

## Board of Supervisors

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Crystal L. Vanuch

Randal E. Vosburg  
County Administrator

September 25, 2023

### CERTIFIED AND REGULAR MAIL

Jeffrey A. Harvey  
Legacy Engineering  
419 Chatham Square Office Park  
Fredericksburg, VA 22405  
Certified Mail Number: 9589 0710 5270 0864 6468 09

Via Electronic Mail to: [jharvey@legacy-eng.com](mailto:jharvey@legacy-eng.com)

### CERTIFIED AND REGULAR MAIL

Arkendale Associates L.P.  
300 N. Lee Street, Suite 200  
Alexandria, VA 22314-2640  
Certified Mail Number: 9589 0710 5270 0864 6468 16

**SUBJECT: *Application 23155122; Request for Proffer Determination on Tax Map Parcel No. 31-97, Pursuant to Letter dated June 9, 2023***

Dear Mr. Harvey:

This letter is in response to your attached request, dated June 9, 2023, for a Zoning Administrator Proffer Determination, as also clarified by your attached email dated September 14, 2023 to Kathy C. Baker (collective, "Proffer Determination Request"). In your email, you also provided an extension for this Determination until September 25, 2023. The Proffer Determination Request sought and this Determination responds to the following with respect to Tax Map Parcel No. 31-97:

1. Applicability of Ordinance O95-77(R) to Tax Map Parcel No. 31-97 ("Parcel"):

The Parcel is not subject to the proffers of Ordinance O95-77(R). The Parcel consists of approximately 588.34 acres. The R-1, Suburban Residential zoned portion of the Parcel (200.33 acres/Land Bay "A") and the B-1, Convenience Commercial portion of the Parcel (4.45 acres/portion of Land Bay "C") are subject to the proffers contained in Ordinance O98-58, dated December 8, 1998 ("Current Proffers"), as shown on the Rezoning Plat by Ralph T. Jones, L.S., dated April 17, 1998, and referenced in Ordinance O98-58. The Current Proffers were adopted pursuant to proffer amendment application RC980482. The remaining acreage of the Parcel is zoned A-1, Agricultural and is not subject to the Current Proffers. The portions of the Parcel subject to the Current Proffers are discussed for the remainder of this determination and referred to as the "Property."

2. Identification of specific proffers that affect use of the Property. In the email portion of your Proffer Determination Request, you clarified your questions as, "are there any off-site improvements/actions required by the proffer that must be satisfied in order to develop the commercial or residential property?"

The Current Proffers are still in effect and applicable to the Property. The following Current Proffers, indicated by number and section title, affect the use of or must be satisfied in order to develop the Property:

- 1.a. Maximum Units.
- 1.b. Modification.
- 2.b. On-Site Dedication.
- 2.c. On-Site Roadway Construction.
- 2.e. Phase I Residential Use (Land Bay A).
- 2.h. Phase 2 Residential Land Use (Land Bays E, F, and H).
- 2.j. Phase 3 Residential Uses.
- 2.k. Commercial.
- 2.l. Commuter Rail Station.
- 3. DEVELOPMENT PHASING. (Including all subsections a. – h.)
- 4.a. Public Water and Sewer.
- 4.c. Wastewater Treatment Plant.
- 5.a. Community Facilities.
- 5.b. Playing Fields.
- 5.d. Open Space.
- 6.a. Hotel Conference Center.
- 6.b. Golf Course.
- 6.c. Neighborhood Center.
- 6.d. Architecture and Building Materials.
- 6.e. Signage.
- 7. CASH CONTRIBUTION.
- 9. INTERPARCEL ACCESS.
- 10. ELEMENTARY SCHOOL SITE.
- 11. SOIL DISTURBANCE.
- 12. ARCHEALOGIAL STUDY.

3. Identification of specific proffers that do not affect the use of the Property.

All proffers contained in Ordinance O98-58 which are not specified above in the answer to number 2 do not affect the use of the Property.

4. Apportionment of residential dwelling units to the Property.

The density of 0.5 residential dwelling units per acre will be based on the gross area of the R-1 zoned area of the Property. However, that number may be reduced due to other required development standards and regulations.

5. Determination of which proffers have been satisfied.

None of the proffers have been satisfied.

