

PROFFERS

VILLAS AT FIVE FORKS

May, 2005

PROFFERS

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VILLAS AT FIVE FORKS PROFFERS

THESE PROFFERS are made as of this 18th day of April, 2005, by **VILLA DEVELOPMENT, LLC**, a Virginia limited liability company, **SPENCER BROTHERS BUILDERS, INC.**, a Virginia corporation, **GEORGE W. PATTERSON**, and **RICKY A. PATTERSON** (collectively, together with their successors and assigns, "Owner") (index each as a "grantor"), and the **COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property (the "Property") located in James City County, Virginia, being more particularly described on **EXHIBIT A** attached hereto and made a part hereof.

R-2. Owner has filed a rezoning application, a master plan application, and a special use permit application (collectively, the "Application") requesting a change of zoning for the Property. The Application has been designated by the County as Case Numbers Z-15-04, MP-11-04, and SUP-34-04.

R-3. In the Application, Owner has requested that the zoning of the Property be changed from R8-Rural Residential to R2-General Residential with Cluster Overlay with proffers as described by Section 24-251 *et seq.* and Section 24-538 *et seq.* of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance"), Section 24-1 *et seq.* of the County Code, in order to permit the construction of clustered "Residential Units" (hereinafter defined) at a density of three (3) "Residential Units" per "Gross Acre" (hereinafter defined). The term gross acre or gross acreage ("Gross Acre" or Gross Acreage") shall mean the total land area of a parcel, including but not limited to stream beds, areas subject to flooding, marsh and areas

with slopes exceeding twenty-five percent (25%) gradient, within the outermost boundary lines of the parcel as established by existing property lines or future subdivisions.

R-4. A conceptual plan of development (“Master Plan”) entitled “Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC James City County, Virginia”, dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Master Plan is on file in the office of the County Planning Director.

R-5. A community impact statement (“Community Impact Statement”) entitled “Community Impact Study for the Master Plan Prepared for Villas at Five Forks”, dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Community Impact Statement is on file in the office of the County Planning Director.

R-6. A traffic impact study (“Traffic Impact Study”) entitled “The Villas at Jamestown Traffic Impact Study James City County, Virginia” dated November 10, 2004, prepared by URS Corporation, has been submitted to the County Planning Director and the Virginia Department of Transportation (“VDOT”) for review in connection with the Application. The Traffic Study is on file in the office of the County Planning Director.

R-7. An Environmental Inventory (“Environmental Inventory”) was conducted on the Property as detailed in that certain report entitled “Report of Findings Small Whorled Pogonia (Isotria Medeoloides (Pursh.) Raf.) James City County, Virginia”, dated July 22, 2004, prepared by Alan J. Neumann, Ph.D. The Environmental Inventory identified no small whorled pogonias on the Property and did not identify any potential habitat for the same within the developable areas of the Property. The Environmental Inventory has been submitted to, reviewed and

approved by the County Planning Director, and is on file in the office of the County Planning Director.

R-8. Photographs and graphic examples of architectural elevations proposed for construction on the Property ("Architecture Sheet") entitled "Villas at Five Forks Sample Architecture Sheet" dated March 22, 2005, prepared by Villa Development, LLC has been submitted to the County Planning Director for review in connection with the Application. The Architecture Sheet is on file in the office of the County Planning Director.

R-9. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296, *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

R-10. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the County of the Application, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code and Section 24-16 of the Zoning Ordinance, Owner agrees that it shall meet and comply with the following conditions and proffers as indicated in developing the Property.

PROFFERS:

1. Plan of Development. The Property shall be developed generally in accordance with the Master Plan with only minor changes thereto that the County Development Review Committee determines do not change the basic concept or character of the development. The Master Plan is a conceptual plan for proposed development on the Property and provides only for

the general location of buildings, proposed streets, parking, drainage facilities, areas of open space, buffer areas and recreation facilities. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

2. Condominium Owners Association. A condominium owners' association ("Owners Association") shall be established in accordance with the Virginia Property Owners' Association Act, § 55-508 *et seq.* of the Virginia Code, in which all owners of Residential Units within the portions of the Property currently lying inside the development area shall be members by virtue of their property ownership. The articles of incorporation or organization and bylaws of the Owners Association and declaration of restrictive covenants enforceable by the Owners Association (collectively, the "Governing Documents") shall be submitted to and reviewed by the County Attorney for consistency with this proffer. The Governing Documents shall require or provide for, *inter alia*, the following:

(a) The Owners Association shall adopt an annual maintenance budget and assess all of its members for the maintenance of the properties owned or maintained by the Owners Association.

