

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 3RD DAY OF APRIL, NINETEEN HUNDRED NINETY-FIVE, AT 7:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA. 273

A. ROLL CALL

Perry M. DePue, Chairman, Powhatan District
David L. Sisk, Vice Chairman, Roberts District

Jack D. Edwards, Berkeley District
Robert A. Magoon, Jr., Jamestown District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Leo P. Rogers, Deputy County Attorney

Mr. DePue declared a recess for a James City County Transit Company meeting at 7:03 p.m.

Mr. DePue reconvened the Board of Supervisors into open session at 7:05 p.m.

B. PRESENTATIONS

1. National Volunteer Week, April 23-29, 1995

Mr. DePue read and presented the resolution of recognition to Mr. Carl Brown, past president of Williamsburg-James City Master Gardeners.

RESOLUTION

NATIONAL VOLUNTEER WEEK APRIL 23-29, 1995

WHEREAS, hundreds of volunteers donate their time, energy, and expertise to James City County and other organizations that provide services to County residents; and

WHEREAS, volunteers contribute to the enrichment of our community and make James City County a better place to live; and

WHEREAS, volunteers are a valuable resource to James City County departments and in FY 94 contributed 67,000 hours of service valued at \$670,000; and

WHEREAS, volunteers strengthen the democratic process by participating in local government activities and working to solve community problems.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby designates the week of April 23-29, 1995, as Volunteer Appreciation Week and urges all citizens to take pride in their volunteer heritage and give special recognition to volunteerism in our community.

2. National Telecommunicator's Week

Mr. DePue read and presented the resolution of recognition to Ms. Susan Williams and Ms. Dianne Malecheck.

RESOLUTION

NATIONAL TELECOMMUNICATOR'S WEEK

WHEREAS, Central Dispatch provides a vital contribution to the quality of life enjoyed by citizens and visitors to James City County; and

WHEREAS, access to a 911 center dramatically improves the response to a Police, Fire, or Emergency Medical call; and

WHEREAS, the telecommunicators are trained, prepared, and ready; and

WHEREAS, National Telecommunicator's Week will serve to recognize the telecommunicators of James City County who provide a vital public safety operation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims the week of April 9-15, 1995, as National Telecommunicator's Week in James City County and encourages County citizens to observe this week with appropriate programs, ceremonies, and activities.

C. MINUTES - March 20, 1995

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

Mr. Magoon made a motion to approve the minutes.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

D. CONSENT CALENDAR

Mr. DePue asked if a Board member wished to remove any item from the Consent Calendar.

Mr. DePue made a motion to approve the Consent Calendar.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

1. Dedication of Streets - Woodland Farms, Section 5A

RESOLUTION

DEDICATION OF STREETS IN WOODLAND FARMS, SECTION 5A

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

2. Virginia Community Development Block Grant Planning Grant Application

RESOLUTION

VIRGINIA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (VCDBG)

PLANNING GRANT

WHEREAS, the financial assistance for community development planning activities is available to unit of local government through the Commonwealth of Virginia Community Development Block Grant Program (VCDBG); and

WHEREAS, in order to avail itself of such financial assistance it is necessary to file with the Virginia Department of Housing and Community Development an application for a Planning Grant; and

WHEREAS, James City County wishes to apply for \$18,000 in VCDBG fund to be used for planning and preliminary design activities for an affordable housing site development project; and

WHEREAS, \$7,000 in local funds have been allocated to the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to apply for and accept the grant and enter into a Grant Agreement with the Department of Housing and Community Development and undertake any and all actions and responsibilities in relation of such Agreement.

3. Request for Appropriation to WAMAC - Licensed Practical Nurse

RESOLUTION

APPROPRIATION TO WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION

LICENSED PRACTICAL NURSE

WHEREAS, the Williamsburg Area Medical Assistance Corporation has received a grant from the Virginia Health Care Foundation in the amount of \$18,000 to hire a Licensed Practical Nurse to work at the Olde Towne Medical Center for a limited term; and

WHEREAS, James City County is the fiscal agent for the Williamsburg Area Medical Assistance Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments:

Revenues:

Virginia Health Care Foundation	<u>\$18,000</u>
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Expenditures:

Williamsburg Area Medical Assistance Corporation	<u>\$18,000</u>
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4. Transit FY 96 Section 5311 Grant Application

RESOLUTION

FTA SECTION 5311 RESOLUTION

REQUEST FOR FEDERAL AND STATE MATCHING FUNDS - FY 96

WHEREAS, the Federal Government and Commonwealth of Virginia have made funds available for public transportation; and

WHEREAS, the Board of Supervisors is desirous of securing said funds in support of the James City County Transit System's operations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized by the Board to execute and file application to the Virginia Department of Rail and Public Transportation, Commonwealth of Virginia, for a grant

of Federal public transportation assistance under Section 5311 of the Intermodal Surface Transportation Efficiency Act of 1991 and for a grant of State public transportation assistance under Budget Item 644 of the 1982 Acts of the General Assembly, Chapter 648, Financial Assistance for Mass Transit. Amounts requested for Federal assistance include \$245,819 to assist in administrative, operating, and capital costs and for State assistance of \$63,274 to defray up to fifty percent (50%) of the local match for administrative expenses, \$7,600 to defray up to ninety-five percent (95%) of the local match for capital expenses, and \$82,908 to defray up to ninety-five percent (95%) of the costs by James City County for the purchase of fuels, lubricants, tires, and maintenance parts of an approved grant. The County Administrator shall be authorized to accept grant funds awarded and to furnish the Virginia Department of Rail and Public Transportation documents and other information as may be required for processing this grant request.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, certifies that the funds shall be used in accordance with the requirements of FTA Section 5311 Program and the State Appropriations Act of 1982, and that James City County may be subject to audit by the Virginia Department of Rail and Public Transportation and by the State Auditor of Public Accounts.

E. PUBLIC HEARINGS

1. Case No. Z-9-94. White Farm

Mr. Gary A. Pleskac, Planner, stated that the Board of Supervisors deferred this case at its March 6, 1995, meeting and reiterated that Mr. Robert J. Martinko of Richmond Homes Development, Inc., had applied to rezone approximately 72 acres from R-8, Rural Residential, to R-2, General Residential, to allow construction of 97 single-family detached homes, located on the east side of Greensprings Road, approximately one-half mile south of John Tyler Highway, further identified as a portion of Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-1).

Mr. Pleskac further stated that Richmond Homes, Inc., had requested deferral of the case for 90 days.

Mr. DePue read excerpts from a letter dated April 3, 1995, from Richmond Homes, Inc., that requested deferral of the case for 90 days and detailed additional proffers regarding the issues of two entrances from Greensprings Road, a foundation drainage system for homes abutting conservation area and a computer-based storm water routing model of the entire watershed upstream of Route 5.

Mr. DePue opened the public hearing.

1. Mr. David Holland, representative for the applicant, reiterated the request for deferral for 90 days.
2. Mr. Bob Neu, 3505 Mallard Cove, stated that a master plan for drainage would benefit the entire community and felt that the Board should tour the site before it made a decision.
3. Mr. William Holcombe, 4705 Lady Slipper Path, representing Mr. George Wright, president of Historic Route Association, stated facts substantiated that the present zoning should be maintained.
4. Mr. John Hewitt, 132 Jordan's Journey, Board of Directors, Greater First Colony, asked that the zoning request be rejected and a plan be prepared for developing Greensprings Road area.
5. Mr. Harry Grabsch, 3234 Deerfield Road, stated that the County should require developers to control drainage problems.

6. Ms. Linda Tiexiera, 904 Wood Duck Commons, urged the Board to visit the site and to deny the rezoning.

7. Mr. Al Wolf, 3517 Robins Way, spoke of drainage problems and presented pictures of the site.

Mr. Edwards made a motion to reject the resolution.

Board discussion followed regarding the independent drainage analysis and the computer based storm water routing model proffers and the need for a comprehensive look at existing drainage issues before approval of new subdivisions in the Greensprings area.

Mr. Leo Rogers, Deputy County Attorney, stated that Mr. Holland, the applicant's representative, had requested that the case be withdrawn.

Mr. DePue stated that the Board accepted the applicant's request.

Mr. DePue declared a 5-minute recess at 8:01 p.m.

Mr. DePue reconvened the Board into open session at 8:06 p.m.

2. Case Nos. Z-1-95 and SUP-3-95. Williamsburg Honda and Jeep Dealership

Mr. Mark J. Bittner, Planner, stated that Mr. John E. Dodson, President of Williamsburg Honda and Jeep Dealership, had requested a continuance of these cases until the April 17, 1995, Board of Supervisors' meeting.

Mr. DePue opened the public hearing, and continued the public hearing until the April 17, 1995, Board of Supervisors' meeting.

3. Case No. Z-2-95. J.R. Chisman Development Company Rezoning

Mr. Matthew W. Maxwell, Planner, stated that Mr. J. R. Chisman had applied to rezone approximately 75 acres of land from R-1, Limited Residential, with proffers, to R-2, General Residential, with proffers, to allow construction of 106 residential units, located off John Tyler Highway directly adjacent to St. George's Hundred subdivision and the new high school, further identified as Parcel No. (1-2C) on James City County Real Estate Tax Map No. (46-1).

Mr. Maxwell summarized the proposed proffers and stated that the proposed rezoning and development was consistent with the Comprehensive Plan, surrounding zoning and development and the Route 5 Improvement Policy.

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

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

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

RESOLUTION**CASE NO. Z-2-95. J.R. CHISMAN DEVELOPMENT COMPANY REZONING**

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing was scheduled on Zoning Case No. Z-2-95 for rezoning approximately 75 acres of land from R-1, Limited Residential, with proffers to R-2, General Residential, with proffers. The property is identified as Parcel No. (1-2C) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. Z-2-95 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-2-95, and accepts the voluntary proffers.

