

050027419

PROFFERS

THESE PROFFERS are made this ~~28th~~ day of October, 2005 by **OSCAR B. HARRELL** and **ELVA W. HARRELL**, husband and wife (together with their respective successors in title and assigns, the "Owners").

RECITALS

A. Owners are the owners of those certain parcels or pieces of land located in James City County, Virginia, with an address of 7414 Richmond Road and being Tax Parcel 23202D0001A and being more particularly described on Exhibit A hereto (the "Property").

B. The Property is now zoned B-1 and A-1. The Owners have applied to rezone the Property from B-1 and A-1 to B-1, with proffers.

C. Owners have submitted to the County (i) a plan entitled "Rezoning Plan, Williamsburg Wicker & Rattan Shoppe Center" prepared by AES Consulting Engineers and dated April 25, 2005 (the "Rezoning Plan"), (ii) a plan entitled "Conceptual Landscape Plan, Williamsburg Wicker & Rattan Shoppe Center" prepared by AES Consulting Engineers and dated July 7, 2005 (the "Landscape Plan") and (iii) architectural elevations prepared by Paul White and submitted herewith (the "Architectural Elevations").

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to Land zoned B-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they 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. **Rezoning Plan.** The Property shall be developed generally in accordance with the Rezoning 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.** The Owners shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently 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. Irrigation wells shall be shallow wells of 100 feet or less. The standards shall be approved by the James City Service Authority prior to final site plan approval.

3. Prohibited Uses. The following uses, otherwise permitted by right in the B-1 district, shall not be permitted on the Property:

- adult daycare centers;
- automobile service stations;
- fire stations;
- health clubs, exercise clubs, fitness centers;
- hotels, motels, tourist homes and convention centers;
- indoor sports facilities
- indoor theaters
- marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same;
- marine or waterfront businesses;
- 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 or tower mounted wireless communication facilities, which are 60 feet or less in height; and
- fast food restaurants.

4. Architectural Review. Prior to the County being obligated to grant final development plan approval, there shall be prepared and submitted to the Director of Planning for approval final architectural plans for the Director of Planning to review and approve for general consistency with the Architectural Elevations. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Decisions of the

Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Completed buildings shall be consistent with the approved plans. No building on the Property shall exceed thirty-five (35) feet in height.

5. **Landscape Plans.** Prior to final site plan approval, the Owners shall have submitted to the Director of Planning a landscaping plan for the entire Property for the Director of Planning to review and approve for general consistency with the Landscape Plan and landscape ordinance requirements.

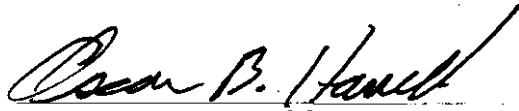
6. **Henry Home.** Owner shall retain the Henry Home house located on the Property.

7. **Cash Contributions to James City Service Authority.** A contribution for each non-residential building on the Property in an amount equal to \$1.53 per gallon per day of average daily sanitary sewage flow as determined by the James City Service Authority ("JCSA") based on the use of the building(s) shall be made to the JCSA at the time of final site plan approval in order to mitigate impacts on the County from the physical development and operation of the Property.

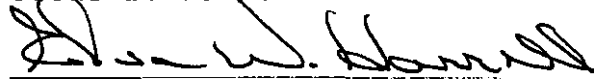
8. **Screening.** All dumpsters and heating and cooling units, whether ground or roof mounted, shall be screened by landscaping, fencing, walls or other alternative features providing adequate screening as determined by the Director of Planning at the time of final site plan approval

9. Peninsula Street Sidewalk. Owner, in its sole discretion, shall either (i) construct approximately 437 linear feet of sidewalk along the Peninsula Street frontage of the Property or (ii) in lieu thereof, make a cash contribution to the County for use by the County for sidewalk capital improvements in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

WITNESS the following signatures.



Oscar B. Harrell

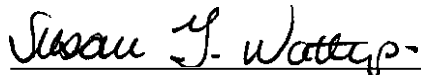


Elva W. Harrell

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this ^{28th} day of ~~August~~ ^{October}, 2005, by Oscar B. Harrell and Elva W. Harrell, husband and wife.



Notary Public

My commission expires: 06/30/07

Exhibit A

LEGAL DESCRIPTION

All those certain lots, pieces or parcels of land situate, lying and being in the County of James City, Virginia, known and designated as Lots Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and Lot 15, in Block D, as shown on that certain plat entitled, "A SURVEY FOR CONVEYANCE TO OLD COLONY BANK & TRUST COMPANY", made by L. V. Woodson and Associates, dated March 9, 1973, and recorded in the Clerk's Office of the Circuit Court for the County of James City, Virginia, in Deed Book 143 at page 672, to which plat reference is here made.

Together with all the grantors right title and interest in and to Parcel A and the 20 foot alley adjoining the above described lots as shown and set forth on the aforementioned plat.

Together with all and **singular**, the buildings and improvements thereon, rights and privileges, hereditaments and tenements thereunto belonging or in anywise appertaining, and any easements or rights of way for the use thereof.

Subject, however, to all easements, rights of way, agreements, conditions and restrictions affecting the said property.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 17 Nov. 05
at 3:42 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