(b) The Owners Association shall be granted the right to adopt and enforce rules and regulations with respect to the use of common areas and with respect to other areas of responsibility of the Owners Association.

(c) The Owners Association shall have the power to assess its members in order to provide for the budget described above, and shall further have the power to levy special assessments, and to have a lien upon property owned by its members for collection and enforcement of such assessments, and for the cost of remedying violations of the rules and regulations established by the Owners Association.

(d) The Owners Association shall implement and enforce the water conservation standards proffered herein.

(e) Prior to the issuance of a Certificate of Occupancy for the ninety-second (92nd) Residential Unit constructed on the Property, the Owners Association shall develop and implement a nutrient management plan ("Nutrient Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into Powhatan Creek and its tributaries. The Nutrient Management plan shall include measures necessary to manage yearly nutrient application rates to turf such that the application of nitrogen does not exceed 75 pounds per year per acre. The Nutrient Management Plan shall be prepared by a landscape architect licensed to practice in Virginia or submitted for review to the County Environmental Division for conformity with this proffer. The Nutrient Management Plan shall include terms permitting enforcement by either the Owners Association or the County.

3. Parks and Recreation. In accordance with the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof, the following recreation facilities ("Recreation Facilities") shall be constructed/installed on the Property:

(a) A minimum of .546 acres of community space as shown generally on the Master Plan;

(b) A minimum of ten thousand (10,000) square feet of recreation area comprised of a pool, real or artificial turf putting green, picnic area, gazebo, horseshoe pit, and clubhouse with exercise equipment at locations to be shown on a site plan for development of the Property; and

(c) Eight (8) foot wide, pervious surface pedestrian/jogging trail(s) a minimum of .34 miles in length at locations to be shown on a site plan for development of the Property.

The design and location of the Recreation Facilities shall be subject to the review of the County Planning Director for consistency with these Proffers. The Recreation Facilities shall be open to all residents of the development, and maintained and regulated by the Owners Association. The Recreation Facilities shall be completed or guaranteed (“Guaranteed”) in accordance with Section 15.2-2299 of the Virginia Code (or any successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a “Guarantee” or “Guarantees”) prior to final site plan or subdivision plan approval for residential construction on the Property exceeding fifty (50) Residential Units.

4. Transportation Improvements.

(a) Owner shall construct/install the following entrance and road improvements (“Transportation Improvements”) to Virginia Department of Transportation (“VDOT”) standards and specifications for Ingram Road (as designated in the Traffic Study):

(1) A right turn taper for the southbound Ironbound Road approach to Ingram Road; and

(2) Improvement of Ingram Road from Ironbound Road to the entrance to the Property to provide (i) a twenty-four (24) to twenty-eight (28) feet wide roadway, curb and gutter as measured from the face of curb, (ii) sidewalk four (4) foot wide along one side of Ingram Road; and (iii) street trees along both sides of Ingram Road in accordance with the County’s Streetscape Guidelines Policy, a copy of which is attached hereto as **EXHIBIT B**, except that no street trees shall be required on the side of Ingram Road adjacent to the property located at 220 Ingram Road (County Tax Parcel I.D. # 47010100018) and 224 Ingram Road (County Tax Parcel I.D. # 47010100020).

(b) The Transportation Improvements shall be completed or Guaranteed prior to issuance of a building permit for the twenty-fifth (25th) Residential Unit on the Property.

(c) Prior to final site plan or subdivision plan approval for development of the Property:

(1) Owner shall make a contribution to the County in the amount of One Thousand Eight Hundred Thirty-Five Dollars (\$1,835.00), determined by the Owner utilizing the formula developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the "Primary Principles for the Five Forks Area of James City County" adopted by the County Board of Supervisors on September 28, 2004 (the "Primary Principles").

