virginia corporation, its officer in this behalf first duly authorized.

Cheri L. Smith
NOTARY PUBLIC

My commission expires: 9-30-97



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

18 day of May, 1994. This Progen
was presented with certificate annexed and
admitted to record at 3:48 o'clock

Teste: Helena S. Ward, Clerk
by Helena S. Ward
Deputy Clerk

Prepared by:

Robert P. Beaman III, Esquire (VSB#74668)
Troutman Pepper Hamilton Sanders, LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462

Return to:

County Attorney
James City County
101-D Mounts Bay Road
Williamsburg, VA 23185

TAX PARCEL #s: **1330100001**
 1330100009

FIRST AMENDMENT TO PROFFER AGREEMENT

This FIRST AMENDMENT TO PROFFER AGREEMENT is made this 23rd day of January, 2024, by **LUCK STONE CORPORATION**, a Virginia corporation (“Luck Stone”), to be indexed as Grantor, and **JAMES CITY COUNTY, VIRGINIA**, to be indexed as Grantee.

RECITALS

A. Luck Stone is the owner of (1) James City Tax Parcel # 1330100009 located at 3920 Cokes Lane; and (2) James City Tax Parcel # 1330100001 located at 7734 Richmond Road; both located in James City County, Virginia, being more particularly described on **Exhibit A** attached hereto (“Parcels 1330100009 and 1330100001”).

B. Parcels 1330100001 and 1330100009 are herein sometimes referred to as the “Property.”

C. The Property is now subject to proffered zoning conditions set forth in Proffers dated May 11, 1994 made Jack L. Massie Contractor, Inc., a Virginia corporation, Massie Corporation, a Virginia corporation, and Sleepy Hollow Corporation of Toana, a Virginia corporation, and recorded May 18, 1994 in the Clerk’s Office of the Circuit Court for the City of Williamsburg and County of James City in Deed Book 0687, at Page 105 (the “Existing Proffers”).

D. The parties desire to amend the Existing Proffers as provided herein.

NOW, THEREFORE, the Existing Proffers are hereby amended as follows:

1. Section 3 of that portion of the Existing Proffers that is labeled “Proffers - The M-2 Property” is hereby amended to read in its entirety as follows:

“Industrial Access Road:

The road providing direct access from U.S. Route 60 to the M-1 Property and the M-2 Property shall be constructed by the Owner(s) of the M-1 Property and the M-2 Property. This road shall be approximately 1300' to 1500' in length and be constructed with not less than 24' of paved surface. The road improvements shall also include moving the existing median break on U.S. Route 60 approximately 50 feet west to meet the access road and installing an eastbound left turn storage lane

and taper and a westbound right turn storage lane and taper on U.S. Route 60. The length of all storage lanes and tapers shall be determined by the Virginia Department of Transportation.

The industrial access road, water service lines and sewer lines and/or force mains may be constructed in phases in accordance with approved plans of development. Upon completion of each phase, said utility lines will be dedicated to the James City Service Authority.”

2. Section 6 of that portion of the Existing Proffers that is labeled “Proffers - The M-1 Property” is hereby amended to read in its entirety as follows:

“Industrial Access Road:

The road providing direct access from U.S. Route 60 to the M-1 Property and the M-2 Property shall be constructed by the Owner(s) of the M-1 Property and the M-2 Property. This road shall be approximately 1300' to 1500' in length and be constructed with not less than 24' of paved surface. The road improvements shall also include moving the existing median break on U.S. Route 60 approximately 50 feet west to meet the access road and installing an eastbound left turn storage lane and taper and a westbound right turn storage lane and taper on U.S. Route 60. The length of all storage lanes and tapers shall be determined by the Virginia Department of Transportation.

The industrial access road, water service lines and sewer lines and/or force mains may be constructed in phases in accordance with approved plans of development. Upon completion of each phase, said utility lines will be dedicated to the James City Service Authority.”

3. Except as specifically modified by this First Amendment, the Existing Proffers remain in full force and effect.

[INTENTIONALLY LEFT BLANK]

WITNESS the following signatures by due authority:

LUCK STONE CORPORATION,
a Virginia corporation

By: _____

Title: Land Use Development Manager

STATE OF Virginia

COUNTY/CITY OF Gorham

The foregoing instrument was acknowledged before me in my aforesaid jurisdiction this 23rd day of September, 2024, by Jad Mahab, as Land Use Dev. Manager of Luck Stone Corporation, a Virginia corporation, on behalf of the corporation.

