

7445

PROFFER AGREEMENT

THIS PROFFER AGREEMENT is made as of the 30th day of April, 1993 by Williamsburg Landing, Inc., a Virginia Non-Stock, Non-Profit Corporation ("WLI"), together with its respective successors and assigns.

RECITALS

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

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "PARCEL A" 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 the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 39, Pages 20 and 21, consisting of 70.12 acres ("the Developed Property").

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "13.9303 ACRES" as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG, 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Stephen A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72 ("the Undeveloped Property").

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "(PARCEL B) WILLIAMSBURG LANDING DRIVE, 1.8609 AC." as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Steven A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the

Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72. ("Williamsburg Landing Drive").

B. WLI has applied for an amendment of the proffers applicable to the WLI Property.

C. WLI has also applied for a rezoning of and a Special Use Permit for the Undeveloped Property and Williamsburg Landing Drive.

D. WLI has requested that the Undeveloped Property and Williamsburg Landing Drive be rezoned from Rural Residential (R-8) to Multi-Family Residential (R-5). WLI has also requested a Special Use Permit for the Undeveloped Property and Williamsburg Landing Drive to permit single family dwellings, nursing homes and facilities for the residence and care of the aged.

E. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Undeveloped Property and Williamsburg Landing Drive.

F. WLI desires to offer to James City County certain conditions on the development of the Undeveloped Property and Williamsburg Landing Drive 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 Undeveloped Property and Williamsburg Landing Drive.

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 Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Code, WLI agrees that it will meet and comply with all of the following conditions in developing the Undeveloped Property and Williamsburg Landing Drive. In the event all of the requested rezoning and Special Use Permit is not granted by the County, these proffers shall thereupon become null and void.

CONDITIONS - UNDEVELOPED PROPERTY & WILLIAMSBURG LANDING DRIVE

1. The use of the Undeveloped Property shall be limited to single family dwellings contained within a cluster development, two-family dwellings, townhouses, three-family dwellings and, with the Special Use Permit, single family dwellings, nursing homes and facilities for the residence and/or care of the aged.

2. Single family dwellings, whether or not contained within a cluster development, two-family dwellings, townhouses and three-family dwellings shall be limited to a total of twenty-seven (27) dwelling units for the Undeveloped Property; however, such limitation shall not apply to the other uses hereby permitted.

3. The entrances to the Undeveloped Property shall be limited to entrances from Williamsburg Landing Drive and, if legally permitted, from Marclay Drive. No entrances except public roads and/or temporary construction entrances approved by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the Undeveloped Property.

4. All internal roads within the Undeveloped Property shall be designed and constructed to Virginia Department of Transportation standards and guidelines but said roads shall be private and maintained by WLI; however, if Marclay Drive is relocated and crosses any portion of the Undeveloped Property, Marclay Drive shall be a public road.

5. A Phase I Archaeological Study for the area to be disturbed on the Undeveloped 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 Undeveloped Property shall be erected closer than one hundred (100) feet to the existing right-of-way of Lake Powell Road.

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

WILLIAMSBURG LANDING, INC.

By: Mary Lee Darling

Title: Chairman of the Board
of Directors & President

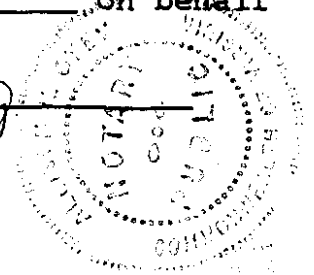
STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 30th
day of April, 1993 by Mary Lee Darling on behalf
of Williamsburg Landing, Inc.

Alison H. Cley
NOTARY PUBLIC

My commission expires: 12/31/96



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 11 day of June, 1993, the Prop was presented with certificates and admitted to record at 1:09 o'clock

Teste: Helene S. Ward, Clerk
by Chase Ward
Deputy Clerk

7444

PROFFER AMENDMENT

This Proffer Amendment is made as of the 26th day of April, 1993 by Williamsburg Landing, Inc., a Virginia Non Stock, Non Profit Corporation ("WLI") and American Retirement Corporation, a Tennessee Corporation ("ARC") together with their respective successors and assigns and James City County, Virginia, a Virginia Municipal Corporation ("the County").

RECITALS

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

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "PARCEL A" 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 the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 39, Page(s) 20 and 21, consisting of 70.12 acres.