(2) Owner shall make a contribution to the County in the amount of One Thousand Five Hundred Dollars (\$1,500.00), determined by the Owner utilizing the cost estimates developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, representing its share of the cost of pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway recommended in the Primary Principles, and in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the Primary Principles.

(3) Owner shall make a contribution to the County in the amount of Three Thousand Dollars (\$3,000.00), determined by the Owner utilizing the cost estimates developed by AES Consulting Engineers, for the County's construction of a bike lane along the right turn taper proffered above. The County shall use these monies to construct a bike lane along the right turn taper for the southbound Ironbound Road approach to Ingram Road.

(d) All streets, internal to the Property, may be private, but shall conform to VDOT construction standards. The construction of all private streets shall be certified by the

County Engineer for conformance with these Proffers prior to issuance of a final Certificate of Occupancy for the eightieth (80th) Residential Unit on the Property.

5. Contribution for Public Facilities.

(a) Water. A contribution shall be made to the James City Service Authority ("JCSA") in the amount of Seven Hundred Ninety-Six Dollars (\$796.00), for each individual residential dwelling unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Water Contribution"). JCSA shall make these monies available for development of water supply alternatives, the need for which is deemed by JCSA to be generated, in whole or in part, by the development of the Property.

(b) Recreation. A recreation contribution shall be made to the County in the amount of Seventy-Four Dollars (\$74.00), for each Residential Unit developed on the Property (the "Per Unit Recreation Contribution"). The County shall make these monies available for development of recreational facilities, the need for which is deemed by the County to be generated by the development of the Property.

(c) Library Facilities. A contribution shall be made to the County in the amount of Sixty Dollars (\$60.00) for each Residential Unit developed on the Property (the "Per Unit Library Contribution"). The County shall make these monies available for the development of library space, the need for which is deemed by the County to be generated by the development of the Property.

(d) Fire/EMS Facilities. A contribution shall be made to the County in the amount of Seventy Dollars (\$70.00) for each Residential Unit developed on the Property (the "Per Unit Fire/EMS Contribution"). The County shall make these monies available for the acquisition of fire and rescue facilities and equipment, the need for which is deemed by the County to be generated by the development of the Property.

(e) General Community Impacts. A contribution shall be made to the County in the amount of Three Hundred Fifty Dollars (\$350.00) for each Residential Unit developed on the Property (the "Per Unit Community Contribution"). The County shall make these monies available for mitigation of impacts on the County resulting from the physical development and operation of the Property.

(f) The Per Unit Water Contribution, Per Unit Recreation Contribution, Per Unit Library Contribution, Per Unit Fire/EMS Contribution, and Per Unit Community Contribution (collectively, the "Per Unit Contributions") shall be payable for each of the Residential Units to be developed within the Property at the time of final site plan or subdivision plan approval for the particular Residential Unit or grouping of Residential Units then to be developed or at such other time as may be approved by the County Planning Director.

6. Archaeological Study. A Phase I Archaeological Study for the Property shall be submitted to the County Planning Director for his review and approval prior to issuance of a land disturbing permit for any soil disturbing activity on the Property. A treatment plan shall be submitted to, and approved by, the County Planning Director for all sites in the Phase I study that are 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 County Planning Director and a treatment plan for said sites shall be submitted to, and approved by, the County Planning Director 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 County Planning Director prior to land disturbance within the study area. 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 site, and the clearing, grading or construction activities thereon.

7. Age Restriction. Occupancy of Residential Units developed upon the Property shall be age restricted to persons fifty-five (55) years of age or older in accordance with the following parameters:

(a) It is the intent of Owner that Residential Units shall be occupied by persons fifty-five (55) years of age or older and that no Residential Unit shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen (18) shall be entitled to occupy Residential Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph (b) below; and

(b) Each Residential Unit within the Property shall have a master bedroom and bath on the main floor of such unit and shall be developed in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. §3601 *et seq.* and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. §3601 *et seq.*; the Virginia Fair Housing Law Va. Code §36-96.1 *et seq.*; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist.

Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in the Governing Documents of the Owners Association.

