

040 022318

PROFFERS

THESE PROFFERS are made this 1st day of April, 2004 by **SIXTY FOUR ASSOCIATES, INC.**, a Virginia corporation (together with its successors and assigns, the "Owner") and **STONEHOUSE STATION, L.P.**

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, containing approximately 10.167 acres with an address of 7721 Croaker Road, James City County, Virginia and being Tax Parcel 1340100021 (the "Property"). The Property is now zoned B-1.

B. Stonehouse Station, L.P. and/or assigns ("Buyer") has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from B-1 to R-5, Multifamily Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Stonehouse Station at Norge" prepared by Pinnacle Group Engineering, Inc. dated December 22, 2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-5.

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. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

2. **Water Conservation.** Water conservation standards shall be submitted to and approved by the James City Service Authority prior to final site plan approval. Owner shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

3. **Number of Apartments.** The number of apartments on the Property shall not exceed One Hundred and Four (104) dwelling units, as defined in the Zoning Ordinance and all apartments

shall be rental units; however, this maximum density is conditioned on approval of the requisite density bonuses during the site plan review and approval process.

4. Affordable Housing. For a period of fifty (50) years from one year following the date the first apartment on the Property is placed in service, all apartments on the Property shall be occupied by individuals or families whose incomes do not exceed sixty percent (60%) of the area median gross income, all as determined in accordance with the applicable guidelines of the Virginia Housing Development Authority under the Federal Low Income Tax Credit program governed by Section 42 of the Internal Revenue Code. If the income of an occupant(s) of a rental unit on the Property does not exceed the applicable income limit under this Section upon commencement of the occupancy of the unit, the requirements of this Section shall be deemed satisfied for the duration of occupancy of a unit by such occupant(s) regardless of a subsequent change in income.

5. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as 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 Director of Planning 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 III 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 areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards 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 Property and the clearing, grading or construction activities thereon.

6. Environmental Protections. The Owner shall grant, free of charge, to the County a conservation easement with terms consistent with these Proffers over the area generally delineated on the Master Plan as "Natural Open Space to Remain Undisturbed" generally in the locations shown on the Master Plan (the "Conservation Area"). The exact boundaries of the Conservation Area shall be shown on the site plan of the Property. The conservation easement over the Conservation Area shall be granted at the time of final site plan approval by the County. The Conservation Area shall remain undisturbed by Owner and in its natural state, except as set forth below. Dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Conservation Area. With the prior approval of the Environmental Director, such approval not to be unreasonably withheld, utilities may intrude into or cross the Conservation Area and clearing and construction activities necessary therefor may take place in the Conservation Area. Pedestrian paths and trails and fences generally as shown on the Master Plan or included in these Proffers may intrude into or cross the Conservation Area and clearing and construction activities necessary therefor may take place in the Conservation Area. Stormwater BMPs may be located in the Conservation Area.

7. Entrance/Taper. There shall be one entrance into the Property from Route 607 generally in the location shown on the

Master Plan. The entrance shall have a right turn taper from southbound Route 607 into the Property and a left turn lane from northbound Route 607 into the Property. The taper and turn lane proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be either (i) completed or (ii) bonded in form satisfactory to the County Attorney prior to issuance of any certificates of occupancy for dwelling units on the Property.

8. Sidewalks. There shall be sidewalks at least five feet in width installed generally in the locations shown on the Master Plan, which may be installed in phases as residential units are constructed, and along one side of the entrance driveway. Sidewalks shall be installed concurrently with the construction of adjoining parking areas or driveways.

9. Recreation. Owner shall provide the recreational facilities listed below as shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 60 dwelling units on the Property:

- Two passive recreation areas of at least a total of 0.50 acre with picnic tables and barbeques.
- Clubhouse of at least 1,800 square feet.
- One swimming pool with a surface area of at least 1,200 square feet.
- Tot lot of 0.17 acre.

- A mulched multi-purpose trail at least six feet in width generally as shown on the Master Plan. The trails shall be located to avoid mature or specimen trees where reasonably feasible. The design and exact location of the trail shall be subject to the approval of the Director of Planning.

10. Private Driveways. All driveways (as hereinafter defined) on the Property shall be private. "Driveways" shall mean any interior roadway or lane designed for vehicular travel and connecting the parking areas on the Property to Route 607.