This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, in accordance with Virginia Code § 15.2-2311, or this decision shall be final and unappealable. You may obtain the BZA appeal application at <https://staffordcountyva.gov/AppealofZoningDecisions>. The fee for such application is \$1,952.25.

Sincerely,



James A. Staranowicz  
Interim Zoning Administrator

JAS:sjs

Attachments (3)

cc: Kathy Baker, Acting Director of Planning and Zoning  
Paul Santay, Chief Director of Community Development Services  
Michael Morris, Deputy County Administrator  
Rysheda McClendon, County Attorney



June 9, 2023

Mr. James Staranowicz  
Deputy Zoning Administrator  
Department of Planning and Zoning  
P.O. Box 339  
Stafford, VA 22555-0339

SUBJECT: Request for Proffer Determination  
Arkendale

Dear Mr. Staranowicz:

On behalf of The Garrett Companies, Legacy Engineering is filing this application for a proffer determination on Tax Map Parcel 31-97 (subject property). The property was rezoned as part of a larger assembly of parcels pursuant to Ordinance 095-77(R) on October 3, 1995. The specific items being requested for determination in the application are:

1. Applicability of Ordinance 095-77(R) to the subject property.
2. Identification of specific proffers that affect use of the subject property.
3. Identification of specific proffers that do not affect the use of the subject property.
4. Apportionment of residential dwelling units to the property.
5. Determination of which proffers have been satisfied.

Please find enclosed the completed proffer determination application form with addenda including additional adjacent property owners, and a fee payment of \$453.99.

Sincerely,

Jeff A. Harvey, AICP  
Director of Planning

cc: Mark Bowman, General Counsel, The Garrett Companies





## James A. Staranowicz

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**From:** Jeff Harvey <jharvey@legacy-eng.com>  
**Sent:** Thursday, September 14, 2023 12:26 PM  
**To:** Kathy C. Baker  
**Cc:** James A. Staranowicz; Garrett\_Development-1700  
**Subject:** RE: Proffer Determination, Parcel 31-97

Kathy:

Thank you very much. As a means to sort this out, our client is willing to extend the deadline for completion of the determination to September 25<sup>th</sup>. Please send us a copy of Ordinance O98-58. Unfortunately, the on-line zoning maps links the property to Ordinance O95-77(R).

With regards to items 2 and 3, the zoning map depicts the property having commercial and residential zoning. Since the bulk of the property that was subject to the rezoning is currently owned by the Commonwealth of Virginia, we need to know:

- 1) How many of the residential units would be apportioned to this property?
- 2) Are there any off-site improvements/actions required by the proffer that must be satisfied in order to develop the commercial or residential property?

All the Best,

**JEFF HARVEY, AICP**  
**Director of Planning**

419 Chatham Square Office Park  
Fredericksburg, VA 22405

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**LEGACY**  
**ENGINEERING**

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**From:** Kathy C. Baker <KBaker@staffordcountyva.gov>  
**Sent:** Thursday, September 14, 2023 8:34 AM  
**To:** Jeff Harvey <jharvey@legacy-eng.com>  
**Cc:** James A. Staranowicz <JStaranowicz@staffordcountyva.gov>  
**Subject:** Proffer Determination, Parcel 31-97

Jeff,

As discussed, staff is asking for clarification on # 2 and 3 of your request for proffer determination. As previously noted, Ordinance O95-77(R) has been superceded by O98-58, so the applicability to parcel 31-97 will be based on those proffers. With regard to #2 and 3 below, the request is to identify specific proffers that affect the use of the subject property, and do not affect the use, respectively. Because you have not identified a proposed use or presented a proposed development plan, it is difficult to note specific proffers that affect the "use". If you could be more specific as to the information you are hoping to confirm, that would be appreciated so we can respond appropriately.

1. Applicability of Ordinance 095-77(R) to the subject property.
2. Identification of specific proffers that affect use of the subject property.
3. Identification of specific proffers that do not affect the use of the subject property.
4. Apportionment of residential dwelling units to the property.
5. Determination of which proffers have been satisfied.

Thanks so much.