8. Water Conservation. The Owners Association shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority ("JCSA"). The standards shall address such water conservation measures as limitations on 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. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by JCSA for general consistency with this proffer prior to final approval of the first site plan or subdivision plan for development of the Property or any portion thereof.

9. Streetscapes and Sidewalks. All site plans and/or subdivision plans for development within the Property shall:

(a) Comply with the County's Streetscape Guidelines Policy, a copy of which is attached hereto as **EXHIBIT B**; and

(b) Provide for a sidewalk at least five (5) feet in width on at least one (1) side of all internal streets.

Sidewalks along internal streets shall be constructed concurrently with the construction of adjacent Residential Units.

10. Limitation on Number of Residential Units. There shall be no more than 92 Residential Units constructed on the Property.

11. Building Setback. The Master Plan identifies an “ESG 100’ RPA Buffer” (the “Buffer”) on the Property. Except for that building shown on the Master Plan as “16”, no building shall be constructed on the Property within fifteen (15) feet of the Buffer.

12. Architecture. The architecture and exterior elevations of the Residential Units constructed on the Property shall be generally consistent with that shown on the Architecture Sheet, and shall be subject to the review of the County Planning Director for consistency with these Proffers.

13. Greenway Trail Easement. Prior to final site plan or subdivision plan approval for development of Residential Units on the Property, Owner shall grant the County an easement for a trail through the Property in the general location shown on the Master Plan as “James City County Greenway Trail” subject to any existing easements and related easement rights of third parties. The easement shall provide, *inter alia*, that County shall be entitled to construct a pervious surface trail with a minimum ten (10) foot wide travel path (which will be open to the general public during daylight hours only), any necessary bridges, and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The easement shall be located inside the resource protection area on the Property.

14. Natural Resource Inventory. Owner shall cause a survey to be conducted of the Property for Virginia least trillium. Such survey shall be submitted to the County Planning Director for review and approval prior to land disturbance activities on the Property. If the survey confirms that Virginia least trillium either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the County Planning Director for the affected area. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the County Planning

Director, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.

15. Consumer Price Index Adjustment. All cash contributions contained in these Proffers (collectively, the "Proffered Amounts"), to include but not be limited to Per Unit Contributions, shall be adjusted annually beginning January 1, 2006 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 Proffered Amounts be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the Proffered Amounts 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 Proffered Amounts shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the 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 Proffered Amounts to approximate the rate of annual inflation in the County.

16. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

17. Severability. In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the

Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, subparagraph, 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, subparagraph, section or provision hereof.

18. Headings. All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.


19. Conflicts. In the event that there is any conflict between these proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of supervisors and the Courts as otherwise provided by law.

20. Void if Application not Approved. In the event that the Application is not approved by the County, these Proffers and the Master Plan shall be null and void.

21. Incorporation of Recitals. The Recitals set forth above shall be included and read as a part of these Proffers and are incorporated herein by reference.

WITNESS the following signatures, thereunto duly authorized:

VILLA DEVELOPMENT, LLC

By: 
Cowles M. Spencer, Member

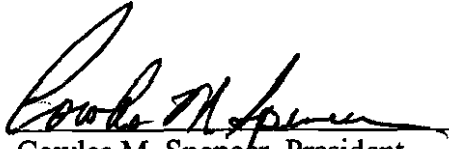
COMMONWEALTH OF VIRGINIA
~~CITY~~/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15th day of June, 2005 by Cowles M. Spencer as Member of Villa Development, LLC, a Virginia limited liability company, on its behalf.


NOTARY PUBLIC

My commission expires: 6-30-05

SPENCER BROTHERS BUILDERS, INC.

By: 
Cowles M. Spencer, President

COMMONWEALTH OF VIRGINIA
~~CITY~~/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Cowles M. Spencer as President of Spencer Brothers Builders, Inc., a Virginia corporation, on its behalf.


NOTARY PUBLIC

My commission expires: 6-30-05


GEORGE W. PATTERSON

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by George W. Patterson.




NOTARY PUBLIC

My commission expires: 6-30-05


RICKY A. PATTERSON

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Ricky A. Patterson.


