

**030 024661**

PROFFERS

THESE PROFFERS are made this 29th day of July, 2003 by VMF2, LLC (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia, with an address of 3840 Ironbound Road, Williamsburg, Virginia containing 2.63± acres and being Tax Parcel 3830100023 (the "Property"). The Property is now zoned R-8.

B. Owner has applied to rezone the Property from R-8 to R-2, General Residential District, with proffers.

C. Owner has submitted to the County a master plan entitled "Conceptual Plan, 3840 Ironbound Road" prepared by LandMark Design Group dated 2 June 2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land rezoned to R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the

requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Landscape Buffer.** There shall be a 50 foot wide landscape buffer along the Ironbound Road frontage of the Property generally as shown on the Master Plan. Prior to the County being obligated to grant final subdivision plat approval for the Property, a landscaping plan for the 50 foot wide landscape buffer along the Ironbound Road frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval of the Director of Planning. The approved landscaping plan shall be implemented in the development of the Property and shall be installed or bonded prior to final subdivision plat approval.

2. **Driveways.** There shall be no more than two shared driveways serving the Property generally as shown on the Master Plan. Prior to final approval and recordation of the subdivision plat for the Property, Owner shall submit an instrument to the County Attorney for approval, setting forth provisions (i) creating the necessary easements for the shared driveways, (ii) for the permanent care and maintenance of the shared driveways, and (iii) establishing the method of assessing each lot for its share of the costs of administering, maintaining and replacing

the shared driveways. The approved instrument shall be recorded with the final subdivision plat.

3. **Master Plan.** The Property shall be subdivided and developed generally as shown on the Master Plan, with only minor changes thereto that the Director of Planning determines do not change the basic concept or character of the development.

4. **Cash Contribution for Water System Improvements.** (a) A contribution of \$750.00 for each of the three additional dwelling units developed on the Property shall be made to the County prior to final subdivision plat approval in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for development of alternative water sources or any project related to improvements to the James City Service Authority water system, the need for which is generated by the physical development and operation of the Property.

(b) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraph (a) this Section. The adjustment shall be made

by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

5. **Landscape Preservation Zone**. The area shown on the Master Plan as Landscape Preservation Zone shall remain undisturbed and in its natural state, except, (i) with the prior approval of the Development Review Committee, for utilities and drainage improvements and (ii) with the prior approval of the Director of Planning, dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed.

6. **Additional Landscaping**. Owner shall plant one wax myrtle every twenty feet on center within a five foot strip on

the Property immediately adjacent to the rear lot line of Proposed Lot One and the side lot line of Proposed Lot 2 where such lot lines abut Tax Parcels 3830900039 and 3830900040 as shown on a landscaping plan to be submitted to and approved by the Director of Planning prior to the County being obligated to grant final subdivision plat approval. The approved landscaping plan shall be implemented in the development of the Property and the additional landscaping shall be installed or bonded prior to final subdivision plat approval.

7. **Stormwater Management.** Prior to the County being obligated to grant a land disturbing permit for the Property, Owner shall (i) demonstrate to the satisfaction of the County Attorney that it has the legal right to drain stormwater into the stormwater management system serving the Meadows development for purposes of stormwater management for the Property or (ii) otherwise meet applicable County stormwater management requirements on the Property.

WITNESS the following signature.

VMF2, LLC  
By:   
Title:  -  
Manager

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 30  
day of July, 2003, by Victor Minichiello, as Manager  
of VMF2, LLC on behalf of the company.

Barbara J. Clam  
NOTARY PUBLIC

My commission expires: 1/31/07.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 21 Aug. 03  
at 8:52 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
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\$ _____	\$ _____	\$ _____
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TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Prepared by:  
Vernon M. Geddy, III, Esquire  
Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, VA 23185  
(757) 220-6500

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT  
DEED RECEIPT

DATE: 08/21/03 TIME: 08:52:45 ACCOUNT: 830CLR030024661 RECEIPT: 03000034703  
CASHIER: CRB REG: W104 TYPE: OTHER PAYMENT: FULL PAYMENT  
INSTRUMENT : 030024661 BOOK: PAGE: RECORDED: 08/21/03 AT 08:52  
GRANTOR: VMF2 LLC EX: N LOC: CO  
GRANTEE: JAMES CITY COUNTY EX: N PCT: 100X  
AND ADDRESS :  
RECEIVED OF : JCCO DATE OF DEED: 07/29/03  
CHECK : \$16.00  
DESCRIPTION 1: PROFFERS FOR 2.62 AC IRONFOUND ROAD PAGES: 0  
2: NAMES: 0  
CONSIDERATION: .00 ASSUME/VAL: .00 MAP:  
CODE DESCRIPTION PAID CODE DESCRIPTION PAID  
301 DEEDS 14.50 145 VSLF 1.50  
TENDERED : 16.00  
AMOUNT PAID: 16.00  
CHANGE AMT : .00

CLERK OF COURT: BETSY B. WOOLRIDGE

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