

PROFFERS

THESE PROFFERS are made as of this 9th day of October, 1997, by MICHAEL C. BROWN, LTD., a Virginia corporation, and WILLIAM W. and PATRICIA A. STEWART, husband and wife (together with their successors and assigns, the "Owners").

RECITALS

A. Owners are the owners of certain real property (the "Property") in James City County, Virginia more particularly described on Exhibit A attached hereto and made a part hereof. A portion of the Property is owned by Michael C. Brown, Ltd. and a portion is owned by William W. And Patricia A. Stewart. Michael C. Brown, Ltd. has contracted to purchase the portion of the Property now owned by the Stewarts.

B. A portion of the Property is now zoned A-1 and a portion of the Property is now zoned B-1.

C. Owners have applied for a rezoning of the Property from A-1 and B-1 to M-1, Limited Business/Industrial, with proffers (Parcel A), and to B-1, with proffers (Parcel B).

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned M-1 and B-1 for the protection and enhancement of the community and to provide for the high-quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the applied for rezoning, Owners agree that it shall meet and comply with all of the following conditions in developing the Property.

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If the applied for rezoning is not granted by the County, the Proffers shall thereupon be null and void.

CONDITIONS

1. Prohibited Uses. (a) The uses with strike marks through them on the attached copy of Sections 20-410 and 20-411 of the Zoning Ordinance, otherwise permitted in the M-1 zoning district by right or with a special use permit, shall not be permitted on Parcel A of the Property.

(b) The uses with strike marks through them on the attached copy of Sections 20-390 and 20-391 of the Zoning Ordinance, otherwise permitted in the B-1 zoning district by right or with a special use permit, shall not be permitted on Parcel B of the Property.

(c) If the following uses are located on the Property, no more than 25% of the floor area of the use shall be devoted to retail use that is accessory to the principal use and no more than a total of 10,000 square feet of accessory retail floor space for the following uses shall be permitted on the Property:

- carpet store
- dressmaking store
- home appliance sales and service
- bakery

2. Road Improvements. The County shall not be obligated to issue a certificate of occupancy for any buildings on the Property until (i) a left turn lane from west bound Route 60 into the entrance serving the Property and (ii) a right turn lane and

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taper from east bound Route 60 into the entrance serving the Property have been constructed or construction thereof has commenced and completion bonds acceptable to the County Attorney have been posted with the County. All road improvements proffered hereby shall be constructed in accordance with VDOT standards.

3. Landscaping. Owners shall submit with the site plan for development on the Parcel A a landscaping plan (the "Landscape Plan") for review and approval by the Director of Planning. The goals of the Landscaping shall be to provide a buffer emphasizing trees rather than shrubs trees along the Route 60 frontage of the Property and locating trees within the interior of the site to breakup and screen rooftops. Parcel A shall be landscaped in accordance with the approved Landscape Plan.

4. Limited Access. There shall be no direct access from the Property on to Route 60. The entrances to the property shall be from the strip of land located between the Parcel A and Parcel B across Route 60 from Industrial Boulevard as shown on the plat entitled "Plat of Subdivision & Property Line Extinguishment Between the Properties of William W. And Patricia A. Stewart and Michael C. Brown, Ltd." made by AES Consulting Engineers and dated 4/2/97.

5. Design/Colors. The colors of the external finish materials of buildings, other than the roof tops, on Parcel A shall be limited to earth tones that blend with the natural features of the Property as approved by the Director of Planning.

Color samples and descriptions of external finish materials shall be submitted with the site plan for development of Parcel A. There shall be no flat roofs on buildings on Parcel A fronting on Route 60 or the entrance road.

6. CSX Right-of-Way. Owner shall dedicate at the request of the County an easement of up to 15 feet in width on the Property along the CSX rail road right-of-way to accommodate a rail spur line to serve the property to the rear of the Property. The easement area shall continue to count toward meeting applicable open space and buffer requirements.

WITNESS the following signatures and seals:

MICHAEL C. BROWN, LTD.  
By: [Signature]  
Title: PRESIDENT

[Signature]  
WILLIAM W. STEWART

[Signature]  
PATRICIA A. STEWART

STATE OF Virginia  
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 7th day of October, 1997, by Michael C. Brown, as President of MICHAEL C. BROWN, LTD.

[Signature]  
NOTARY PUBLIC

My commission expires:  
June 30, 2000

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STATE OF Virginia  
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this  
8th day of October, 1997, by WILLIAM W. and PATRICIA A.  
STEWART.

Susan C. Kohlman  
NOTARY PUBLIC

My commission expires:

June 30, 2000.

Prepared by:  
Vernon M. Geddy, III, Esquire  
Geddy, Harris & Geddy  
516 South Henry Street  
Williamsburg, VA 23185

Exhibit A

Those certain parcels of land located in the Stonehouse District of James City County shown and set out as Parcel A and Parcel B on the plat entitled "Plat of Subdivision & Property Line Extinguishment Between the Properties of William W. And Patricia A. Stewart and Michael C. Brown, Ltd." made by AES Consulting Engineers and dated 4/2/97.

