

Prepared by and Return to:
Gregory R. Davis, Esq., VSB 26248
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, VA 23188
(757) 259-3800

CLR202506017

Parcel ID: 4730100036

PROFFERS

These Amended and Restated Proffers made this 28th day of October, 2024 by and among:

JTR PROPERTIES, LLC, a Virginia limited liability company, ("Owner"), to be indexed as Grantor, and

JAMES CITY COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("County"), to be indexed as Grantee, provides as follows:

RECITALS

R-1. Owner is the fee simple title holder of that certain real property (the "Property") located in James City County, Virginia, more particular described as follows:

All that certain piece or parcel of land situate, lying and being in the County of James City, Virginia, shown and designated and described as "JTR PROPERTIES LLC PARCEL ID: 4730100036 1676 JAMESTOWN ROAD DOC. NO. 110019987 ZONED: R2 OLD AREA: 466,224 SQ. FT./10.7030 AC. NEW AREA: 671,686 SQ. FT./15.42± AC." on that certain plat entitled "Boundary Line Extinguishment Being The Property Of JTR Properties, LLC Parcels 4730100036, 4730100037, And 473010039 James City County, Virginia" made by Stephen A. Romeo, Land Surveyor of vhb and dated September 14, 2022 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 202216017 and is incorporated herein by reference for a more complete description of the property hereby conveyed.

Together with all and singular the improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

This conveyance is subject to all easements, restrictions, and limitations of record or apparent on the ground, specifically including, but not limited to (i) the Proffers recorded in the Clerk's Office aforesaid as Instrument No. 080020381, as subsequently amended, and (ii) the Deed of Easement for Natural Open Space recorded in the Clerk's Office aforesaid as Instrument No. 202302104.

Being the same property conveyed to JTR Properties, LLC by deed in lieu of foreclosure by Powhatan Terrace, LLC dated May 2, 2024 recorded in the aforementioned Clerk's Office as Instrument No. 202412340.

R-2. The Property was in the past the subject of a rezoning, master plan and special use permit as part of a planned development of thirty-six (36) townhomes to be known as “Powhatan Terrace”. The case numbers assigned to consideration of past land use cases involving the Property are as follows:

Rezoning: Z-0007-2007
Master Plan: MP-0005-2007
Special Use Permit: SUP-0020-2007

R-3. As a part of the rezoning and master plan approvals under the case numbers referenced above, the Property was subject to certain proffers which were later amended, as follows (collectively the “Prior Proffers”):

a. Proffers dated February 13, 2008 of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (“Clerk’s Office”) as Instrument No. 080020381.

b. First Amendment to Proffers dated November 28, 2017 of record in the Clerk’s Office as Instrument No. 180002012.

c. Second Amendment to Proffers dated January 23, 2019 of record in the Clerk’s Office as Instrument No. 190003588.

d. Third Amendment to Proffers dated December 21, 2020 of record in the Clerk’s Office as Instrument No. 210008965.

R-4. The Prior Proffers included a requirement that the Property be developed generally as shown a master plan more particularly described in the Prior Proffers (the “Prior Master Plan”).

R-5. The Owner has applied for a rezoning to amend the Prior Proffers and the Prior Master Plan to permit development of the Property in a far less intensive manner, in particular creation of four (4) large residential lots each containing one (1) single family dwelling (the “Project”) as opposed to the thirty-six (36) unit townhouse project approved by the Prior Proffers and Prior Master Plan. The application for rezoning to so amend the Prior Proffers and Prior Master Plan have been assigned County case numbers Z-24-0010 and MP-24-0004 (collectively the “Application”).

R-6. The Property is currently zoned R-2 with proffers under the County Zoning Ordinance, Section 24-1 of the James City County Code et. seq. (the “Zoning Ordinance”).

R-7. The provisions of the Zoning Ordinance may be deemed inadequate to address impacts upon the County generated by the Project. Accordingly, the Owner, in furtherance of the above described rezoning application, desires to amend the Prior Proffers and Prior Master Plan, and to proffer certain conditions governing the Project and development of the Property in

accordance with the provisions of Section 15.2-2303 et. seq. of the Code of Virginia, as amended and Section 24-16 of the Zoning Ordinance.