4. **Case Nos. Z-3-95 and SUP-7-95. Williamsburg Landing**

Mr. Pleskac stated that Alvin Anderson, Esq., had applied to rezone approximately 49 acres from PUD-R, Planned Unit Residential, to R-5, Multi-Family Residential, for expansion of a continuing care retirement facility, located at the northeast corner of Lake Powell Road and Williamsburg Landing Drive, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (48-2).

Staff determined that the applications were consistent with the Comprehensive Plan and surrounding zoning and development.

In concurrence with staff, the Planning Commission unanimously recommended approval of the rezoning, with proffers, and with conditions listed in the special use permit resolution.

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

Mr. Sisk made a motion to approve the resolutions.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

RESOLUTION**CASE NO. Z-3-95. WILLIAMSBURG LANDING**

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified and a hearing was scheduled on Zoning Case No. Z-3-95 for rezoning approximately 49 acres of land from PUD-Residential, with proffers, to R-5, Multi-Family Residential, with proffers, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (48-2); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. Z-3-95.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-3-95 and accepts the voluntary proffers.

RESOLUTION

CASE NO. SUP-7-95. WILLIAMSBURG LANDING

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

WHEREAS, the Planning Commission of James City County, following its public hearing on March 14, 1995, recommended approval of Case No. SUP 7-95, by a vote of 7-0, to permit the construction of single-family dwellings not within a cluster, a nursing home, and facilities for the residence and/or care of the aged on Parcel No. (1-3) on James City County Real Estate Tax Map No. (48-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP 7-95 as described herein with the following conditions:

1. If construction has not commenced on the project within thirty-six (36) months from the issuance of the special use permit, it shall become void. During this thirty-six (36) month period, permits pertaining to the construction shall be secured and clearing and grading of the property shall be commenced.
2. This special use permit shall be limited to the following specially permitted uses:
 - a. Single-family dwellings.
 - b. Nursing homes and facilities for the residence and/or care of the aged.

These specially permitted uses are in addition to those generally permitted uses specified in proffer 1 of the Proffer Agreement; however, the aggregate number of generally and specially permitted living units over and above the sum of sixty bed (60) nursing home, and a sixty unit (60) assisted living facility shall not exceed 2 dwelling units per acre of the gross acreage of the property.

3. The Owner shall supply a supplemental traffic analysis to that provided in Case No. Z-5-91 to determine the additional traffic impact, if any, which may be caused by development on the property generating traffic in addition to the sum of that traffic contemplated by the nursing home hereby permitted plus 600 vehicle trips per day. The supplemental analysis shall be supplied to the Planning Director for his review and approval with the submittal of any development plans. Any road improvements warranted by the traffic study shall be provided by the applicant.

5. Case No. SUP-9-95. Williamsburg Crossing Master Plan Amendment

Mr. Bittner stated that Mr. Calvin Davis of University Square Associates had applied for a special use permit to amend the Master Plan for the Williamsburg Crossing Shopping Center, area zoned B-1, General Business, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (48-1).

Staff determined that the proposal was consistent with the Comprehensive Plan but inconsistent with surrounding development and zoning.

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

Board discussion ensued regarding number of parking spaces and buffer area between shopping center and Winston Terrace subdivision.

Mr. Magoon requested deferral of this case until the April 17, 1995, Board of Supervisors' meeting to address concerns mentioned above.

Mr. DePue opened the public hearing, and continued the public hearing.

Without Board objection, Mr. DePue deferred the case until the April 17, 1995, Board of Supervisors' meeting.

6. Case No. Z-4-95. Stonehouse, Inc.

Mr. Bittner stated that Mr. Jim Franklin of Stonehouse, Inc., had applied to amend Stonehouse proffers since denial of the permit to construct Ware Creek and subsequent repeal of the Reservoir Protection Overlay District, 7,000 acres, zoned PUD-C, Planned Unit Development Commercial with proffers and PUD-R, Planned Unit Development Residential with proffers, located at the extreme north end of James City County, primarily north of Interstate 64 (I-64) with some acreage south of I-64, north of Route 30 (Barhamsville Road).

In concurrence with staff, the Planning Commission, by a 6-1 vote, recommended approval of the application.

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

Mr. Magoon indicated that he had spoken with the Commonwealth's Attorney, who determined that his voting on this case would not be a conflict of interest.

Mr. Taylor made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

RESOLUTION

CASE NO. Z-4-95. STONEHOUSE PROFFER AMENDMENT

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-4-95 for amending the Stonehouse proffers to remove proffer language pertaining to the proposed Ware Creek Reservoir in response to the County's determination not to construct the Ware Creek Reservoir and to repeal the Reservoir Protection Overlay District (RPOD); and

WHEREAS, the Planning Commission of James City County recommended approval of Case No. Z-4-95 by a vote of 6 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-4-95 and accepts the voluntary proffers.

7. Case Nos. Z-5-95 and SUP-10-95, Hampton Roads Sanitation District Bio-solids Composting Facility

Mr. Trenton L. Funkhouser, Senior Planner, stated that Mr. Vernon Geddy, III, had applied on behalf of Greenmount Associates, L.L.C., to rezone approximately 20 percent of a 1,200-acre area generally referred to as Skiffe's Creek Industrial Area from M-2, General Industrial, to M-2, with proffers, and for a special use permit to allow manufacture of fertilizer, located approximately one mile south of Pocahontas Trail (Route 60 East) in the Skiffe's Creek area and further identified as Parcel No. (1-47) on James City County Real Estate Tax Map No. (59-2).

Mr. Funkhouser summarized the proposed proffers, operational characteristics, and mentioned trips taken to a similar composting facility located in Silver Springs, Maryland. He described topography and physical features, traffic and transportation improvements, archaeological and historical resources, and noted that public utilities were unavailable on the site.

Mr. Funkhouser introduced Mr. Todd Williams of E & A Environmental Consultants, Inc., Cary, North Carolina, who had prepared an odor control review of the proposed facility for the County.

Staff determined that the application was substantially in conformance with the policies and strategies of the Comprehensive Plan.

In concurrence with staff, the Planning Commission unanimously approve the rezoning with proffers, and special use permit with conditions listed in the resolution.

The Board and Mr. Williams discussed the odor control technology of the proposed facility and determined the Silver Spring, Maryland facility would be the choice to visit for comparison to the proposed facility.

Mr. DePue opened the public hearing.

1. Vernon Geddy, Esq., representing the applicant, explained in detail the operation of the facility and the advantages of having the facility located in James City County, showed a video of the Silver Springs, Maryland plant and area surrounding the facility, spoke of planned utilities and access roads, and urged the Board to approve the resolutions.

Discussion by the Board, Mr. Jim Borberg, Hampton Roads Sanitation District, Mr. Geddy and Mr. Williams followed regarding water and possible discharge of toxins; truck traffic; reasons for moving from Newport News location; and, questioned the need for acres for future expansion.

2. Mr. Gilbert Bartlett, 211 Southpoint Drive, representing the Bickford and Lee families, expressed the need for public access to the James River, and extension of Blow Flats Road to the Bickford and Lee properties would be a benefit.

3. Mr. Ed Oyer, 139 Indian Circle, spoke in opposition to the composting facility because of concerns about odors.

4. Mr. Claude Gilmer, 112 Woodside Drive, spoke in opposition to the compost facility location, as being the first object viewed upon entering James City County on Route 60 East.

5. Ms. Katherine Baker, Blow Flats Road, stated that she was not opposed to the composting facility, but had concerns about odors and questioned who would monitor the facility.

6. Mr. Glenn Rehberger, 112 Holman Road, spoke in favor of the composting facility.

Mr. DePue asked staff to estimate value of road and infrastructure improvements and tax revenue losses from the composting facility.

Without Board objection, Mr. DePue continued the public hearing and deferred the cases for a minimum of one month, until after the Board of Supervisors make the tour of the Silver Springs, Maryland composting facility, which would be scheduled after the first of May.

8. Ordinance Amendment, Chapter 11, Motor Vehicles and Traffic, Article IV, Vehicle Decals, Section 11-53, Decal Requirements and Section 11-59, Decal Available for Sale

Mr. Rogers stated the proposed ordinance would provide a 30-day grace period for all residents of the County to acquire a County decal and would require an applicant for a decal to provide the Commissioner of the Revenue with the original or accurate copy of the permanent State vehicle registration.

Mr. L. Carlyle Ford, Commissioner of the Revenue, spoke in favor of the Ordinance Amendment.

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

Mr. Sisk made a motion to approve the ordinance amendments.

Mr. Taylor asked that the amendment be deferred for a period of two weeks for a better understanding of the information.

Without objection, Mr. DePue deferred the ordinance amendment until the April 17, 1995 Board of Supervisors' meeting.

F. BOARD CONSIDERATIONS

1. Award of Construction Contract - Mooretown Road Neighborhood Streets

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that bids for the construction of streets, stormwater management facilities and other associated improvements were opened on March 9, 1995. He requested authorization to award the contract in the amount of \$499,654 to Richard L. Crowder Construction.

Staff recommended approval of the resolution.

Mr. DePue made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, DePue (4). NAY: Taylor (1).

RESOLUTION**AWARD OF CONSTRUCTION CONTRACT****MOORETOWN ROAD NEIGHBORHOOD STREETS**

WHEREAS, the Board of Supervisors has previously authorized planning, engineering, and land acquisition for development of public streets within the Mooretown Road Neighborhood; and

WHEREAS, bids were opened for the Mooretown Road Neighborhood street construction on March 9, 1995; and

WHEREAS, the lowest qualifying bid was received from Richard L. Crowder Construction in the amount of \$499,654, which is within the amount of funds budgeted from the Mooretown Road Neighborhood Community Development Block Grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the Mooretown Neighborhood street construction contract to Richard L. Crowder Construction in the amount of \$499,654. This award is subject to approval to all documents by the County Attorney.

BE IT FURTHER RESOLVED that the County Administrator is authorized to execute the construction contract in the above amount with Richard L. Crowder Construction subject to approval of all appropriate authorities, and is authorized to execute any and all documents in connection therewith.

