

Tax Parcel I.D. Number: a portion of 1330100003

070 003659

PROFFERS
CHARLIE'S ANTIQUES

Prepared by:
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CHARLIE'S ANTIQUES – PROFFERS

THESE PROFFERS are made as of this 9th day of January, 2007, by **CHARLES D. CRAWFORD** and **SUSAN L. CRAWFORD** (collectively, "Owner") (index as the 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 and master plan application (collectively, the "Application") with the County requesting a change in the zoning of the Property from A-1, Agricultural, to B-1, General Business, with proffers. The Application has been designated by the County as case number Z-06- 06 / MP-08-06. The rezoning of the Property to B-1, with proffers, is consistent both with the land use designation for the Property on the County Comprehensive Plan and the statement of intent for the B-1 zoning district set forth in Section 24-389 of the County Zoning Ordinance, Section 24-1 *et seq.* of the County Code of Ordinances, in effect on the date hereof (the "Zoning Ordinance").

R-3. A conceptual plan of development ("Master Plan") entitled "REZONING EXHIBIT FOR CHARLIE'S ANTIQUES 7709 RICHMOND ROAD PARCEL ID: 1330100003", dated October 19, 2006, revised November 22, 2006, prepared by LandTech Resources, Inc., 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-4. Conceptual architectural elevations (“Elevations”) of the buildings proposed for construction on the Property entitled “REZONING EXHIBIT FOR CHARLIE’S ANTIQUES 7709 Richmond Road, James City County, Virginia”, dated October 20, 2006, prepared by Paul C. White, has been submitted to the County Planning Director for review by the County in connection with the Application. The Elevations are on file in the office of the County Planning Director.

R-5. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing the character 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.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS

1. Master Plan. 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, parking, drainage facilities, areas of open space, garden areas, outdoor storage and display areas, setbacks, and buffer areas. 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. Limitation on B-1 Permitted Uses. The following uses which are generally permitted in the General Business, B-1 zoning district, unless otherwise approved by the County Planning Director, are hereby prohibited on the Property:

- a. Automobile service stations;
- b. Drug stores;
- c. Dry cleaners and laundries;
- d. Houses of worship;
- e. Hotels and motels;
- f. Health clubs, exercise clubs, and fitness centers;
- g. Indoor sport facilities;
- h. Indoor theater;
- i. Parking lots and garages;
- j. Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement;
- k. Radio and television stations and accessory antenna or towers and tower mounted wireless communication facilities, which are 60 feet or less in height;
- l. Retail food stores, restaurants, fast food restaurants and taverns; and
- m. Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communication Facilities.

3. Landscape Buffer. Prior to issuance of a building permit for any building located on the Property, Owner shall establish or guarantee (“Guarantee”) in a form acceptable to the County Attorney and in accordance with Section 15.2-2299 of the Virginia Code (or such successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to variously as a “Guarantee”, as “Guarantees”, or as being “Guaranteed”) the establishment of a fifty (50) foot landscape buffer

in the area shown as “50’ MINIMUM LANDSCAPE BUFFER” on the Master Plan comprised of (i) a minimum of fifty percent (50%) native, evergreen trees and shrubs with all plantings exceeding existing ordinance requirements by a minimum of twenty-five percent (25%) in terms of size of the plantings, (ii) fencing, or (iii) a combination of landscaping and fencing that achieves the same or greater effect, all in accordance with a landscape plan (the “Buffer Plan”) designed to enhance the visual buffer from adjacent properties and development on the Property. The Buffer Plan shall be prepared by a landscape architect licensed in the Commonwealth of Virginia and submitted to the County Planning Director for review and approval with any site plan for development on the Property.

4. Community Character Corridor Setback and Buffer. No building shall be constructed within one hundred (100) feet of the northerly boundary line of the Property adjacent to Virginia Route 60. Prior to issuance of a building permit for any building located on the Property, Owner shall establish or Guarantee the establishment of a fifty (50) foot Community Character Corridor Buffer in area shown as “50’ COMMUNITY CHARACTER CORRIDOR LANDSCAPE BUFFER” on the Master Plan comprised (i) landscaping that consists of predominately native trees and shrubs and that exceeds existing ordinance requirements by twenty-five percent (25%) in terms of size of the plantings, (ii) fencing and/or stone walls, or (iii) a combination of landscaping and fencing and/or stone walls that achieves the same or greater effect, all in accordance with a landscape plan (the “CCC Plan”) designed to enhance the building and site design of the development on the Property. The CCC Plan shall be prepared by a landscape architect licensed in the Commonwealth of Virginia and submitted to the County Planning Director for review and approval with any site plan for development on the Property.

5. Garden/Display Area. Prior to issuance of a building permit for any building located on the Property, the area shown as “GARDEN/DISPLAY AREA” on the Master Plan shall be established or Guaranteed to be established as “open space” (as such term is currently defined in the Zoning Ordinance) in accordance with an open space plan (the “Open Space Plan”) designed to reinforce the boundaries of Norge and Toano. The Open Space Plan shall include one or more garden area, walking path, pond, landscaping, gazebo, statuary, stone wall, and/or fence, or such other elements as may be approved by the County Planning Director. The Open Space Plan shall be submitted to the County Planning Director for review and approval with any site plan for development on the Property.