11. Sewer Service. (a) The County shall not be obligated to issue any building permits for structures on the Property until either: (i) construction of proposed Colonial Heritage Regional Lift Station 9-9 and its associated cross country gravity sewer lines and the removal of Lift Stations 6-3 and 6-5 has commenced; or (ii) if Lift Station 9-9 is not constructed and this project connects to a JCSA force main, a detailed capacity analysis of existing Lift Station 6-5 accounting for flows reserved by the Colonial Heritage project and identifying the upgrades necessary to serve the development of the Property is submitted to and approved by the JCSA and Owner makes the necessary upgrades to existing Lift Station 6-5 at its expense or (iii) the Owner obtains permission from CSX Railroad to cross the CSX right-of-way to the north and, at its expense including any associated perpetual railroad easement costs, ties into the

existing Hampton Roads Sanitation District ("HRSD") force main east of the railroad, at its expense.

(b) A contribution of \$385.00 for each dwelling unit on the Property shall be made prior to final site plan approval to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property unless Owner, at its expense, upgrades an existing Lift Station 6-5 as provided in Section 11(a)(ii) above to serve the Property or ties into the existing HRSD force main east of the CSX railroad as provided in Section 11(a)(iii) above to serve the Property in which case no additional contribution shall be required. The JCSA may use these funds for development of sewer system improvements or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

12. Architectural Elevations. The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the proposed typical elevations for the project submitted on January 17, 2004 as a part of the Community Impact Statement as determined by the Director of Planning.

13. Croaker Road Supplemental Landscaping. In areas where existing trees are cleared in order to expand the existing pond on the Property for use as a stormwater BMP, supplemental

landscaping consisting of at least 125% of Zoning Ordinance requirements shall be installed to create a visual screen that partially but not completely blocks the view of the development from Route 607 in accordance with a plan approved by the Director of Planning prior to final approval of development plans.

14. Perimeter Fence. There shall be a six foot privacy fence installed in the locations shown on the Master Plan, a portion of which shall be vinyl and a portion of which shall be chainlink as shown on the Master Plan, at the time of construction of the adjacent trail. The color and final design of the fence shall be subject to the review and approval of the Director of Planning.

15. Severability. Each condition hereof, or portion thereof, is severable. The invalidity of any particular condition, or portion thereof, shall not affect the validity of the remaining conditions, or portion thereof.

WITNESS the following signatures.

SIXTY FOUR ASSOCIATES, INC.

By: Mary Kempton
Title: President

STONEHOUSE STATION, L.P.

By: Stonehouse Station GP,
L.L.C. General Partner
By: [Signature]
Title: authorized agent

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

The foregoing instrument was acknowledged this 1st
day of April, 2004, by Mary Kempton, as
President of **SIXTY FOUR ASSOCIATES, INC.** on behalf of the
corporation.

Susan J. Walter
NOTARY PUBLIC

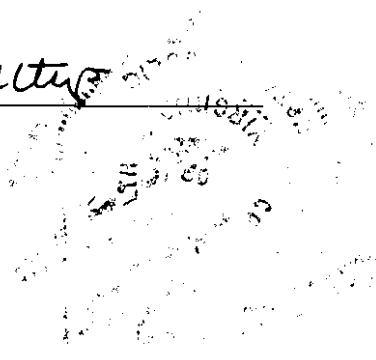
My commission expires: 06/30/07.

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

The foregoing instrument was acknowledged this 1st
day of April, 2004, by Louise Roland, as
_____ of **STONEHOUSE STATION, L.P.** on behalf of the
partnership.

Susan J. Walter
NOTARY PUBLIC

My commission expires: 06/30/07.



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 1 Sept. 04
at 11:21 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
_____	_____	_____

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

EP

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 09/01/04 TIME: 11:28:29 ACCOUNT: B30CLR040022318 RECEIPT: 04000032869
CASHIER: CHR REG: WD45 TYPE: OTHER PAYMENT: FULL PAYMENT
INSTRUMENT : 040022318 BOOK: PAGE: RECORDED: 09/01/04 AT 11:21
GRANTOR: SIXTY FOUR ASSOCIATES INC EX: N LDC: 00
GRANTEE: STONEHOUSE STATION L P EX: N PCT: 100%

AND ADDRESS : =
RECEIVED OF : JCCO DATE OF DEED: 04/01/04

CHECK : \$16.00
DESCRIPTION 1: 10.167 AC CROAKER ROAD PAGES: 10
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