2. **Award of Construction Contract - James City County Library**

Mr. Sanford B. Wanner, Assistant County Administrator, stated that bids for construction of the 35,400-square foot James City County Library and associated site development were opened on March 28, 1995. He requested authorization to award the contract in the amount of \$3,006,500 to Shirley Construction Corporation.

Staff recommended approval of the resolution.

Mr. DePue made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

RESOLUTION**AWARD OF CONSTRUCTION CONTRACT****JAMES CITY COUNTY LIBRARY**

WHEREAS, the Board of Supervisors and bond referendum have previously authorized planning and design for a library facility on Croaker Road; and

WHEREAS, bids were opened for the James City County Library on March 28, 1995; and

WHEREAS, the lowest qualifying bid was received from Shirley Construction Corporation in the amount of \$3,006,500 which is within the amount of funds budgeted from the bond referendum.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the James City County Library construction contract to Shirley Construction Corporation in the amount of \$3,006,500. This award is subject to approval of all documents by the County Attorney.

BE IT FURTHER RESOLVED that the County Administrator is authorized to execute the construction contract in the above amount with Shirley Construction Corporation.

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR - None

I. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor asked staff to pursue placing Woodmont Drive in Oakland subdivision into Virginia Department of Transportation's system.

Mr. Taylor asked that staff check into opening Upper County Park to allow access to senior citizens for walking.

Mr. Magoon asked staff to pursue independent drainage analysis of Fieldcrest and Gatehouse Farms subdivisions.

Mr. Magoon asked staff to determine costs of a study to develop a computer waterbased routing model regarding development and the process for a Master Plan for the Greensprings Road area.

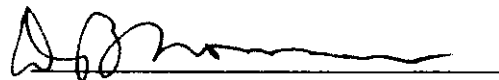
Mr. Edwards referenced the vacancy of a Berkeley representative on the Planning Commission, and made a motion to appoint A. Joe Poole, III, to fill the unexpired term, term expiring January 31, 1997.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

Mr. DePue declared a recess until 7:30 p.m., Tuesday, April 4, 1995, for a budget work session with the Williamsburg-James City County School Board, in Building C Board Room, Government Center.

On a roll call, the vote was: AYE: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

The Board recessed at 11:00 p.m.



David B. Norman
Clerk to the Board



ADDITIONS FORM SR-5(A) - Proposed Additions to the Secondary System of State Highways

Attachment to ☒ one ☐ Board of Supervisors Resolution ☐ Surety Dated:

Attachment 1 of 1
James City County

Name of Subdivision: Woodland Farms, Sec. 5A

Ref. No.	Name of Street (Required Data Field)	Street Addition Termini	R.O.W Width (ft)	Miscellaneous Notes	Centerline Length (mil)
1	White Acre Road	From: Route 1617 (Stonehouse Road) To: End of permanent cul-de-sac Plat Recorded Date: 04/07/88 Plat Book: 48 Page 13	50	# Occupied Dwl. 2 Other: Description: Bit. concrete surface with open ditch	0.13
2		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
3		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
4		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
5		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
6		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
7		From: To: Plat Recorded Date: Plat Book: Page		# Occupied Dwl. Other: Description:	
Total Mileage					0.13

Notes: Guaranteed width of right of way exclusive of any necessary easements for cuts, fills, and drainage.

CERTIFICATION OF ATTACHMENT (by county clerk or surety agent)

This attachment is certified a part of this document ☒ above.

(Name and Title)

010023

AMENDED AND RESTATED
STONEHOUSE PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made as of this 28th day of March, 1995, by STONEHOUSE INC., a Virginia corporation (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of certain real property (the "Property") in James City County, Virginia more particularly described on Exhibit A attached hereto and made a part hereof.

B. The Property is now zoned PUD-C and PUD-R, with proffers, and is subject to a Master Plan approved by the County (the "Master Plan"). The existing Stonehouse Proffers are dated October 22, 1991 and are recorded in James City County Deed Book 541 at page 144 and have been amended by First Amendment to Stonehouse Proffers dated March 7, 1994 and recorded in James City County Deed Book 675 at page 398 and by Second Amendment to Stonehouse Proffers dated July 5, 1994 and recorded in James City County Deed Book 695 at page 79 (the "Existing Proffers").

C. The County has determined not to construct the proposed water supply reservoir in the Ware Creek basin on and adjacent to the Property (the "Reservoir") and has repealed the County's Reservoir Protection Overlay District.

D. In light of the County's actions with respect to the Reservoir, Owner desires to amend and restate the Existing

Proffers in their entirety as set forth below.

E. Owner desires to continue to offer to the County certain conditions on the development of the Property not generally applicable to land zoned PUD-R and PUD-C for the protection and enhancement of the community, including increasing its commercial/industrial tax base, and to provide for the high-quality and orderly development of the Property.

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

CONDITIONS

1. Community Association. Owner shall organize a community association or associations (the "Community Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Community Association shall be submitted to and reviewed by the County Attorney. The Governing Documents shall (i) require that the Community Association adopt an annual maintenance budget and assess all members for the maintenance of all properties owned or maintained by the Community Association and (ii) shall grant the Community Association the power to file liens on members' properties for non-payment of such assessments and for the cost of remedying

violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall also provide for a Design Review Committee with the power to review and approve all site development and construction plans within the development. Owner may organize separate neighborhood associations and impose supplemental restrictive covenants on individual sections of the development.

2. Residential Density.

2.1 Gross Density. The gross density of the portion of the Property rezoned PUD-R shall not exceed 1.04 dwelling units per acre.

2.2 Overall Densities Per Master Plan Area Designation. The maximum overall density permitted on all land on the Property rezoned PUD-R with the Master Plan area designations set forth below (considered in the aggregate) shall be:

<u>Master Plan Area</u> <u>Designation</u>	<u>Dwelling</u> <u>Type</u>	<u>Proffered</u> <u>Maximum</u> <u>Density</u>
A	Single family	2.1
B	Two family, multi-family containing 3 or 4 dwelling units or townhouses	7.1
C	Multi-family structures less than three	10.0

D	stories and containing more than 4 dwelling units Multi-family structures of three stories or more and containing more than 4 dwelling units	12.0
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2.3 Densities per Parcel. The maximum density permitted on any numbered Land Bay of the Property rezoned PUD-R as such Land Bays are shown and designated on the Master Plan (a "Land Bay"), shall be:

<u>Master Plan Area</u> <u>Designation</u>	<u>Dwelling</u> <u>Type</u>	<u>Proffered</u> <u>Maximum</u> <u>Density</u>
A	Single family	3.0
B	Two family, multi-family containing 3 or 4 dwelling units or townhouses	8.5
C	Multi-family structures less than three stories and containing more than 4 dwelling units	10.0
D	Multi-family structures of three stories or more and containing more than 4 dwelling units	12.5

3. Road Improvements. The following schedule sets

forth external road and intersection improvements recommended in the Traffic Study, as supplemented, and the phasing of their construction:

(a) A left turn lane from southbound Route 30 into the project and a right turn lane from northbound Route 30 into the project at the intersection of Route 30 and relocated Route 600 (generally in the location shown on the Master Plan) shall have been completed or construction thereof started and guarantees in accordance with §15.1-491.3 of the Code of Virginia, as amended, and the applicable provisions of the County Code ("guarantees") posted with the County before building permits are issued for any development on Land Bays 80 and 81. No building permits for more than 200,000 square feet of floor area in areas designated G, F and H in Land Bays 80 and 81 shall be issued by the County until a traffic signal at the intersection of Route 30 and the westbound I-64 on ramp and off ramp has been installed or guarantees for its installation posted with the County. The foregoing sentence notwithstanding, Owner shall not be obligated to install or guarantee installation of such signal until the signal meets VDOT warrants and is approved by VDOT. No building permit for more than 400,000 square feet of floor area in areas designated G, F and H in Land Bays 80 and 81 shall be issued by the County until the I-64 westbound off-ramp at the I-64 and Route 30 interchange has been realigned and a westbound Route 30

to westbound I-64 loop ramp has been completed or construction thereof has started and guarantees of completion have been posted with the County.

(b) No final subdivision plat or site plan for any residential use and no building permit (other than as permitted under paragraph (a) above) for any commercial/industrial use shall be approved or issued by the County until the improvements listed below in this subparagraph (b) have been completed or construction of such improvements has started and guarantees have been posted with the County.

(1) The four lane divided section of Route 30 has been extended west approximately 500 feet from the proposed intersection with Stonehouse Parkway as shown on the Master Road Plan.

(2) The major intersection of Route 30 and Stonehouse Parkway has been constructed with the following lane configuration:

<u>Approach</u>	<u>Lane Configuration</u>
Westbound Route 30	2 thru lanes and 1 right turn lane
Eastbound Route 30	2 thru lanes and 1 left turn lane
Southbound Stonehouse Parkway	2 left turn lanes and 1 right turn lane

and a traffic signal installed at the intersection.

(3) A traffic signal has been installed at the

intersection of the eastbound I-64 off ramp and Route 30 at the expense of Owner, if, and only if, warranted and approved by VDOT.

(c) No final subdivision plat or site plan, as appropriate, for any residential use and no building permit for any commercial/industrial use shall be approved or issued by the County for any development in Phase III, IV or V as shown on the Phasing Plan submitted herewith (all references to Phases hereinafter refer to Phases as shown on the Phasing Plan) or for more than (i) 713 dwelling units in all areas designated A, B or C/D in Phases I or II, and (ii) 25,000 square feet of floor area and a 250 room convention center in the area designated E in Phases I and II, and (iii) 608,000 square feet of floor area in all areas designated F and G in Phases I and II until the improvements listed below in this subparagraph (c) have been completed or construction started and guarantees have been posted with the County.

(1) The interchange of I-64 and Route 30 has been improved to realign the I-64 westbound off-ramp and to construct a westbound Route 30 to westbound I-64 loop ramp.

(2) Route 600 has been realigned to intersect with Route 30 as shown on the Master Road Plan and the Route 600/Route 30 intersection has been constructed with the following lane configuration:

<u>Approach</u>	<u>Lane Configuration</u>
Westbound Route 30	2 thru lanes and 1 right turn lane
Eastbound Route 30	2 thru lanes and 2 left turn lane
Westbound Route 600	2 left turn lanes and 2 right turn lanes

and a traffic signal installed.