6. Building Supplies. The outdoor storage of building materials shall be limited to the area shown as “STONE STORAGE” on the Master Plan. A plan for the screening of outdoor storage areas shall be submitted to the County Planning Director for review and approval prior to final site plan approval for development on the Property.

7. Building Design. The building shall be designed and constructed generally in accordance with Elevations or such other design as may be approved by the County Planning Director. Colors and materials shall be submitted to and approved by the County Planning Director for consistency with the Comprehensive Plan and the Toano Community Character Area Design Guidelines prior to final site plan approval for development on the Property.

8. Water Conservation. Owner 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 the County Attorney for general consistency with this proffer and shall be approved by JCSA prior to final site plan approval for development on the Property.

9. Nutrient Management Plan. Owner shall be responsible for contacting an agent of the Virginia Cooperative Extension Office (“VCEO”) or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, a customized nutrient management plan (“Nutrient Management Plan”) for the Property. The Nutrient Management Plan shall be submitted to the County Environmental Director for his review and approval prior to the issuance of any certificate of occupancy for any building located on the Property. Upon approval, Owner shall be responsible for ensuring that any nutrients applied to the Property be applied in accordance with the applicable Nutrient Management Plan or any updates or amendments thereto as may be approved by the County Environmental Director.

10. Signage. The color scheme, design, and building materials for all freestanding and building mounted signs located on the Property shall be submitted to the County Planning Director for review and approval for (i) consistency with the buildings to be constructed on the property, (ii) consistency with the site design, and (iii) compatibility with the historic character of the area, prior to final site plan approval for development on the Property.

11. Lighting. A lighting plan that depicts the styles, models, mounting heights, and photometric footcandle diagrams of all exterior light fixtures to be used on the Property shall be

submitted to the County Planning Director for review and approval prior to final site plan approval for development on the Property. All exterior light fixtures on the Property, including building lighting, shall be directed so as not to produce glare on adjacent residential properties or public right-of-way. All exterior lighting, except for ground-mounted pedestrian lighting, shall be mounted horizontally and shall have recessed fixtures with no lens, bulb, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in a manner that all light will be directed downward and the light source is not visible from the side. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.

12. Subdivision. Owner shall subdivide the Property from its existing parent tract. Owner shall submit the appropriate subdivision plan to the County for review and approval prior to or simultaneously with the submission of any site plan for development on the Property.

13. Sewer Contribution.

a. A one-time, sewer facilities contribution shall be made to the James City Service Authority in the amount of Two Thousand Seven Hundred Seventy-Four and 00/100 Dollars (\$2,774.00) prior to final site plan approval for development on the Property.

b. The aforementioned cash contribution amount shall be adjusted annually, until paid, beginning January 1, 2007 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall the cash contribution amount be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the MSI as of

December 1 in the preceding year. In the event a substantial change is made in the method of establishing the MSI, then the cash contribution amount shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the MSI. In the event that the MSI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the MSI (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 cash contribution amount to approximate the rate of annual inflation in the County.

14. Hours of Operation and Deliveries. Owner agrees that, unless otherwise approved by the County Planning Director, the receipt of any commercial shipments of goods to the Property shall occur and the normal hours of operation of any business located on the Property shall be between the hours of 7:00 a.m. and 7:00 p.m.; provided, however, that Owner may conduct up to twelve (12) special events such as auctions or preview sales per year outside the normal hours of operation and shall keep an annual log of the same to be available for inspection by the County upon reasonable notice.

15. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

16. 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.

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

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

WITNESS the following signatures:

[SIGNATURES LOCATED ON FOLLOWING PAGES]

[SIGNATURE PAGE TO PROFFERS]

Charles D. Crawford
Charles D. Crawford

COMMONWEALTH OF VIRGINIA
~~CITY~~COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 9th day of January 2008
by Charles D. Crawford.

Timothy D. Felt
NOTARY PUBLIC

My commission expires: 2/28/2009



[SIGNATURE PAGE TO PROFFERS]

Susan L Crawford
Susan L. Crawford

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 9th day of January, 2009
by Susan L. Crawford.

Timothy O. Ford
NOTARY PUBLIC

My commission expires: 2/28/2009

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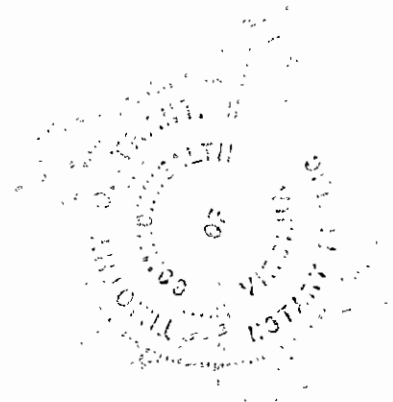


EXHIBIT A

All that certain piece, parcel, or tract of land located in the Stonehouse Magisterial District of James City County, Virginia, containing approximately 7.60 acres shown as "AREA TO BE REZONED" on that certain conceptual plan of development entitled "REZONING EXHIBIT FOR CHARLIE'S ANTIQUES 7709 RICHMOND ROAD PARCEL ID: 1330100003", dated October 19, 2006, revised November 22, 2006, prepared by LandTech Resources, Inc., a copy of which is on file with the County Planning Director in connection with Case Number Z-06-06 / MP-08-06.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY

This document was admitted to record on 8 Feb 07
at 11:41 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