NOTARY PUBLIC

(SEAL)

My Commission expires: 4/30/24

Notary ID# 7803200



Exhibit A

Legal Description

PARCEL 1330100009

All that certain piece or parcel of land, lying, situate and being in Stonehouse District, James City County, Virginia, containing 25.43 +/- Acres, being identified as "Parcel A", as shown on plat entitled "PLAT OF BOUNDARY LINE ADJUSTMENT & PROPERTY LINE EXTINGUISHMENT PARCELS A & B AND ALLOCATION OF OFFSITE NATURAL OPEN SPACE AREAS FOR PARCELS A, B, & C, MASSIE PROPERTY, STONEHOUSE DISTRICT, COUNTY OF JAMES CITY, VIRGINIA", dated August 31, 2010, prepared by AES Consulting Engineers, Williamsburg, Virginia, a copy of which is recorded as Instrument Number 100020969 in the Clerk's Office, Circuit Court, James City County, Virginia, to which reference is hereby made for a more particular description.

IT BEING a portion of that certain piece or parcel of land, lying, situate and being in Stonehouse District, James City County, Virginia, containing 32.28 +/- Acres, being identified as "Parcel A", as shown on plat entitled "PLAT SHOWING IMPROVEMENTS BEING PARCEL 'A' CONTAINING 32.27 ACRES +/- OWNED BY JACK L MASSIE CONTRACTOR, INC., STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated May 17, 1996, prepared by AES Consulting Engineers, Williamsburg, Virginia, a copy of which is recorded in Plat Book 64, Page 25, Clerk's Office, Circuit Court, James City County, Virginia, to which reference is hereby made for a more particular description.

Less and except that portion of land described as beginning at a point, said point being the southern most point of Parcel B, and being the common point of the lands of R. K. Taylor, Sr., Estate, Massie Corporation and the northern right-of-way line of Cokes Lane, said point being approximately 1,160 feet more or less from the right-of-way of Richmond Road, U.S. Route 60; thence along the common property line of R. K. Taylor, Sr., Estate, and Massie Corporation, N 76°30'14" W, a distance of 126.10 feet to a point; thence N 82°51'24" W, a distance of 208.40 feet to a point, said point to be the Point of Beginning of the lands to be conveyed to Massie Corporation; thence from the Point of Beginning along the northern property line of R. K. Taylor, Sr., Estate, N 82°51'24" W, a distance of 58.00 feet to a point; thence N 87°29'39" W, a distance of 568.06 feet to a point; thence N 89°06'04" W, a distance of 392.88 feet to a point; thence N 72°40'34" W, a distance of 111.38 feet to a point, said point on the northern property line of R. K. Taylor, Sr., Estate; thence leaving the property line of R. K. Taylor, Sr., Estate, in a northerly direction N 07°26'19" E, a distance of 129.45 feet to a point; thence along a curve to the left with a radius of 265.00 feet, an arc length of 159.86 feet, a tangent of 82.45 feet, a delta of 34°33'50", a chord distance of 157.45 feet and a chord bearing of N 72°59'29"E, to a point; thence N 55°42'34" E, a distance of 125.23 feet to a point; thence S 89°37'06" E, a distance of 129.95 feet to a point; thence S 84°28'36" E, a distance of 185.80 feet to a point; thence N 71°01'11" E, a distance of 94.92 feet to a point; thence S 84°27'13" E, a distance of 464.06 feet to a point; thence S 02°38'34" W, a distance of 283.92 feet to the Point of Beginning, containing 6.84 acres, more or less, as shown on that certain plat entitled 'Plat of Boundary Line Adjustment & Property Line Extinguishment parcels A & B and Allocation of Offsite natural Open Space Areas for Parcels A, B, & C Massie Property" dated August 31, 2010, and prepared by AES Consulting Engineers, a copy of which is attached to that certain Deed

recorded with the Clerk's Office, Circuit Court, James City County, Virginia as Instrument No. 100020969.