(3) A traffic signal has been installed at the intersection of Route 30 and the westbound I-64 off ramp at the expense of Owner, if, and only if, warranted and approved by VDOT.

(d) No further final subdivision plats or site plans, as appropriate, for residential uses and no building permit for commercial/industrial uses shall be approved or issued for any development in Phases IV or V or more than (i) 1,794 dwelling units in all areas designated A, B or C/D in Phases I, II and III, and (ii) 87,000 square feet of floor area and a 250 room convention center in the area designated E in Phases I, II and III, and (iii) 1,358,000 square feet of floor area in all areas designated F, G and H in Phases I, II and III until the improvements listed below in this subparagraph (d) have been completed or construction started and guarantees for completion posted with the County.

(1) A four lane arterial connector road (the "bridge road") has been extended between Route 606 and Route 30,

including the bridge crossing of I-64, as shown on the Master Road Plan, and the bridge road and Route 30 intersection has been constructed with the following lane configuration:

<u>Approach</u>	<u>Lane Configuration</u>
Southbound bridge road	2 left turn lanes and 2 right turn lanes
Westbound Route 30	2 thru lanes and 1 right turn lane
Eastbound Route 30	2 left turn lanes and 2 thru lanes

and a traffic signal has been installed at the intersection.

(2) Route 30 has been widened to 4 lanes from its intersection with the bridge road east to the intersection with Route 607 and the Route 30/Route 607 intersection has been improved to add separate right and left turn lanes to the eastbound approach on Route 30 and a traffic signal installed (or appropriate modifications installed if signal exists).

(3) The Route 607/I-64 interchange has been modified to increase the distance between the westbound I-64 off loop ramp and the eastbound I-64 on loop ramp to 1,000 feet.

(4) The I-64 westbound on ramp from eastbound Route 30 has been widened to two lanes and extended to at least 2,000 feet beyond the westbound I-64 on loop ramp from westbound Route 30.

(e) No final subdivision plats or site plans, as

appropriate, for residential uses and no building permit for commercial/industrial uses for Phase IV shall be approved or issued until the Owner, at its expense, has submitted to the County and VDOT for their review and approval an updated study of the traffic impacts of the Stonehouse development performed by a traffic consultant acceptable to the County. The consultant shall submit the proposed methodology for the study to VDOT for approval before initiation of the study. The study shall indicate any changes in the improvements or phasing thereof set forth herein necessary to accommodate the continued development of the Property. If the updated study indicates changes in the improvements or phasing thereof are necessary as a result of increase of traffic impacts generated by the development on the Property compared with those projected in the approved study, Owner shall submit to the County an updated improvement and phasing plan which shall be subject to approval by the Board of Supervisors. Further development of the Property shall be in accordance with the approved, updated improvement and phasing plan.

(f) No final subdivision plats or site plans, as appropriate, for residential uses and no building permit for commercial/industrial uses shall be approved or issued by the County for any development within Phase V as presented in the approved traffic study and addenda or for more than (i) 2,809

dwelling units in all areas designated A, B or C/D in Phases I, II, III and IV, and (ii) 107,000 square feet of floor area and a 250 room convention center in the area designated E in Phases I, II, III and IV, and (iii) 1,668,000 square feet of floor area in all areas designated F, G and H in Phases I, II, III and IV until, the improvements listed below in this subparagraph (f) have been completed or construction thereof started and guarantees for completion posted with the County.

(1) The Route 30/Route 60 (Anderson's Corner) intersection has been improved to the following lane configuration:

<u>Approach</u>	<u>Lane Configuration</u>
Eastbound Route 30	2 left turn lanes, 2 thru lanes and 1 right turn lane
Westbound Route 60	2 left turn lanes, 2 thru lanes and 1 right turn lane
Eastbound Route 60	1 left turn lane, 2 thru lanes and 1 right turn lane
Westbound Route 30	1 left turn lane, 2 thru lanes and 1 right turn lane

(2) An additional left turn lane on the eastbound approach on Route 30 at the Route 30/Route 607 intersection has been installed.

(3) The Route 607/I-64 interchange has been modified

to extend the merge length of the northbound Route 607 to eastbound I-64 on ramp to 2,000 feet.

(4) The Route 607/I-64 interchange has been modified to increase the distance between the westbound I-64 off loop ramp and the eastbound I-64 on loop ramp to 1,200 feet.

(5) The Route 607/I-64 interchange has been modified to extend the length of the weave area on southbound Route 607 to 1,100 feet.

(g) Owner shall not submit final subdivision plats or site plans, as appropriate, for residential uses or apply for building permits for commercial/industrial uses for more than (i) 3,910 dwelling units in all areas designated A, B or C/D in Phases I through V as presented in the approved traffic study and addenda and (ii) 205,000 square feet of floor area and a 250 room convention center in the area designated E in Phase I through V and (iii) 2,353,000 square feet of floor area in all areas designated F, G and H in Phase I through V until the improvements listed below in this subparagraph (g) have been completed or, with respect to the improvement described in subparagraph (3) below only, construction started and guarantees for completion posted.

(1) An additional through lane in each direction has been added to I-64 between the Route 646/I-64 interchange and the I-295/I-64 interchange in Henrico County.

(2) A full service interchange at I-64 and Route 600 has been installed and southbound Route 600 to westbound I-64 on ramp has been extended to the Route 30 interchange and become the westbound I-64 to Route 30 off ramp.

(3) The intersection of Route 30 and Route 607 has been improved to add a separate left turn lane and a separate right turn lane on the westbound approach on Route 30.

(h) If the Owner wishes to change either the phasing schedule or land use mix for the Phase V portion of the Stonehouse development as presented in the approved traffic study and addenda, it shall prepare, or cause to be prepared, an updated traffic impact study. If the updated study indicates changes in the improvements or phasing thereof are necessary as a result of increase of traffic impacts generated by the development on the Property compared with those projected in the approved study, Owner shall submit to the County an updated improvement and phasing plan which shall be subject to approval by the Board of Supervisors. Further development of the Property shall be in accordance with the approved updated improvement and phasing plan.

(i) Owner may have the Traffic Study updated, amended or supplemented from time to time by an independent traffic consultant and shall submit any such updated, amended or

supplemented Traffic Study to the County and VDOT for approval. The schedule of road and intersection improvements and the phasing thereof set forth above may be amended by the Owner based on such updated, amended or supplemented Traffic Study with the approval of the Board of Supervisors. Owner shall convey, without charge, to VDOT or the County, as appropriate, all right of way owned by it that is necessary for such improvements and, when completed, shall dedicate all such improvements to VDOT or the County, as appropriate.

3.2 Internal Roads.

(a) The internal road system shall be planned to provide for future connections to the surrounding public roads as shown on the Master Road Plan.

4. Economic Development.

4.1 PUD-C Development. Owner shall extend roads, water and sewer adequate to accommodate development to the perimeter of a parcel of at least 60 acres in the PUD-C portion of the Property before issuance by the County of building permits for more than 100 residential units in Phase I of the development of the Property.

4.2 Extension of Utilities. As and when segments of the roads shown on the Master Plan within or adjacent to areas designated E, F, G or H on the Master Plan are constructed, water and sewer lines shall be installed adjacent to or within the road

right-of-way with capacity to serve the areas described above.

4.3 Residential/Non-Residential Phasing. No final subdivision plat or site plan, as appropriate, for any residential use in excess of 2,400 dwelling units shall be approved or issued by the County until the County has issued building permits for more than 600,000 square feet of floor area or floor area equivalent within areas designated E, F, G, H or J on the Master Plan and construction thereof has commenced and the footings and foundations have been inspected.

5. Public Sites.

5.1 School Sites and Public Parks. Owner shall convey to the County, and without consideration, fee simple title to (i) a site for a school containing approximately 30.2 acres and an adjoining site containing approximately 4.2 acres for a public park, and (ii) a site for a school containing approximately 20.5 acres in the locations shown on the Master Plan. Owner shall construct, (i) a softball field with an outfield distance of 275 feet, an infield of a clay-sand mixture, and a backstop with 16 foot wings on the 4.2 acre public park site upon the earlier of final subdivision approval of any subdivision on Land Bays 58, 59, 60, 62, 63 or 64 or the construction of the school on the adjoining school site.

5.2 Other Public Sites. In addition to the conveyances to the County pursuant to Condition 5.1, Owner shall

convey to the County, without consideration, fee simple title to a site located in Land Bay 38 containing up to four contiguous and developable acres for use only as police or fire station, emergency services station, public library, recycling center, County office building or any combination thereof. The location of this public use site may be changed by agreement of Owner and the County.

5.3 Timing of Conveyances. All conveyances of public sites to the County pursuant to this Condition 5 shall be upon the request of the County Administrator as provided herein. Within 30 days of the receipt of such a request Owner shall cause to be prepared and submitted to the County any required subdivision plat. The actual conveyance shall be made within five business days of final approval of the subdivision plat. If no subdivision is required, such conveyance shall be made within 30 days of the receipt of the request from the County Administrator.

5.4 Reverter to Community Association. If the County, the Williamsburg-James City County School Board, the James City Service Authority (the "Service Authority") or any other County agency make a formal determination by resolution not to use any of the sites conveyed to the County, the School Board or the Service Authority for the aforesaid public purposes before construction of any improvements on such sites, title to such

site or sites shall revert to the Community Association. The County, at the request of the Community Association, shall deliver deeds to the Community Association evidencing such reversion of title.

6. Community and Recreational Facilities.

6.1 Facilities and Phasing. Owner shall construct the community and recreational facilities described below (subject to obtaining all required permits) generally in the locations shown on the Master Recreation Plan submitted as a part of the Master Plan. Design plans for such facilities shall be submitted to and approved by the County and construction of such facilities shall have started, or guarantees for such construction shall have been posted with the County, before the County grants final approval to any subdivision plat for dwelling units within the Land Bays set forth below. All land areas shown are net developable acres.