Kathy

***Kathy C. Baker***

*Acting Director*

*Stafford County Planning and Zoning*

*PO Box 339*

*Stafford, VA 22555*

*[kbaker@staffordcountyva.gov](mailto:kbaker@staffordcountyva.gov)*

*(540) 658-8675*



*Information contained in this e-mail does not take the place of written zoning determination and is not intended to be an official zoning decision. An application is available on the Stafford County Government website and shall be submitted with the appropriate fee for an official Zoning Administrator determination.*

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 8th day of December, 1998:

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<u>MEMBERS:</u>	<u>VOTE:</u>
Kenneth T. Mitchell, Chairman	Yes
Ferris M. Belman, Sr., Vice Chairman	Yes
Alvin Y. Bandy	Yes
David R. Beiler	Yes
Lindbergh A. Fritter	Yes
Robert C. Gibbons	Yes
Linda V. Musselman	Yes

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On motion of Mr. Gibbons, seconded by Ms. Musselman, which carried by a vote of 7 to 0, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE ZONING DISTRICT MAP TO AMEND PROFFERED CONDITIONS OF ASSESSOR'S PARCELS 31-97 (PORTION), 31-98, 31-100, 31-100A, 32-4, 41-1, 41-2, 41-4 AND 41-4D AND TO RECLASSIFY, WITH PROFFERS, ASSESSOR'S PARCEL 31-98 (PORTION) FROM R-1, SUBURBAN RESIDENTIAL, TO B-1, CONVENIENCE COMMERCIAL, ASSESSOR'S PARCEL 31-100 (PORTIONS), FROM B-2, URBAN COMMERCIAL, TO R-1, SUBURBAN RESIDENTIAL, FROM R-1, SUBURBAN RESIDENTIAL, TO B-2, URBAN COMMERCIAL, FROM R-1, SUBURBAN RESIDENTIAL, TO B-1, CONVENIENCE COMMERCIAL, AND ASSESSOR'S PARCEL 32-4 (PORTIONS) FROM R-1, SUBURBAN RESIDENTIAL, TO B-2, URBAN COMMERCIAL, FROM B-2, URBAN COMMERCIAL, TO R-1, SUBURBAN RESIDENTIAL, GRIFFIS-WIDEWATER ELECTION DISTRICT

WHEREAS, Dominion Lands, Inc. has submitted application RC980482 requesting amendment to proffered conditions of 1,443 acres on Assessor's Parcels 31-97 (portion), 31-98, 31-100, 31-100A, 32-4, 41-1, 41-2, 41-4 and 41-4D and has requested reclassification of an 8.9 acre portion of Assessor's Parcel 31-98 from R-1, Suburban Residential, to B-1, Convenience Commercial, a 27.91 acre portion of Assessor's Parcel 31-100 from B-2, Urban Commercial, to R-1, Suburban Residential, a 15.41 acre portion of Assessor's Parcel 31-100 from R-1, Suburban Residential, to B-2, Urban Commercial, a 2.02 acre portion of Assessor's Parcel 31-100 from R-1, Suburban Residential, to B-1, Convenience Commercial, a 1.83 acre portion of Assessor's Parcel 32-4, from R-1, Suburban Residential, to B-2, Urban Commercial, and a 0.79 acre portion of Assessor's Parcel 32-4 (portion) from B-2, Urban Commercial, to R-1, Suburban Residential, located on the east and west sides of Brent Point Road, east of the CSX Rail Line, adjacent to the Aquia Creek and the Potomac River, Griffis-Widewater Election District; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission and staff and the testimony at the public hearing; and

WHEREAS, the Board has determined that the requested zoning is compatible with the surrounding land uses and zoning; and

WHEREAS, Arkendale Associates, L.P., Dominion Lands, Inc., Management Marketing Services, Inc. and Widewater Associates, owners, have authorized H. Clark Leming and Dominion Lands, Inc. to make proffers which are a part of this application;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 8th day of December, 1998, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the Zoning District Map to amend proffers and reclassify property as shown on the rezoning plat by Ralph T. Jones, L.S., dated April 17, 1998, subject to the following proffers:

1. GENERALIZED DEVELOPMENT PLAN

a. Maximum Units. Except as otherwise provided below, the Property will be developed generally in accordance with that plan identified as Generalized Development



Plan ("GDP"), prepared by Patton, Harris & Rust, P.C., and dated April 17, 1998. The maximum number of residential units in the development shall not exceed 720 single family dwelling units, which is an overall density of .5 homes per gross acre. In addition, applicant shall be permitted to develop the hotel, conference center, golf course, marina and facilities, and other commercial and recreational facilities as shown on, and in accordance with, the GDP.