Now therefore, for and in consideration of the approval by the County Board of Supervisors of the applications of Owner described above and pursuant to Section 24-1 et. seq. of the Zoning Ordinance and Section 15.2-2303 et. seq. of the Code of Virginia, it is agreed that the following conditions shall be met and satisfied in developing the Project upon the Property:

PROFFERS

1. **Proffers.** These proffers amend and supersede the Prior Proffers.
2. **Master Plan.** The Property shall be developed generally as shown on the certain master plan entitled: "Master Plan Amendment" dated September 25, 2024, made by VHB Consulting Engineers which is attached these proffers and incorporated by this reference (the "Master Plan"). Minor changes determined by the County Development Review Committee as not changing the basic concept or character of the development shall be permitted. The Master Plan amends and supersedes the Prior Master Plan.
3. **Residential Development.** The Property shall be utilized for residential purposes only, and there shall be no more than four (4) single family residential dwelling units (one (1) dwelling per lot) developed within the Property.
4. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all homeowners in the Property, by virtue of their property ownership, shall be members.
 - a. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this proffer prior to subdivision approval or such later deadline as may be approved by the Director of Planning.
 - b. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management structures (if any) and private roads, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments.
 - c. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing the Governing Documents.
5. **Water Conservation.** Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the subdivision submittal for development on the Property and the Association 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. The standards shall be approved by JCSA prior to final subdivision approval.

6. Private Drives. All entrances, interior roads and drive aisles within the Property shall be private and shall be constructed in accordance with applicable County private street standards. Private roads shall be maintained by the Association.

7. Community Character Corridor Buffer. There shall be a minimum 150 foot buffer established along the Jamestown Road frontage of the Property as generally shown on the Master Plan. The buffer may not be built upon, cleared or contain any dwelling unit or improvements.

a. Owner shall submit a tree survey depicting specimen trees within the community character corridor buffer with the plans for development of the Property and shall use its best efforts to preserve such specimen trees.

b. Dead, diseased and dying trees or shrubbery or invasive or poisonous plants may be removed from the buffer area without County review or approval.

c. A sidewalk and landscaping shall be permitted in the buffer area. Neighborhood signage and associated lighting shall be permitted in the buffer in location(s) already cleared as of the date of the Application.

d. Supplemental plantings approved by the Director of Planning or designee shall be permitted within the previously-cleared or improved area of the buffer in order to meet stormwater management and water quality standards.

8. Sidewalk. A sidewalk five (5) feet in width shall be constructed parallel to Jamestown Road within the buffer area described in paragraph 7 above, connecting to the existing sidewalk at the Raleigh Square or westerly property line. Such sidewalk shall be completed prior to the issuance of a building permit for the first residential dwelling unit within the Property. Nothing in these Proffers shall be construed to preclude the owner of any lot created within the Property from obtaining a land disturbing and stormwater construction permit allowing site work on a lot prior to sidewalk completion.

9. Headings. All section headings and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.

10. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged 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, 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, section or provision hereof.

11. Conflicts. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County Zoning Administrator subject to the appeal processes to the Board of Supervisors and the Courts as otherwise provided by law.

12. Successors and Assigns. These Proffers shall be binding upon its transferees and successors in title.

13. Reasonableness. These Proffers are made and offered voluntarily by the Owner which acknowledges that the Proffers provide for reasonable conditions because (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the County's comprehensive plan.

14. Void if Rezoning Not Approved. In the event that the proposed rezoning and proffer/master plan amendments are not approved by the County, these Proffers shall be null and void.

WITNESS the following signatures, thereunto duly authorized:

JTR PROPERTIES, LLC

a Virginia limited liability company

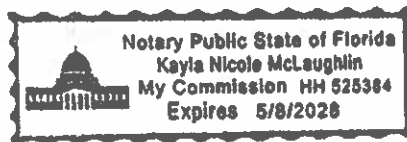
By: Jennifer L. Wise
Print _____ Name:
Jennifer L. Wise
Title: POA

STATE OF Florida
CITY/COUNTY OF Brevard, to wit:

The foregoing instrument was acknowledged before me this 29th day of October, 2024 by Jennifer L. Wise as POA of JTR Properties, LLC, a Virginia limited liability company.

Kayla Nicole McLaughlin
Notary Public [Affix Notarial Stamp]

My Commission Expires: 05/08/2028
Notary Registration No.: HH 52538



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INSTRUMENT 202506017
RECORDED IN THE CLERK'S OFFICE OF
WMSBG/JAMES CITY CIRCUIT ON
MAY 5, 2025 AT 11:14 AM
ELIZABETH E. O'CONNOR, CLERK
RECORDED BY: SPA