<u>Facility</u>	<u>Land Bay</u>
a. A recreational vehicle and equipment storage area of approximately 3.0 acres.	Any Land Bay within Phase I of the PUD-R portion of the Property
b. A park a minimum of 3.0 acres to include a recreation building/bathhouse with a minimum of 2,000 square feet, a swimming pool with a minimum water surface area of 4,500 square feet, and a playground with a minimum of area of 4,000 square feet with clustered play apparatus suitable for both younger and older children.	15, 16, 17 or 18

- c. An eighteen-hole golf course with a clubhouse facility on approximately 138 acres. Any Land Bay within Phase I of the PUD-R portion of the Property
- d. An addition of approximately 2.0 acres to the park described in b. above to include two regulation hard-surface tennis courts, a playground expansion of approximately 2,500 square feet an open lawn for play with a minimum area of 10,000 square feet, and a seating area. 17 or 18
- e. A community center of approximately 10.2 acres to include a community building with a minimum area of 3,000 square feet, a swimming pool with a minimum water area of 4,500 square feet, a minimum 20 foot by 20 foot wading pool, outdoor seating areas, and an open lawn with a minimum area of 30,000 square feet for gathering and play. Any Land Bay within Phase II of the PUD-R portion of the Property except 20, 21, 22, 33, 35 or 81
- f. A park of approximately 2.0 acres to include two regulation hard-surface tennis courts, a playground with a minimum area of 1,600 square feet with clustered play apparatus suitable for younger and older children, and a seating area. 20, 21, or 22
- g. A park of approximately 8.0 acres to include four regulation hard-surface tennis courts, a hard surface playing court with minimum area of 3,750 square feet and three basketball goals, playground areas totalling a minimum of 5,000 square feet with clustered play apparatus suitable for younger and older children, and a portion of the Pathway Greenspace (defined in Condition 7.2 hereof) with adjacent seating areas. 28, 29, 30, 31, or 32
- h. A park of approximately 2.8 acres to include a swimming pool with a minimum water area of 3,000 square feet and a bathhouse with a minimum area of 1,500 square feet, and a playground with a minimum area of 2,000 square feet with clustered play apparatus 41 or 42

suitable for younger and older children.

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| i. A tennis center on 6.5 acres with a minimum of eight regulation tennis courts and a club building, a playground with a minimum area of 1,600 square feet with clustered play apparatus suitable for younger and older children, and a seating area. | 43, 44, or 45 |
| j. An 18-hole golf course with clubhouse facility on approximately 112 acres. | At the discretion of Owner |
| k. A park of approximately 3 acres to include a swimming pool with a minimum water area of 5,000 square feet, a recreation building/bathhouse with a minimum area of 2,000 square feet, and a playground with a minimum area of 4,000 square feet with clustered apparatus suitable for younger and older children. | 46, 47, 48, 49, 50, 51, 53, 55, 56, 57, 58, or 59 |
| l. A park of approximately 2.0 acres to include two regulation hard-surface tennis courts, a playground with a minimum area of 1,600 square feet with clustered play apparatus suitable for younger and older children, and a seating area. | 62, 63, 64, or 65 |
| m. Public access to the Stonehouse historic site with an area of approximately 2.5 acres, to include an historic marker. | 50 |
| n. A temporary recreational vehicle storage area (comparable in size to the permanent area), to be replaced by a permanent storage area of approximately 3.0 acres. | Any Land Bay within Phase III of the PUD-R portion of the Property except 19 or 81 |
| o. A park on approximately 5.0 acres to include a recreation center/bathhouse with a minimum area of 3,000 square feet, a swimming pool with a minimum water area of 5,000 square feet, two regulation hard-surface tennis courts, a playground with a minimum area of 4,000 square feet with clustered play apparatus suitable for younger | Any Land Bay within Phase IV of the PUD-R portion of the Property |

and older children, open lawn with a minimum area of 10,000 square feet, and a seating area.

p. A park on approximately 3.0 acres to include a swimming pool with a minimum water area of 3,500 square feet and a bathhouse with a minimum area of 1,500 square feet, and a playground with a minimum area of 1,600 square feet with clustered play apparatus suitable for younger and older children.

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q. A marina on the York River (if permitted by applicable law, ordinances or regulations) and an adjacent park of approximately 3.2 acres to include seating areas and walks.

73, 74, 75, 76,
77, 78, or 79

r. A temporary recreational vehicle storage area (comparable in size to a permanent storage area), to be replaced by a permanent storage area approximately 3.5 acres at the completion of development of Phase IV.

Any Land Bay
within Phase IV
of the PUD-R
portion of the
Property except
33 area or 81

The exact facilities to be provided at each site may be varied by Owner, with the consent of the Director of Planning based on, among other things, the demographics and expressed preferences of the residents of the development. All the recreational facilities described above shall be open to all residents of the development at no additional cost to them over and above their Community Association dues and assessments, except the golf course and related facilities, tennis center and marina may be privately owned and/or operated and open only to members.

6.2 Pathway System.

a) Owner shall designate and reserve along one side of the roads described below a strip of common open space

with a width of 15 to 25 feet, contiguous or generally parallel to the road right of way (the "Pathway Greenspace"). Owner shall construct within the Pathway Greenspace a pedestrian/bicycle path with a width, except as provided below, of 8 to 10 feet to standards acceptable to the County Engineer. The path shall be constructed so that it will be available for use at the same time the adjoining road is opened to vehicular traffic. The width of the Pathway Greenspace and path shall be designated by Owner and shall depend on the width of the adjacent road. The Pathway Greenspace shall be reserved and the path constructed along all "collector roads" as defined below except Owner, with the approval of the Director of Planning, may vary the location or eliminate the Pathway Greenspace and path where the topography or other unusual features make the location of Pathway Greenspace and the path impractical or impossible. Where separate bicycle and pedestrian pathways are provided, bicycle pathways shall have a minimum width of 6 feet and pedestrian pathways shall have a minimum width of 4 feet. For purposes of this Condition 6.2, the term "collector roads" shall mean all roads within the Property within parcels or sites with Master Plan Area Designations of A that provide access to more than 15 lots and all roads shown on the Master Plan. Pathways adjacent to roads within the Property within parcels or sites with Master Plan Area Designations of A that provide access to less than 50 lots shall have a minimum

width of 6 feet.

b) . Owner shall provide connections from the Pathway Greenspace and paths therein to pathway or sidewalk systems constructed in individual sections or sites with Master Plan Area Designations of B, C/D, E, F, G, or H.

c) Owner shall provide connections at the boundaries of the Property from the Pathway Greenspace and any Stonehouse greenway system and paths therein to a County wide greenway system, when and if implemented by the County.

d) Owner shall provide within each phase of development of the Property an access from the pathway system to a minimum of one acre of land overlooking or adjacent to Ware Creek or one of its tributaries for passive recreation for residents of the development.

6.3 Maintenance. Owner shall initially be responsible for maintenance of all community and recreation facilities and Pathway Greenspace and paths located therein. Owner may convey such facilities to the Community Association or, with respect to the golf courses and related facilities, the tennis center and the marina, to a private operator whereupon the Community Association or the private operator, as the case may be, shall assume responsibility for their maintenance. All golf courses shall be maintained utilizing an integrated pest management system. Such system shall be subject to the approval of the

Director of Code Compliance at the time of final site plan approval and annually thereafter.

7. Archaeological Sites. (A) Owner shall preserve the site of the foundations of the "Stone House" of approximately 2.5 acres identified on the Master Plan and shall install an appropriate interpretive historical sign at the site.

(B) Before starting any clearing, grading or land disturbing within a Land Bay shown on the Master Plan, Owner shall submit a Phase I archaeological study that includes, at a minimum, that Land Bay to the Director of Planning for review and approval.

(1) For the Stonehouse land included in the original rezoning the Phase I study shall be reviewed under the guidelines set forth in the Virginia Department of Historic Resource's ("VDHR") Guidelines for Preparing Archaeological Resource Management Reports that were in effect as of November 4, 1991. The qualifications of the archaeologist that conducted the submitted Phase I study shall be reviewed under the Secretary of the Interior's Professional Qualification Standards as in effect on November 4, 1991.

(2) All other archaeological studies proffered hereby shall meet the VDHR Guidelines and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation and shall be conducted under the supervision of a

qualified archaeologist who meets, at a minimum, the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards as in effect at the time of the submission of the study. Any sites not documented in the submitted Phase I study that are encountered during construction shall be evaluated by performing a Phase I study using the VDHR and Secretary of Interior's guidelines and standards in effect at the time of discovery.

(C) (1) For all sites that the Phase I study recommends for Phase II evaluation or identifies as potentially being eligible for inclusion on the National Register of Historic Places (the "National Register"), Owner shall submit to the Director of Planning for review and approval a treatment plan. An acceptable treatment plan can consist of (i) performing a limited Phase II study to establish the boundaries of the site and thereafter leaving the site completely undisturbed or preserving it in some other manner acceptable to the Director of Planning or (ii) performing a complete Phase II study of the site. If a complete Phase II study of a site is undertaken, such Phase II study shall be submitted to and approved by the Director of Planning.

(2) If the approved Phase II study concludes that a site is not eligible for inclusion on the National Register, Owner shall not be obligated to perform any further

archaeological studies thereon.

(3) For all sites which the approved Phase II study indicates are eligible for inclusion on the National Register and/or those sites upon which a Phase III study is warranted, Owner shall submit to the Director of Planning for review and approval a treatment plan. An acceptable treatment plan can consist of (i) leaving the site completely undisturbed or preserving the site in some other manner acceptable to the Director of Planning and submitting an application to include the site on the National Register or (ii) performing a complete Phase III study of the site. If a complete Phase III study is undertaken on a site, the Phase III study shall be submitted to and approved by the Director of Planning.

(4) If the Phase II or Phase III study of a site determines the site is eligible for inclusion on the National Register of Historic Places and such site is to be preserved in place, the treatment plan shall include nomination to the National Register of Historic Places.