Together with a non-exclusive perpetual easement for ingress and egress over and along that fifty (50) foot street leading from Cokes Lane (State Route No. 602) in a generally northwesterly direction, shown and designated as "Entrance Road" on the plat of survey hereinabove referred to.

Being a portion of the same real estate conveyed to Luck Stone Corporation, a Virginia corporation, by deed from Jack L. Massie Contractor, Inc., a Virginia corporation, Massie Corporation, a Virginia corporation, and J.S.G. Corporation, a Virginia corporation, dated September 30, 2010, recorded October 1, 2010, Clerk's Office, Circuit Court, James City County, Virginia, in Instrument No. 100020973.

PARCEL 1330100001

All that certain lot, piece or parcel of land situate, lying and being in Stonehouse District, County of James City, Virginia, containing 17.257± Acres, and designated as "PARCEL 'C 17.257± ACRES (FORMERLY PARCEL B)", as shown on that certain plat entitled, "PLAT OF PARCELS C and D STANDING IN THE NAME OF ALACO CORPORATION (D.B. 222, PG. 413) TO BE CONVEYED TO MASSIE CORPORATION STONEHOUSE DISTRICT COUNTY OF JAMES CITY, VIRGINIA," dated 9/21/88 and made by Langley and McDonald, P.C., Engineers-Planners-Surveyors, a copy of which plat is duly recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, in Plat Book 49, Page 72, to which reference is here made.

Less and except that parcel containing 0.115 acres, more or less, shown on plat entitled "PLAT SHOWING BOUNDARY LINE ADJUSTMENT BETWEEN PROPERTIES STANDING IN THE NAMES OF MASSIE CORPORATION & W. BARRY BRYANT STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA", dated February 29, 1999, recorded in Plat Book 73, Page 36, conveyed to W. Barry Bryant from Massie Corporation, by Boundary Line Agreement, dated May 5, 1999, recorded May 21, 1999, Clerk's Office, Circuit Court, James City County, Virginia, as Instrument Number 990011074.

Being a portion of the same real estate conveyed to Luck Stone Corporation, a Virginia corporation, by deed from Jack L. Massie Contractor, Inc., a Virginia corporation, Massie Corporation, a Virginia corporation, and J.S.G. Corporation, a Virginia corporation, dated September 30, 2010, recorded October 1, 2010, Clerk's Office, Circuit Court, James City County, Virginia, in Instrument No. 100020973.

**Unapproved Minutes of the February 7, 2024,
Planning Commission Regular Meeting**

Z-23-0010. Luck Stone Toano Proffer Amendment

Ms. Suzanne Yeats, Planner, stated Ms. Kimberly Shepherd of Troutman Pepper, LLP, on behalf of Luck Stone Corporation, has applied to amend the existing proffers for two parcels located at 7734 Richmond Road and 3920 Cokes Lane. The properties are split zoned M-1, Limited Business/Industrial, and M-2, General Industrial with proffers, located within the Primary Service Area and are designated General Industry and Mixed Use on the adopted 2045 Comprehensive Plan Land Use Map. The current proffers were adopted on May 11, 1994, to approve a conditional rezoning of properties shown in attachment entitled, "Cokes Lane Rezoning Legend."

The current internal industrial driveway was not constructed to VDOT standards, and it does not meet the requirements necessary for VDOT to accept the road into the public system. The proposed proffer amendment would remove the requirement to dedicate the Industrial Access Road for public and the requirement for a 50-foot minimum right-of-way width.

Staff finds that the condition of the existing industrial road leading to aggregate stockpiles and other operations germane to Luck Stone Toano are currently unsuitable for public access or use. Staff also finds the proposed proffer amendment would not negatively impact surrounding property owners. Staff therefore recommends the Planning Commission recommend approval of the amended proffers to the Board of Supervisors.

Vik Murthy, Land Use & Development Manager of Luck Stone Corporation, gave a brief presentation on the history and request for the proffer amendment for Luck Stone Toano.

Mr. Everson made a motion to recommend approval of the amended proffers.

On a roll call vote the Commission voted to recommend approval of Z-23-0010. Luck Stone Toano Proffer Amendment. (7-0)