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "13.9303 ACRES" as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL B & PART OF PARCEL C (PB 39, PG 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Stephen A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72.

That certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "(PARCEL B) WILLIAMSBURG LANDING DRIVE, 1.8609 AC." as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Steven A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-

Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72.

B. ARC is the owner of certain real property in James City County, Virginia, ("the ARC 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.

C. The WLI Property and the ARC Property are each currently subject to certain proffered conditions as a result of Zoning Case No. Z-3-82 ("the Prior Zoning Case").

D. The aforesaid proffered conditions of the Prior Zoning Case have either been met and satisfied or are no longer appropriate.

Now, therefore, pursuant to Section 15.1-491.6, et seq. of the Code of Virginia, 1950, as amended, and Section 20-22 of the James City County Code, WLI, ARC and the County, and each of them agree that the proffered conditions associated with the Prior Zoning Case be and are hereby abandoned.

Witness the following signatures and seals:

WILLIAMSBURG LANDING, INC.

By: Mary Lee Darling
Title: Chairman, Board of Directors & president

AMERICAN RETIREMENT CORPORATION

By: James J. Money
Title: Senior Vice President - Development Services

Execution of this Agreement by the Chairman of the James City County Board of Supervisors was authorized at the Board's regular meeting on May 3, 1993.

JAMES CITY COUNTY, VIRGINIA

By: Judith N. Knudson
Title: Chairman, Board of Supervisors

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 28th day of April, 1993, by Mary Lee Darling, President of and acting on behalf of Williamsburg Landing, Inc.

Allison H. City
NOTARY PUBLIC

My commission expires: 12/31/96

STATE OF TENNESSEE

County of Williamson, to-wit:

The foregoing instrument was acknowledged before me this 26 day of April, 1993, by James J. Money, Vice President of and acting on behalf of American Retirement Corporation.

Ruby C. Wood
NOTARY PUBLIC

My commission expires: 12-8-96

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 17th day of ^{MAY} April, 1993, by JUDITH N. KNUDSON, Chairman of the Board of Supervisors on behalf of James City County, Virginia.

Mary Frances Rieger
NOTARY PUBLIC

My commission expires: October 31, 1997

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, Virginia, this 14th day of June, 1993, at 1:07 o'clock P.M., I, [Signature], Clerk, was present with certificate attached and the following instrument was acknowledged and read to the parties present.
T. [Signature]
D. [Signature], Clerk

COMMONWEALTH OF VIRGINIA



(114-0.025 7/92)

OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY DIRECT
DEED RECEIPT

DATE: 06/11/93 TIME: 19:07:16 ACCOUNT: 0950LR930007444 RECEIPT: 93000012612
 CASHIER: JBF REE: WBO4 TYPE: AB PAYMENT: FULL PAYMENT
 INSTRUMENT: 930007444 BOOK: 0 PAGE: 0 RECORDED: 06/11/93 AT 19:07
 GRANTEE NAME: WILLIAMSBURG LANDING INC EX: N LOCALITY: 00
 GRANTEE NAME: JAMES CITY COUNTY EX: N PERCENT: 100%
 AND ADDRESS:
 RECEIVED OF: JAMES CITY COUNTY DATE OF DEED: 04/28/93
 CHECK: \$13.00
 DESCRIPTION 1: PROFFER AB PARCEL A&B
 2:
 CONSIDERATION: .00 (ASSUMPTION: .00 MAP:
 DEED DESCRIPTION PAID DEED DESCRIPTION PAID
 001 DEEDS 15.00 1-5 SELF 17.00

TENDERED : 13.00
 AMOUNT PAID: 13.00
 CHANGE AMT : .00

IN O.K.

CLERK OF COURT: HELENE S. WARD

DC-18 (9/92)

11 June 19 93
 Received at 1:07 o'clock in the Clerk's Office
 of the City of Williamsburg, and County of
 James City, Va.
 039 St. Tax _____
 213 County Tax _____
 214 City Tax _____
 222 Trans. Fee (City) _____
 212 Trans. Fee (County) _____
 301 Record. Fee 13.00
 301 Plats _____
 038 St. Tax _____
 220 Local Tax (County) _____
 223 Local Tax (City) _____
 Misc. Fee _____
 Total 13.00