NOTARY PUBLIC

My commission expires: 6-30-05

#6061638 v7 - Villa Development/Jamestown Villas/Proffers

Exhibit A

Parcel 1

Address: 248 Ingram Road

Parcel ID: 4620100015

All that certain tract or parcel of land situate in James City County, Virginia, containing 24.30 acres as shown on that certain plat entitle, "Map showing property containing 24.30 – Acres situated north of Route No. 5 and being the extreme Eastern portion of the Green Spring Plantation James City County, VA, standing in the name of the Pine Dell Land Co., Inc." dated May 20, 1942, and made by J. Temple Waddill, Certified Civil Engineer, duly recorded in the Clerk's Office of the City of Williamsburg and County of James City, Virginia, in Plat Book 14 at Page 99, to which reference is here made.

Being the same property conveyed to Grantors hereunder by deed of gift dated May 23, 1989, from Gertrude M. Griesenauer (formerly Gertrude M. Thompson) widow, which deed was recorded in the aforesaid Clerk's Office in Deed Book 436, page 324.

Parcel 2

Address: 238 Ingram Road

Parcel ID: 4620100011

I

All that certain piece, parcel or lot of land, situate, lying and being in Jamestown District, James City County, Virginia, more Particularly bounded and described as follows: Beginning at a chopped white oak on the north side of the road leading from Williamsburg to Greenspring, said chopped white oak being on the line dividing the property hereby conveyed from that property now or formerly known as the estate of Charlie Wynne; thence running northerly along the dividing line between the property hereby conveyed and the property now or formerly known as the estate of Charlie Wynne 70 yards to a point marked by an iron rod driven in the ground; thence in an easterly direction in a straight line 70 yards to another point marked by an iron rod driven in the ground; thence in a southerly direction in a straight line 70 yards to a point marked by another iron rod driven in the ground on the northern line of the Williamsburg-Greenspring road; thence westerly along the northern line of the Williamsburg-Greenspring road 70 yards to the point of the beginning.

II

All that certain piece or parcel of land situate in Jamestown District, James City County, Virginia, on the north side of the road leading from Five Forks to Barretts Ferry and described as follows: Beginning on the North side of said road, where the eastern boundary line of C. V. Mahone's property intersects the same, thence along said road in an easterly direction the distance of 10 yards to an iron stake, thence in a northerly direction the distance of 70 yards, more or less, to an iron stake, thence in a westerly direction the distance of 45 yards to an iron stake, the corner of C. V. Mahone, thence in a southeasterly direction along the aforesaid boundary line of C. V. Mahone the distance of 70 yards to an iron stake, the point of beginning.

III

All that certain piece or parcel of land containing three acres, more or less, situate in Jamestown District, James City County, Virginia, near Five Forks and bounded and described as follows: Beginning at an iron stake at the northwest corner of a one acre parcel owned by C. V. Mahone, on the eastern boundary of the land of Pine Dell Land Corporation, at a point seventy (70) yards north of the old Green Spring Road, a

portion of which road had been abandoned, thence in a northwesterly direction along the Pine Dell boundary line the distance of 108 yards to an iron stake, thence in an easterly direction of the distance of 169 yards to an iron stake, thence in a southerly direction the distance of 108 yards to an iron stake at the corner between the and hereby conveyed and that of Elsie E. Mahone; thence in a westerly direction along the northern boundary line of the land of Elsie E. Mahone and C. V. Mahone the distance of 115 yards to an iron stake, being the point of beginning.

Being the same property as that conveyed unto Andrew F. Rumfelt and Mary Ethel Rumfelt, husband and wife, by deed dated October 16, 1962 from Katie Lou Mahone, single, and recorded in the aforesaid Clerk's Office in Deed Book 87, page 493. The said Mary Ethel Rumfelt having departed this life on June 8, 1994.