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DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

**Sec. 20-389. Statement of intent.**

Generally, the General Business District, B-1, covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

(Ord. No. 31A-88, § 20-81, 4-8-85)

**Sec. 20-390. Permitted uses.**

In the General Business District, B-1, structures to be erected or land to be used, shall be for one or more of the following uses:

Adult day care center.

Apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises which is clearly secondary to the commercial use of the property.

~~Automobile service stations, if fuel is sold, then in accordance with section 20-38.~~

Banks and other similar financial institutions.

Business, governmental and professional offices.

Contractor's offices with storage of materials and equipment limited to a fully enclosed building.

Day care and child care centers.

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.~~

Drug stores, barber shops and beauty shops.

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Funeral homes.

Gunsmith (excluding shooting ranges).

Health clubs, exercise clubs, fitness centers.

~~Hotels, motels, tourist homes and convention centers.~~

~~Indoor theaters, museums and public meeting halls.~~

Lodges, civic clubs, fraternal organizations and service clubs.

Lumber and building supply (with storage limited to a fully enclosed building or fully screened from view with a structural barrier approved by the development review committee, located within the building setback area with a maximum height of 12 feet).

Machinery sales and service (with storage and repair limited to a fully enclosed building).

~~Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 20-38.~~

~~Marine or water front businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packing or distribution.~~

Medical clinics or offices.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by section 20-53.

Office supply stores, secretarial and duplicating services.

Parking lots and garages.

Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.

~~Plants and garden supply, hardware and paint, and home appliance sales and service stores.~~

Plumbing and electrical supply (with storage limited to a fully enclosed building).

Printing and publishing.

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement.~~

Radio and television stations and accessory antenna or towers which are 60 feet or less in height.

~~Restaurants, fast food restaurants, tea rooms and taverns.~~

~~Retail food stores, bakeries and fish markets.~~

Schools, fire stations, post offices, houses of worship and libraries.

Telephone exchanges and telephone switching stations gap.



Timbering in accordance with Section 20-43.

Veterinary offices.

Wholesale and warehousing (with storage limited to a fully enclosed building).  
(Ord. No. 31A-88, § 20-82, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96, 31A-174, 1-28-97))

**Sec. 20-391. Uses permitted by special use permit only.**

In the B-1, General Business District, buildings to be erected or the land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

~~Airports.~~

~~Antennas and towers in excess of 60 feet in height.~~

~~Campgrounds.~~

~~Convenience stores, if fuel is sold, then in accordance with section 20-38.~~

Design, research, and evaluating laboratories.

~~Drive-in theaters.~~

Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

~~Flea markets.~~

~~Hospitals and nursing homes.~~

Limousine service.

Nonemergency medical transport.

~~Outdoor centers of amusement.~~

~~Outdoor sport facilities.~~

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.

Railroad facilities including tracks, bridges and, stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track

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and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.

~~Sanitary landfills in accordance with section 20-40, waste disposal and publicly owned solid waste container sites.~~

Taxi service.

~~Theme parks of ten acres or more.~~

Tire, transmission, glass, body and fender and other automotive repair and service (with storage and major repair limited to a fully enclosed building).

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

~~Vehicle rentals.~~

~~Vehicle and trailer sales and services (with major repair limited to a fully enclosed building).~~

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a development, including pumpstations, are permitted generally and shall not require a special use permit.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more. (Ord. No. 31A-88, § 20-82.1, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-133, 11-4-91; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-153, 11-1-93)

#### **Sec. 20-392. Area requirements.**

No area requirements.  
(Ord. No. 31A-88, § 20-83, 4-8-85)

#### **Sec. 20-393. Setback requirements.**

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.  
(Ord. No. 31A-88, § 20-84, 4-8-85)

DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

**Sec. 20-410. Statement of intent.**

The primary purpose of the Limited Business/Industrial District, M-1, is to establish an area where the principal use of land is for limited business/industrial operations which are not ordinarily compatible with residential development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for limited business and industrial purposes;
  - (2) Prohibit residential developments on land reserved for limited business and industrial uses;
  - (3) Permit certain commercial and office uses in a manner which is compatible with limited business and industrial uses; and
  - (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of limited business and industrial uses.
- (Ord. No. 31A-88, § 20-87, 4-8-85; Ord. No. 31A-144, 6-1-92)

**Sec. 20-411. Permitted uses.**

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 20-2.

~~Antennas and towers, self-supported, (not attached to buildings) less than 60 feet in height.~~

Apartment or living quarters for a guard, caretaker or other person employed on the premises which is clearly secondary to the business or industrial use of the property.

~~Automobile sales and service with major repair limited to a fully enclosed building.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 20-38.~~

Banks and other similar financial institutions.

Barber and beauty shops.

~~Book stores.~~

Business, professional and governmental offices.

Cabinet and upholstery shops.

~~Candy stores.~~

Carpet stores.

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Contractor offices, equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

~~Department stores.~~

Dressmaking stores.

~~Drugstores.~~

Dry cleaners and laundries.

Employment services or agencies.

~~Farmer's markets.~~

~~Feed, seed and farm supply stores.~~

Fire stations.