b. Modification. Minor modifications may be made to the boundaries and acreage of individual lots, including the commercial boundaries, configuration of roads, and location of recreational amenities and facilities at the time of site plan approval to accommodate sound engineering/architectural and design practices, environmental constraints, and applicant's design and land use considerations. Applicant further reserves the right to make minor modifications to the location of water and sewer facilities and lines as may be required for engineering, environmental, or other land design based reasons. Such modifications, however, shall not modify the maximum number of units and shall not result in a decrease in the amount of open space.

2. TRANSPORTATION.

a. Advancement of Pro Rata Payment. In lieu of a cash proffer for transportation, applicant shall enter into a pro rata agreement with the County, pursuant to Virginia Code Section 15.2-2242, for construction of the Widewater Parkway and other off-site improvements described below and as identified in the Transportation Phasing Study Addendum, dated April 17, 1998, as revised on July 29, 1998. Applicant further agrees to advance a portion of its pro rata payments in the amount of 2.5 million dollars for application to the improvements described below at paragraph 3c.

b. On-Site Dedication. Applicant shall dedicate right-of-way for the on-site portion of the Widewater Parkway, free and clear of any liens or encumbrances, prior to the issuance of the building permit for the first residential unit and the site collector road parallel to State Route 658 with the appropriate sections of development.

c. On-Site Roadway Construction. Applicant shall construct or cause to be constructed, in accordance with VDOT standards, the on-site roadways shown on the GDP. These roadways shall be constructed in phases. Except as specifically provided for below, the timing of construction shall be controlled by the submission of site plans and/or subdivision plans by Applicant and approval thereof by the County. This proffer shall exclude any portion of the Widewater Parkway or other streets on or adjacent to properties not controlled by Applicant.

d. Phase 1 Hotel & Golf Uses. The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of the occupancy permit for the hotel in Land Bay B1 or the golf course in Land Bays B and D:

- (1) Upgrade State Route 658 from the terminus of the planned Widewater Parkway (starting at the 90 degree curve approximately 2,100 feet east of the CSX railroad crossing) to the proposed hotel access road as a two-lane VDOT rural collector with shoulder. The approximate length is 250 feet.
- (2) Construct a two-lane subdivision street from Route 658 to the proposed hotel.

e. Phase 1 Residential Use (Land Bay A) - The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of the building permit for the first residential unit in Land Bay A:

- (1) If the Widewater Parkway Phase 1 improvements are constructed as described below, construct a two-lane subdivision access road east of the Parkway to Land Bay A.

f. Phase 1 Residential Use (Land Bay B) - The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of the building permit for the first residential unit in Land Bay B:

- (1) Improvements #1 and #2 in Phase 1 Hotel and Golf uses above.

g. Phase 1 Residential Use (Land Bay D) - The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of the building permit for the first residential unit in Land Bay D:

- (1) Improvement #1 in Phase 1 Hotel and Golf uses above.
- (2) Upgrade State Route 658 from proposed hotel access road to the on-site road as a two-lane VDOT rural collector with shoulder. The approximate length is 1,000 feet.

- (3) Construct on-site spine road as a two lane rural collector from State Route 658 to the proposed land bay access as a two-lane VDOT rural collector with shoulder.
- (4) Relocate State Route 658 on-site at the proposed spine road as necessary to connect with the public street, subject to the condition of abandonment in item (5) below.
- (5) Request abandonment of the on-site portion of State Route 658 upon completion of item (4) above. The approximately length is 500 feet.

h. Phase 2 Residential Use (Land Bays E, F and H) - The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of a building permit for the first residential unit in Land Bays E, F and H:

- (1) Improvements #1 through #5 in Phase 1 residential Land Bay D above.
- (2) Construct on-site public roads in phases as adjacent residential development occurs.

i. State Route 658 Improvements - Relocation of State Route 658 shall occur as part of the adjacent residential development at the following locations on the Concept Plan:

- (1) Relocate State Route 658 on-site at the proposed spine road as necessary to connect with the public street, subject to the condition of abandonment in item (6) below. The approximate length is 500 feet.
- (2) Relocate State Route 658 on-site at the proposed Land Bay D street as necessary to connect with the public street, subject to the condition of abandonment in item (6) below. The approximate length is 200 feet.
- (3) Relocate State Route 658 on-site at existing Shady Cove Lane (northwest of Land Bay F, Tax Map 41, Parcel 1) as necessary to connect with the proposed Land Bay F public street, subject to the condition of abandonment in item (6) below.