(5) All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

8. Perimeter Buffer. All land within the required landscaped setbacks around the perimeter of the Property as established pursuant to Section 20-483 of the Zoning Ordinance

shall be conveyed to the Community Association as that part of the Property is developed and all such land shall thereupon be maintained by the Community Association. Until such conveyance all such land shall be maintained by Owner.

9. Wells. (a) Owner shall provide to the Service Authority a new well impact analysis no later than 12 years after commencement of on-site well pumping. The updated well impact study shall utilize updated data and be in accordance with Service Authority requirements.

(b) For private wells in the County in existence on the date of rezoning approval, Owner shall provide mitigation of any significant well draw down impacts attributable to pumping of wells on the Property. A panel of individuals, selected by the Service Authority and approved by the Board of Supervisors, including a representative of the Owner, shall review all claims, determine if well pumping on the Property is the cause of any significant impact determined to exist, and determine the most appropriate form of mitigation if necessary. The type of mitigation and the composition and proceedings of the review panel shall be in accordance with the separate Well Mitigation Program Agreement entered into among the County, the Service Authority and the Owner, initial version of which is attached hereto as Exhibit B, as the same may be amended from time to time. The Well Mitigation Program Agreement may be amended by

the parties thereto without the necessity of an amendment to these Proffers so long as the amendment to the Agreement does not conflict with a provision of this Condition 9.

(c) Owner shall post and maintain with the County a bond, letter of credit or other assurances acceptable to the County Attorney in the amount of \$25,000 to secure its mitigation obligation under this Condition 9.

(d) Owner shall submit a proposed groundwater monitoring program to the Service Authority for its review and approval and shall implement the approved program before utilization of the wells.

10. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

11. Severability. If any condition or part thereof set forth herein shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the invalidity or unenforceability of such condition or part thereof shall not invalidate any other remaining condition contained in these Proffers.

WITNESS the following signature and seal:

STONEHOUSE INC.

By: James D. Franklin
Title: Vice President

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged before me
this 29th day of March, 1994 by James D. Franklin,
Vice President of STONEHOUSE INC., a Virginia corporation,
on behalf of the corporation.

Janice M. Thompson
NOTARY PUBLIC

My commission expires:

2-28-99

BOOK 541 PAGE 183

All that certain lot, piece or parcel of land situate, lying and being in the County of James City, Virginia, shown and designated on a certain plat entitled, "A PLAT OF 3.62 ACRES STATIONED IN THE DISTRICT OF RECORDS UNDERWRITES, INC., STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated March 30, 1930, and revised April 12, 1930, and made by AES, A Professional Corporation, Engineer, Surveyor, Planner, a copy of which is attached hereto as Exhibit "A" and made a part hereof by reference.

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereto in anywise or in anywise appertaining.

Subject, however, to the right-of-way of the Virginia Department of Transportation in and to an eighteen-foot (18') strip of land beginning at the center line of Old Stage Road, a public highway, and proceeding eighteen feet (18') in an easterly direction, the said strip of land crossing the said property in a northerly-southerly direction adjoining other lands owned by the Virginia Department of Transportation as shown on the attached Exhibit "A".

Subject, however, to all easements and restrictions of record affecting the said property.

It being the same property conveyed unto Rogers Enterprises, Inc., a Virginia corporation, by Deed dated October 10, 1986, Robert L. King and Thelma J. King, husband and wife, and recorded in the Clerk's Office of the Circuit Court for the County of James City, Virginia, in Deed Book 317, at page 99.

All those certain tracts or parcels of land lying and being in Stonehouse District, James City County, Virginia, containing in the aggregate 5,802.49 acres, more or less, and being the same tracts listed below and conveyed to the party of the first part, or its predecessors The Chesapeake Corporation of Virginia and The Chesapeake Corporation, by the hereinafter described deeds of record in the Clerk's Office of the Circuit Court of James City County:

1. "Ashlock #1" Tract No. JJ-2001, containing 152 acres by survey, being more particularly shown and described on a plat of survey by R. H. Highland, C.L.S., dated April 13, 1951, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by Mattie B. Lewis, widow, by deed dated June 4, 1941, recorded in Deed Book 33, page 386.
2. "Ashlock #2" Tract No. JJ-2002, containing 14 acres by survey, being more particularly shown and described on a plat of survey by R. H. Highland, C.L.S., dated April 13, 1951, revised December 16, 1988, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by John G. Warburton and wife by deed dated May 5, 1947, recorded in Deed Book 39, page 25.
3. "Ashlock #3" Tract No. JJ-2020, containing 10 acres by survey, being more particularly shown and described on a plat of survey by R. H. Highland, C.L.S., dated April 13, 1951.

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revised December 16, 1988, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by Andrew B. Brooks and wife by deed dated August 1, 1957, recorded in Deed Book 62, page 93.

4. "Garretts" Tract No. 33-2004, containing 534.24 acres, more or less, being the same property conveyed to the party of the first part by C. L. Woodward and wife by deed dated March 18, 1925, recorded in Deed Book 22, page 5.

5. "Ivydale" Tract No. 33-2007, containing 183.75 acres by survey, being more particularly shown and described on a plat of survey by R. B. Cartwright, C.L.S., dated December 15, 1981, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by Chesapeake Pulp & Paper Company, Incorporated by deed dated May 1, 1922, recorded in Deed Book 16, page 226.

6. "William Lee" Tract No. 33-2008, containing 90 acres, more or less, being the same property conveyed to the party of the first part by C. W. Payne, et al., by deed dated October 9, 1946, recorded in Deed Book 38, page 546.

7. "W. P. Richardson" Tract No. 33-2009, containing 1,683 acres, more or less, being a portion of the same property conveyed to the party of the first part by Chesapeake Pulp & Paper Company, Incorporated by deed dated May 1, 1922, recorded in Deed Book 16, page 226.

8. "Stonehouse" Tract No. 33-2010, containing 269 acres, more or less, being the same property conveyed to the party of the first part by I. S. Waltman and wife by deed dated September 15, 1939, recorded in Deed Book 31, page 350.

9. "Tankard" Tract No. 33-2011, containing 169.49 acres by survey, being more particularly shown and described on a plat of survey by R. B. Cartwright, C.L.S., a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by R. M. Hazelwood and wife by deed dated April 7, 1949, recorded in Deed Book 42, page 97, less and except conveyances by the party of the first part to Rado L. Banks and wife by deed dated October 10, 1974 and to the Commonwealth of Virginia by deed dated November 7, 1968.

10. "Bateman-Tyler" Tract No. 33-2013, containing 49 acres, more or less, being the same property, less and except 1.11 acre conveyed to the Commonwealth of Virginia by deed dated December 1, 1954, conveyed to the party of the first part by the following:

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(a) Deed from Margaret Tyler dated June 3, 1949, recorded in Deed Book 42, page 539;

(b) Deed from Elvold Tyler, et als., dated June 3, 1949, recorded in Deed Book 42, page 536.

11. "Henley" Tract No. JJ-2014, containing 26 acres, more or less, being the same property conveyed to the party of the first part by J. Turner Henley and wife by deed dated June 7, 1951, recorded in Deed Book 45, page 162.

12. "Clopton" Tract No. JJ-2015, containing 160.13 acres by survey, being more particularly shown and described on a plat of survey by R. B. Cartwright, C.L.S., dated February 20, 1981, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by W. F. Woodward, et als., by deed dated March 11, 1952, recorded in Deed Book 47, page 172, less and except 28.63 acres, more or less, conveyed by the party of the first part to the Commonwealth of Virginia by deed dated November 7, 1968, recorded in Deed Book 119, page 677.

13. "Woodward" Tract No. JJ-2022, containing 9.75 acres by survey, being more particularly shown and described on plat of survey by R. H. Highland, C.L.S., recorded in Plat Book 22, page 35, being the same property conveyed to the party of the first part by C. L. Woodward, et als., by deed dated December 6, 1963, recorded in Deed Book 93, page 564.

14. "Cedar Point" Tract No. JJ-2023, containing 96.58 acres by survey, being more particularly shown and described on plat of survey by O. M. Chandler, C.L.S., dated October 1917, recorded in Plat Book 25, page 22, being the same property conveyed to the party of the first part by A. D. Slater and wife by deed dated November 14, 1967, recorded in Deed Book 114, page 191.

15. "Garrett Lee" Tract No. JJ-2024, containing 240 acres, more or less, being the same property conveyed to the party of the first part by B. F. Garrett, Jr., widower, by deed dated August 11, 1970, recorded in Deed Book 127, page 539.

16. "Banks" Tract, containing 17 acres, more or less, being the same property conveyed to the party of the first part by Elizabeth H. Banks, et als., by deed dated October 10, 1974, recorded in Deed Book 156, page 584.

17. "Bowman" Tract, containing 2 acres, more or less, being the same property conveyed to the party of the first part by A. H. Bowman and wife by deed dated January 10, 1974, recorded in Deed Book 149, page 724.

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18. All right, title and interest of the party of the first part in and to the "Hiles Braxton" Tract, containing 16 acres, more or less, being the same property conveyed to the party of the first part by the following:

(a) Deed from James Clarke and wife, et als., dated April 18, 1974, recorded in Deed Book 152, page 159;

(b) Deed from Carry Lee Clarke dated May 13, 1974, recorded in Deed Book 152, page 344;

(c) Deed from Ida Mae Braxton dated May 24, 1974, recorded in Deed Book 152, page 581.

19. "Enos" Tract, containing 168.60 acres by survey, being more particularly shown and described on a plat of survey by R. B. Cartwright, C.L.S., dated August 15, 1980, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by Elsie M. Slater, et als., by deed dated January 23, 1980, recorded in Deed Book 202, page 752.

20. "Hicks" Tract, containing 131.03 acres by survey, being more particularly shown and described on survey by V. D. McManus, Jr. dated February 1947, recorded in Plat Book 10, page 42, being the same property conveyed to the party of the first part by Vincent D. McManus, Jr., widower, by deed dated February 5, 1973, recorded in Deed Book 142, page 229.