Parcel 3

Address: 230 Ingram Road

Parcel ID: 4620100010

All that lot of land, .936 acres, located in Berkley District, James City County, Virginia, being a portion of that property conveyed to George R. Patterson and Mildred J. Patterson from Dallas Onley, widower, by Deed dated June 30, 1958, recorded in James City County Clerk's Office in Deed Book 65, page 281, and being more specifically described by the survey plat thereof, entitled "Plat of That Part of Property of George R. and Mildred J. Patterson to be conveyed to George W. and Lanora A. Patterson" dated August 1968, made by Stephen Stephens, C.L.S., a copy of which is duly of record in Deed Book 117, at page 613.

Being the same real estate conveyed to Villa Development, LLC, by Deed from George W. Patterson dated May 7, 2004, recorded May 14, 2004 in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 040012780.

Parcel 4

Address: 226 Ingram Road

Parcel ID: 4710100019

All the unsold portion of a tract or parcel of land, with the building and improvements thereon, situate near Five Forks, in Jamestown District, James City County, Virginia, on the westerly side of the highway leading from Five Forks to Casey's Corner, estimated to contain two (2) acres, but sold in gross and not by the acre.

Less and except a parcel consisting of .936 acres conveyed to George W. Patterson and Lanora A. Patterson, husband and wife, recorded September 5, 1968 in Deed Book 117, at page 612.

Being a portion of the same real estate conveyed to George R. Patterson and Mildred J. Patterson, as tenants by the entirety with the right of survivorship as at common law, by deed from Dallas Onley, widower, dated June 30, 1958, recorded in the Clerk's Office, Circuit Court, James City County, Virginia in Deed Book 65, page 281. The said Mildred J. Patterson died December 14, 1977, thereby vesting fee simple title in George R. Patterson by operation of law. The said George R. Patterson died testate on April 20, 1988 and by his last will and testament probated April 26, 1988 in Will Book 30, page 270, he devised said real estate to George W. Patterson and Ricky Allan Patterson.

Exhibit B

RESOLUTION

STREETSCAPE GUIDELINES POLICY REVISION

WHEREAS, the Streetscape Guidelines Policy was originally created to preserve or establish street trees in new residential areas of James City County during the special use permit and rezoning process; and

WHEREAS, the 2003 Comprehensive Plan identified the need for a revision of the Streetscape Guidelines Policy to allow flexibility with the choice of plant material and location of street trees due to site constraints such as utilities; and

WHEREAS, the Policy Committee recommended endorsement of the Streetscape Guidelines Policy revision to the Planning Commission on February 17, 2004; and

WHEREAS, the James City County Planning Commission endorsed the revisions to the Streetscape Guidelines Policy on March 1, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

STREETSCAPE GUIDELINES POLICY

Goal

To preserve and/or establish tree canopies along residential streets, subdivision entrances, and common areas. Plant new trees appropriate to the climate and soils of James City County, enhancing existing healthy, durable, and mature trees in these areas.

Tree preservation/planting shall be accomplished such that, within 20 years growing time, the minimum tree canopy over residential streets shall be 20%. The environmental and aesthetic benefits from tree planting enhance the quality, character, and health of the community.

Guidelines for Street Trees

In all residential subdivisions, deciduous shade trees and/or shrubs shall be planted along all rights-of-way within and abutting the subdivision. Street tree plans shall be prepared by a Virginia Landscape Architect and shall be reviewed and approved by the Director of Planning. The street tree plans shall adhere to the following guidelines:

- Trees and/or shrubs shall be located within a minimum five-foot landscape preservation easement contiguous to such right-of-way. Every effort should be made to avoid conflict between the landscape preservation easement and the utilities during the design phase of the subdivision. If a conflict cannot be avoided, the landscape preservation easement shall be placed as close to the right-of-way as the design allows.

- The easement shall contain, at a minimum, one tree per an average 40 linear feet of street on each side of the street or one shrub per an average 20 linear feet of street on each side of the street. The mix of trees and shrubs shall be approved by the Planning Director.
- Trees and/or shrubs shall be spaced no greater than 75 feet apart along 60% of the street frontage.
- All trees that are planted shall be native species or street trees commonly planted in the James City County area that are adapted to the soils and climate. At the time of planting, trees shall have a minimum caliper of 1 1/2". Shrubs are to be a minimum of 22" in height at the time of planting. Please refer to the Table 1 for street tree suggestions. Although plant material is not restricted to the list provided, any trees or shrubs that are invasive or require extensive maintenance for disease or pest control will not be approved.
- Existing trees which are within 20 feet of the edge of the right-of-way, and which are protected and preserved in accordance with the requirements of the Zoning Ordinance, may be used to satisfy this planting requirement if approved by the Planning Director. Canopies that are a mixture of existing and planted trees or shrubs shall have similar or complementary branch characteristics.
- Plantings are to occur between November 1 and March 31 while the plant material is dormant to reduce the stress of transplanting. Prior to final site plan approval, the plantings and installation are to be bonded.