~~Florist stores.~~

~~Furniture stores.~~

~~Furrier stores.~~

~~Greeting card stores.~~

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Home appliance sales and service.

~~Hotels, motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel or convention center for the principal benefit of the resident guest.~~

~~Ice cream stores.~~

~~Indoor sport facilities, health clubs, exercise clubs and fitness centers.~~

Industrial and technical training schools.

Janitorial service establishments.

~~Jewelry sales and service.~~

Laser technology production.

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~~Locksmith and gunsmith shops excluding shooting ranges.~~

Lumber and building supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair limited to a fully enclosed building.

Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture of carpets and carpet yarns.

Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

~~Manufactured home or mobile home sales.~~

~~Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.~~

Medical clinics and offices.

~~Music and record stores.~~

Nonemergency medical transport.

~~Nurseries.~~

Off-street parking as required by section 20-53.

~~Pet stores.~~

~~Picture framing stores.~~

~~Places of worship.~~

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~~Plant and garden supply and hardware and paint stores.~~

Plumbing and electrical supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

~~Post offices.~~

Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 20-55.

~~Publicly owned solid waste container sites.~~

~~Radio and television stations and accessory antenna or towers, self-supported, (not attached to buildings) which are 60 feet or less in height.~~

Research, development and design facilities.

~~Restaurants, tearooms and taverns.~~

~~Retail food stores, bakeries and fish markets.~~

Security service offices.

~~Shoe stores.~~

~~Sporting goods stores.~~

~~Stamp and coin stores.~~

~~Tailor shops.~~

Telephone exchanges and telephone switching stations.

Timbering in accordance with Section 20-43.

Tire, transmission, glass, body and fender and other automotive product sales and service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing.

~~Tobacco and pipe stores.~~

~~Toy stores.~~

~~Travel bureaus.~~

~~Vehicle and trailer sales and service with major repair limited to a fully enclosed building.~~

Veterinary hospitals and kennels.

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Warehouse, storage and distribution centers with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property,

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Water well drilling establishments.

~~Wearing apparel stores.~~

Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

~~Yard goods stores.~~

(Ord. No. 31A-88, § 20-88, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96)

**Sec. 20-412. Uses permitted by special use permit only.**

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

~~Airports and landing fields, heliports, helistops and accessory uses.~~

~~Antennas and towers (not attached to buildings) in excess of 60 feet in height.~~

~~Commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same; if fuel is sold, then in accordance with section 20-38.~~

~~Convenience stores; if fuel is sold, then in accordance with section 20-38.~~

Day care and child care centers.

Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

~~Hospitals.~~

Manufacture and sale of glass and glass products.

Manufacture and storage of ice, including dry ice.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Manufacture of furniture.

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~~Outdoor sports facilities with water and sewer facilities for golf courses as approved by the board of supervisors.~~

Petroleum storage.

Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

~~Resource recovery facilities.~~

~~Sanitary landfills in accordance with section 20-40 and waste disposal facilities.~~

~~Shooting ranges, indoor.~~

~~Solid waste transfer stations.~~

~~Theme parks of ten acres or more.~~

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

~~Truck stops, if fuel is sold, then in accordance with section 20-38.~~

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a development, including pump stations, are permitted generally and shall not require a special use permit.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more. (Ord. No. 31A-88, § 20-88.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-156, 5-16-94)

**Sec. 20-413. Outdoor operations and storage.**

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 20-41.

(Ord. No. 31A-144, 6-1-92)

City of Williamsburg and County of James City, to Wit:  
I, Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the  
21 day of Oct, 1997. This minutes  
was presented with certificate annexed and  
admitted to record at 3:30 o'clock  
Teste: Heione S. Ward, Clerk  
by W. S. Ward  
Deputy Clerk 16

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COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT  
DEED RECEIPT

DATE: 10/21/97 TIME: 15:31:01 ACCOUNT: 830CLR970016818 RECEIPT: 97000027727  
CASHIER: CHB REG: WB04 TYPE: OTHER PAYMENT: FULL PAYMENT  
INSTRUMENT : 970016818 BOOK: PAGE: RECORDED: 10/21/97 AT 15:30  
GRANTOR: MICHAEL C BROWN LTD EX: N LOC: CO  
GRANTEE: JAMES CITY COUNTY VIRGINIA EX: N PCT: 100%

AND ADDRESS :  
RECEIVED OF : JCCO DATE OF DEED: 10/09/97  
CHECK : \$25.00

DESCRIPTION 1: PARCEL A & PARCEL B WILLIAM W & PATRICIA A  
2: STEWART & MICHAEL C BROWN LTD PROFFERS

CONSIDERATION:	.00	ASSUME/VAL:	.00	MAP:	
CODE DESCRIPTION		PAID CODE DESCRIPTION			PAID
301 DEEDS		24.00 145 VSLF			1.00

TENDERED : 25.00  
AMOUNT PAID: 25.00  
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD

DC-18 (3/97)

*See attorney's office*

*[Faint, mostly illegible text and lines at the bottom of the page, possibly representing a signature or stamp area.]*