21. "Slater" Tract, containing 158 acres, more or less, being the same property conveyed to the party of the first part by A. D. Slater and wife by deed dated December 13, 1972, recorded in Deed Book 143, page 425.

22. "James Taylor" Tract, containing 5 acres, more or less, being the same property conveyed to the party of the first part by James H. Taylor and wife by deed dated February 9, 1974, recorded in Deed Book 150, page 229.

23. All of the right, title and interest of the party of the first part in and to the "James Taylor #2" Tract, containing 9-3/4 acres, more or less, being the same conveyed to the party of the first part by the following:

(a) Deed from James Wallace and wife dated May 12, 1976, recorded in Deed Book 172, page 617;

(b) Deed from Horace Taylor, et als., dated March 15, 1976, recorded in Deed Book 172, page 619;

(c) Deed from Wilbert Wallace, et als., dated March 15, 1976, recorded in Deed Book 172, page 622;

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(d) Deed from Forest Ashby, et als., dated March 15, 1976, recorded in Deed Book 172, page 626;

(e) Deed from Calvin Taylor, et als., dated March 1, 1976, recorded in Deed Book 172, page 629;

(f) Deed from Richard Roberts, et als., dated February 13, 1976, recorded in Deed Book 166, page 483.

24. "LaGrange" Tract, containing 203.29 acres, more or less, being Parcels A, B and C conveyed to the party of the first part by Littleberry James Mainy, Jr., et als., by deed dated March 30, 1981, recorded in Deed Book 212, page 411.

25. "Nettie Moore" Tract, containing 157 acres, more or less, being the same property conveyed to the party of the first part by Nettie H. Moore, widow, by deed dated May 15, 1986, recorded in Deed Book 303, page 795.

26. "H. Richardson" Tract, containing 230.21 acres, more or less, being the same property conveyed to the party of the first part by Phillip O. Richardson, et als., by deed dated July 9, 1985, recorded in Deed Book 277, page 31.

27. "Bird Hill" Tract, containing 166.65 acres, more or less, being the same property conveyed to the party of the first part by Bird Hill Farm, Ltd. by deed dated June 17, 1985, recorded in Deed Book 276, page 659.

28. "LaGrange #2" Tract, containing 223.89 acres by survey, being more particularly shown and described on plat of survey by Charles J. Kerns, Jr., C.L.S., dated August 26, 1988, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by Sheldon Lumber Company, Incorporated, by deed dated April 19, 1987, recorded in Deed Book 393, page 285.

29. "Nahra" Tract, containing 0.92 acre more particularly shown and described on a plat entitled "Plat showing part of the property of James F. Hunsucker & Neville A. Marshall known as Packer's Tavern Tract," made by Andrew Nacouvarakis, C.L.S., dated May 28, 1966, recorded in Deed Book 109, page 259, being the same property conveyed to the party of the first part by Ralph J. Nahra and wife, by deed dated August 21, 1987, recorded in Deed Book 361, page 661.

30. "Hason #1" Tract and "Hason #2" Tract, containing 14.18 acres, being more particularly shown and described on a plat of survey by Buchart-Horn dated November 15, 1985, a copy of which is attached hereto and recorded herewith, being the same property conveyed to the party of the first part by

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All that certain parcel of land in James City County, Virginia, containing by survey 4.75 acres as shown on a plat entitled, "SURVEY OF 4.75 ACRES FOR CONVEYANCE FROM SHELDON LUMBER COMPANY, INC., TO HOWARD V. CLAYTON, MARION P. CLAYTON, & JOHN H. CLAYTON," dated March 29, 1984, made by AES, a copy of which is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in County Deed Book 246, page 313.

Being the same property conveyed unto the Grantors herein by deed of assumption from John H. Clayton, dated October 21, 1986, and recorded in County Deed Book 323, page 845, and by deed from Sheldon Lumber Co., dated March 30, 1984, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Deed Book 246, page 311.

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

31 day of July, 1995. This Amended

Deed was presented with certificate annexed and admitted to record at 10:35 o'clock.

Teste: Helene S. Ward, Clerk

by John H. Clayton
Deputy Clerk

being the same property conveyed to the party of the first part by David Nelson Sutton, Jr., Executor, et als., by deed dated July 3, 1987, recorded in Deed Book 144, page 159.

38. "Fairholt" Tract, containing 144.41 acres more or less, being more particularly shown and described on plat of survey by G. L. Evans, C.L.S., dated January 19, 1934, which plat is attached hereto and recorded herewith, less and except 1.59 acres, more or less, conveyed to the Commonwealth of Virginia by deed dated January 3, 1955, being the residue of the tract conveyed to the party of the first part by T. H. Gaddy, Jr., Special Commissioner, by deed dated February 12, 1931, recorded in Deed Book 22, page 453.

PROFFER AGREEMENT

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These Proffers are made as of the 22nd day of March, 1995, by J. R. CHISMAN DEVELOPMENT CO., a Virginia corporation ("the Owner"), together with its successors and assigns, which owns certain real property shown on the James City County Tax Map 46-1 as a portion of Parcel 1-2C.

RECITALS

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

All those certain parcels of land, with all improvements thereon and appurtenances thereto belonging, lying and being in the Berkeley Magisterial District of James City County, Virginia, containing three parcels of land and shown on that certain map dated June 21, 1993, prepared by AES Consulting Engineers, and entitled "Composite Map of Various Portions of Lands formerly owned by David M. Murray, Sr., prepared for Eastern OREO, Inc." (the "Map"), a copy of the Map being recorded in Plat Book 57, Page 78, on which the aforesaid three parcels of land are described as follows:

PARCEL III - Approximately 76 acres, more or less, as shown as Parcel III on the Map.

PARCEL IV-B - Approximately 60.61 acres, more or less, as shown as Parcel IV-B on the Map.

PARCEL VII - Approximately 5.16 acres, more or less, as shown as Parcel VII on the Map as being divided into three parcels, one containing approximately 4.26 acres, more or less, one containing 0.4057 acre, more or less, and one containing 0.4955 acres, more or less.

Being the same real estate conveyed to the Owner by Deed dated June 28, 1993 from Eastern Oreo, Inc., a Virginia corporation, recorded in James City County Deed Book 627, Page 251, et seq. on July 1, 1993. The aforesaid real estate is herein referred to as "the Property".

B. The Owner has previously or is presently developing a portion of the Property, which portion is more particularly described as follows:

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All those certain parcels of land, with all improvements thereon and appurtenances thereto belonging, lying and being in the Berkeley Magisterial District of James City County, Virginia, comprising phases 1 and 2 of Section 5 of St. George's Hundred Subdivision as shown on the Map, and also including approximately 30.68 acres of Parcel III now or to be developed as phases 3 and 4 of Section 5 and all of Section 6 of St. George's Hundred (not shown on the Map).

The aforesaid real estate is herein referred to as "the Developed Property".

C. That portion of the Property not included within the Developed Property is herein referred to as "the Undeveloped Property".

D. The Owner is desirous of continuing to develop the Undeveloped Property but in accordance with General Residential Zoning District, R-2, of the James City County Code.

E. The Undeveloped Property together with other surrounding properties is currently subject to certain proffered conditions pursuant to Case No. Z-21-86 ("the Existing Proffers") approved by James City County ("the County").

F. The Existing Proffers applicable to the Undeveloped Property may no longer be appropriate given the proffered conditions and/or special use permit conditions applicable to other properties in the vicinity, the prior satisfaction of some of the proffered conditions applicable to the Undeveloped Property, and the subsequent establishment by the County of the Route 5 Transportation Improvement District.

G. The Owner has applied for a rezoning of the Undeveloped Property with revised proffers. If the rezoning is approved, the Owner must thereafter submit for approval by the County a plan of development ("the Plan of Development").

H. The County's Comprehensive Plan Land Use Map specifically designates the Undeveloped Property as "Low Density Residential" expressly providing for conventional residential development patterns at densities of two dwelling units per acre or less and at densities greater than two

dwelling units per acre, cluster development patterns are encouraged with such developments being considered for densities of up to four dwelling units per acre.

I. The provisions of the County Zoning Ordinance and Existing Proffers may be deemed inadequate for the orderly development of the Undeveloped Property.

J. In lieu of the Existing Proffers, the Owner desires to offer to the County certain proffers for the development of the Undeveloped 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 Undeveloped Property.

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning of the Undeveloped Property and the acceptance of the proffers hereinafter set forth in lieu of the Existing Proffers, and pursuant to §15.1-491.1, et seq., of the Code of Virginia, 1950, as amended, and §20-16 et seq. of the County Code, the Owner agrees that it will meet and comply with all of the following proffers in developing the Undeveloped Property. In the event the requested rezoning is not approved and these proffers are not accepted by the County in lieu of the Existing Proffers, these proffers shall become null and void.

PROFFERS

1. **Uses.**

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

- Accessory buildings or structures as defined.
- Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.
- Single-family detached dwellings.
- Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

2. Plan of Development.

The Undeveloped Property shall be developed in accordance with a Plan of Development to be approved by the County with the number of dwelling units limited to 106.

3. Access to the Undeveloped Property.

The access to the Undeveloped Property shall be within a portion of the area shown as "90' Easement Area, 5.70 AC" shown on the Map. In addition, left and right turn lanes on Route 5 shall be provided as deemed necessary by the Virginia Department of Transportation ("VDOT"). If not previously constructed by others, said access and turn lanes shall be designed and constructed or guaranteed with corporate surety or cash bond in accordance with applicable standards of the County and VDOT prior to the final subdivision approval for dwelling units of any portion of the Undeveloped Property on Parcel IVB as shown on the Map.