Upon completion of installation, a Virginia Landscape Architect shall verify, in writing, that the specified trees or shrubs were installed in the locations shown on the plans. A signed letter from the Landscape Architect shall be submitted to the Planning Division at the time of verification.

Guidelines for Entrances and Common Areas

Entrances shall be landscaped with native and/or climate and soil appropriate trees, shrubs, grasses, and ground covers except where the existing mature trees have been preserved or protected in such areas. Plant material to be used in these areas shall be specified from Table 2 or, if not on the list, meet the above criteria. Unless the Director of Planning or his designee determines that such landscape treatment is unnecessary, impractical, or in conflict with drainage, utilities, sight distance, or other required features of the subdivision, the cleared portions of the entrances and associated common areas in a residential subdivision shall be landscaped with a minimum of 1 tree and 3 shrubs per 400 square feet exclusive of roadways, sidewalks, recreation facilities or other impervious areas.

In wooded areas, entrance features including walls, fences and signs shall be minimized to reduce the amount of clearing to accommodate entrance roads. In no case shall clearing for entrance roads and abutting utility easements exceed 60 feet in width.

Table 1. Suggested Street Trees

Acer campestre, Hedge Maple
Acer rubrum, Red Maple
Fraxinus pennsylvanica, Green Ash (seedless cultivars)
Ginkgo biloba, Maidenhair Tree (male cultivars)
Nyssa sylvatica, Black Tupelo
Ostrya virginiana, American Hophornbeam
Quercus phellos, Willow Oak
Quercus shumardii, Shumard Oak
Ulmus parvifolia, Lacebark Elm
Zelkova serrata, Japanese Zelkova

This list is suggested. Trees used are not required to be from this list.

Table 2. Suggested Plant Material for Entrances and Common Areas

Trees

Betula nigra, River Birch
Carya ovata, Shagbark Hickory
Cercis Canadensis, Eastern Redbud
Cornus kousa, Kousa Dogwood
Juniverus virginiana, Eastern Redcedar
Pinus taeda, Loblolly Pine

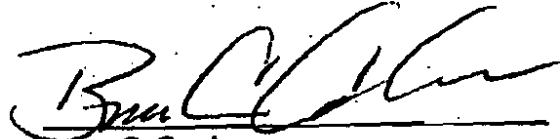
Shrubs

Hamamelis virginiana, Witch Hazel
Ilex opaca, Inkberry
Ilex vomitoria, Yaupon Holly
Myrica cerifera, Wax Myrtle
Viburnum dentatum, Arrowwood Viburnum

Groundcovers and other Herbaceous Plants

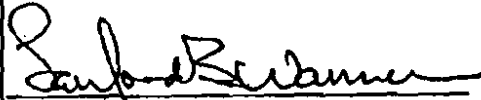
Calamagrostis acutiflora, Feather Reed Grass
Ceratostigma plumbaginoides, Plumbago
Coreopsis verticillata, Threadleaf Coreopsis
Deschampsia caespitosa, Tufted Hair Grass
Festuca cinerea, Blue Fescue
Helictotrichon sempervirens, Blue Oat Grass
Hemerocalis, Daylily
Hypericum calycinum, St. Johnswort
Liriope muscari, Blue Lily-turf
Miscanthus sinensis, Japanese Silver Grass
Panicum virgatum, Switch Grass
Potentilla fruticosa, Bush Cinquefoil

This list is suggested. Plants used are not required to be from this list.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Warner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
BRADSHAW	AYE
HARRISON	AYE
BROWN	AYE
MCLENNON	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of April, 2004.

streetscape.res