4. Cash payments for each dwelling unit lot developed within the Undeveloped Property.

The Owner shall contribute to the County the sum of one percent (1%) of the verified initial sales price for each dwelling unit lot developed within Parcel IVB as shown on the Map and the County shall make these monies available to the Route 5 Transportation Improvement District for construction of alternate Route 5 or for any other project included in the County's Capitol Improvement Plan, the need for which in whole or in part is generated by the development of the Undeveloped Property. Said contributions shall be payable only when, as and if the Owner conveys a lot within said area on which lot is located, a dwelling unit for which an initial certificate of occupancy has been issued by the County. Notice that such sum is due shall be recorded on all plats of subdivision approved after the date hereof. Said notice shall further provide that in the event that the amount due per lot is not paid as aforesaid, a 25% collection fee plus interest at the legal rate shall be assessed.

5. Conservation Area.

At the written request of the County Administrator and prior to the recordation of a subdivision plat pursuant to the Plan of Development, the Owner shall dedicate to the County, subject to the rights herein reserved, a fee simple interest in and to all or any portion of the Undeveloped Property along the southern boundaries of the Undeveloped Property, and Sections 5 and 6 of St. George's Hundred and along Powhatan Creek adjacent to the eastern boundary of St. George's Hundred (approximately 46.4 acres) owned by the Owner consisting of stream beds, areas subject to flooding, marsh, areas with slopes exceeding 25% gradient and wetlands for use by the County for conservation, recreational and storm water management purposes. Existing trees, shrubbery and vegetation within said area shall remain "as is" provided, however, the Owner and/or the County shall have the right to install and construct over, under, across and through such areas such new roads, trails, drainage structures, storm water management facilities, utilities and entrance signs as may be necessary, in accordance with the terms of these proffers and as approved by the Development Review Committee of the County's Planning Commission.

6. Community Name.

The Undeveloped Property shall not be named St. George's Hundred.

7. 35' Wooded Buffer Between Undeveloped Property and St. George's Hundred.

The Plan of Development shall provide for the preservation of the existing buffer 35' in width between the Undeveloped Property and Section 3 of St. George's Hundred. No portion of said buffer shall be located within any lot on which a dwelling unit is proposed for construction.

8. No Internal Streets Between Undeveloped Property and St. George's Hundred.

Subject to the provisions of paragraph 9 hereof, no internal street connections shall be permitted between the Undeveloped Property and Sections 3 and 6 of St. George's Hundred which would otherwise allow for motorized vehicular traffic between said areas.

9. Pedestrian and Bikeway Path/Utility Lines Between Undeveloped Property and St. George's Hundred.

The Plan of Development shall provide on the Undeveloped Property adjacent to that portion of Sabre Drive (extended) between 127 Arena Street (Route 1441) and 236 Robertson Street (Route 1439) a strip of land fifty feet in width for use as a public pedestrian and bicycle path and for utility easements between the public streets of Section 3 of St. George's Hundred and those of the Undeveloped Property.

The Owner shall construct a concrete pathway eight feet in width within the aforesaid area between said public streets and construct pipe bollards or other obstacles at each end of the path to prevent motorized vehicular access between the Undeveloped Property and St. George's Hundred.

10. Homeowner's Association.

The Owner shall organize a homeowner's association ("the Association") in accordance with Virginia law whereby all property owners within the Undeveloped Property, by virtue of their property ownership, must be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney prior to final subdivision approval for dwelling units on any portion of the Undeveloped Property. The Governing Documents shall require that the Association adopt an annual maintenance budget and shall require the Association to: (i) assess all members owning property within the Undeveloped Property for the maintenance of all properties owned or maintained by the Association including all Best Management Practice facilities; and, (ii) file liens on said members' properties for nonpayment of such assessments and for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

11. 150' Buffer Along Route 5. Except for the entrance road described in proffer numbered 3 above, that portion of the Undeveloped Property within 150' of Route 5 shall be left in its existing natural wooded state, except for utility crossings, construction road

entrances, signs and storm water management facilities, each of which must be approved by the Development Review Committee of the County's Planning Commission. Notwithstanding the aforesaid, dead, diseased or dying trees or trees weakened by age, storm or other injury and dead, diseased or dying shrubbery may be removed.

GENERAL PROFFERS

1. **Existing Proffers No Longer Applicable to Undeveloped Property.**

Upon the acceptance of these Proffers by the County, the Existing Proffers shall no longer be applicable to the Undeveloped Property.

2. **Headings.**

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

3. **Conflict with Vested Rights.**

These Proffers are subject and inferior to the Owner's vested rights pursuant to subdivision plans and plans of development 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.

4. **Severability of Provisions.**

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

WITNESS the following signature and seal:

J. R. CHISMAN DEVELOPMENT CO.,
a Virginia corporation

By: _____

President

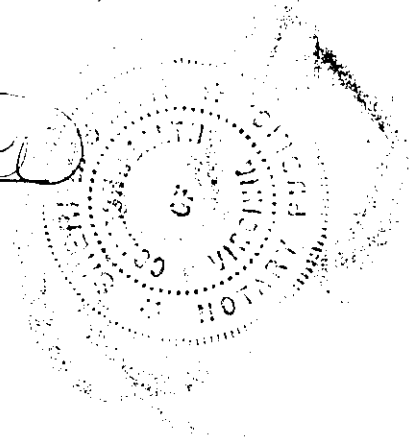
STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 24th day of March, 1995 by J. R. Chisman, President of J. R. CHISMAN DEVELOPMENT CO., a Virginia corporation, its officer in its behalf first duly authorized.

Cheryl 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 Court of the
City of Williamsburg and County of James City the

30 day of Aug, 95. This Deed

Deed was presented with correct form annexed and
admitted to record at 1:18 o'clock

Teste: Helene S. Ward, Clerk

by Deborah Ward
Deputy Clerk

PROFFER AGREEMENT

THIS PROFFER AGREEMENT is made as of the 14th day of March, 1995, by AMERICAN RETIREMENT CORPORATION, a Tennessee corporation ("ARC"), together with its respective successors and assigns.

RECITALS

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

All that certain tract or parcel of land situate in James City County, Virginia, and more particularly described as a portion of "Parcel C" north of "Parcel B", west of "Parcel A", south of Va. State Route 199 and east of Va. State Route 617 on that certain plat entitled "PLAT OF 'PARCELS 'A' AND 'B'", BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC." dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in Plat Book 39, pages 20 and 21.

B. ARC has entered into an Option Agreement granting to Williamsburg Landing, Inc. ("WLI") the option to purchase the Property pursuant to certain terms and conditions ("the Option").

C. The Option provides in pertinent part that ARC shall cooperate with WLI in securing all approvals, rezonings, special use permits, certificates of public need, other permits and utilities as WLI deems reasonably necessary for the development of the Property for an expansion of WLI's continuing care retirement community.

D. Accordingly, ARC, at the request of WLI, has applied for a rezoning of the Property and the issuance of a special use permit.

E. ARC has requested that the Property be rezoned from the Planned Unit Development District-Residential (PUD-R) to Multi-Family Residential (R-5). ARC has also requested a special use permit for the Property to permit nursing homes and facilities for the residence and care of the aged.

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

G. ARC, at the request of WLI, desires to offer to James City County certain conditions on the development of the Property not generally applicable to land zoned Multi-Family Residential District (R-5) for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

H. Upon the approval of the requested rezoning and special use permit, all prior proffers on the Property in favor of James City County shall become null and void.

NOW, THEREFORE, for and in consideration of the approval by James City County ("the County") of the rezoning set forth above and the issuance of the requested special use permit, and pursuant to § 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and § 20-18 of the County Code, ARC, at the request of WLI, agrees that it will meet and comply with all of the following conditions in developing the Property. In the event both of the requested rezoning and special use permit are not granted by the County, these proffers shall thereupon become null and void.

CONDITIONS

1. The use of the Property shall be limited to accessory buildings or structures, apartments, community recreation facilities, off street parking as required, accessory restaurants, retail shops associated with community recreation facilities, signs, single-family dwellings

contained within a cluster development, two-family dwellings, townhouses, three-family dwellings all of which are to be used as facilities for the residence and/or care of the aged; and, with the special use permit, single-family dwellings, nursing homes and facilities for the residence and/or care of the aged.

2. The aggregate number of generally and specially permitted living units over and above the sum of a sixty (60) bed nursing home and a sixty (60) unit assisted living facility shall not exceed two (2) dwelling units per acre of the gross acreage of the Property.

3. The entrances to the Property shall be limited to entrances from Williamsburg Landing Drive. No entrances except temporary construction entrances approved by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the Property.

4. All internal roads within the Property shall be designed and constructed to Virginia Department of Transportation standards and guidelines but said roads shall be private and maintained by the Owner.

5. A Phase I Archaeological Study for the area to be disturbed on the Property 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 that are, in the Phase I study, 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 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. 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.

6. No building on the Property shall be erected closer than 100 feet to the existing rights of way of Lake Powell Road and Route 199. These areas shall be left in their existing natural wooded states, except for utility crossings, construction road entrances, signs and storm water management facilities each of which must be approved by the Development Review Committee of James City County Planning Commission. Notwithstanding the aforesaid, dead, diseased or dying trees or trees weakened by age, storm or other injury and dead, diseased or dying shrubbery may be removed.

7. No building on the Property shall exceed three (3) stories in height.

8. 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.

**AMERICAN RETIREMENT CORPORATION,
a Tennessee corporation**

By: [Signature] (SEAL)
Chairman of the Board

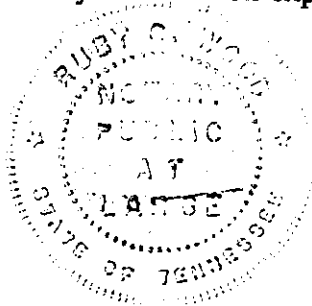
STATE OF TENNESSEE

CITY/COUNTY OF Williamson, to-wit:

The foregoing instrument was acknowledged before me this 22 day of March, 1995 by W. E. Sheriff, Chairman of the Board of AMERICAN RETIREMENT CORPORATION, a Tennessee corporation, its agent in its behalf first duly authorized.

[Signature]
NOTARY PUBLIC

My commission expires: 12-8-96



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

30th day of Aug, 1995. This Proffer was presented with certificate annexed and admitted to record at 1:14 o'clock

Teste: Helene S. Ward, Clerk

by [Signature]
Deputy Clerk