- (4) Connect Land Bay F Street to State Route 658 east of Widewater Beach as a two-lane subdivision street as adjacent residential development occurs.
- (5) Relocate State Route 658 south at Aquia Creek (east of Tax Map 41, southern portion of Parcel 2) as necessary as a two-lane VDOT subdivision street, subject to the condition of abandonment in item (6) below. The approximate length is 1,400 feet.
- (6) Request abandonment of the corresponding portion of State Route 658 upon completion of each item ((1) through (5) above).

j. Phase 3 Residential Uses - The following on-site roadway improvements shall be constructed or secured for construction by letter(s) of credit in accordance with the County's Security Policy prior to the issuance of the building permit for the 611th residential unit on-site:

- (1) Upgrade State Route 658 from the on-site spine road to approximately 100 feet north of the southern property boundary of Tax Map 31, Parcel 99 with pavement overlay and shoulder. The approximate length is 900 feet

k. Commercial - In conjunction with the development of the neighborhood commercial center, applicant shall construct or cause to be constructed the following improvements:

- (1) Signalization at State Route 658 and Widewater Parkway, when warranted by VDOT.
- (2) Widening of State Route 658 adjacent to the neighborhood commercial center for separate turning lanes.
- (3) Upgrade Route 658 east of the CSX railroad crossing from the entrance of the access road to the VRE station to the proposed Widewater Parkway as a VDOT two-lane public street as part of the adjacent commercial frontage improvements.

l. Commuter Rail Station. Applicant shall dedicate to the County or any other appropriate State agency sufficient acreage in the approximate location shown on the GDP, for use by the public to accommodate a commuter rail facility, including parking capacity

for 300 vehicles and capacity to accommodate stormwater management facilities. In lieu of on-site capacity to accommodate stormwater management facilities, such facilities may be located off-site. Applicant shall have no responsibility for construction of the commuter rail station and related facilities. Dedication shall be made upon request of the County at any time after construction of Phase I of the Parkway commences. The site for the station may be relocated to another site agreeable to the applicant and the County.

3. DEVELOPMENT PHASING. Applicant agrees that development of the Property shall be coordinated with off-site roadway improvements as described in the Revised Transportation Impact Study, submitted herewith, as follows:

a. Right-of-way - Prior to the submission of applicant's preliminary subdivision plan, right-of-way sufficient for four lanes shall be dedicated by applicant, or secured from others for future construction of Phase 1 of the Widewater Parkway and related improvements. Right-of-way shall be dedicated by applicant, or secured from others for Phase 2 of the Parkway prior to the issuance of a building permit for the 487th residential equivalency unit. Right-of-way shall be dedicated by Applicant, or secured from others for Phase 3 of the Parkway prior to the issuance of a building permit for the 951st residential equivalency unit.

b. Each of the following roadway improvements to the Widewater Parkway will be constructed in accordance with VDOT rural and urban minor arterial design standards. Each of the following roadway improvements to the proposed collector road and existing secondary roads will be built in accordance with VDOT rural collector road design standards.

Site densities shown as residential trip equivalents for off-site roadway improvements are based on the average Daily Trip Generation rates in the Institute of Transportation Engineers ITE Trip Generation Manual (5th edition). Trip rates shown below reflect internal discounts for mixed use activities. At building permit submission, the owner shall submit to Stafford County a summary tabulation of residential trip equivalents approved as part of previous phases to verify proffer compliance. The following residential equivalency factors shall be utilized:

- 1 single family residential dwelling unit (DU) - 1.00 residential equivalent.
- 1 hotel average occupied room (Room) - 0.74 residential equivalent



1,000 conference center gross square feet (GSF) - 1.14 residential equivalent.  
1 golf course hole - 3.20 residential equivalent  
1 marina slip - 0.25 residential equivalent  
1,000 retail gross square feet (GSF) - 3.46 residential equivalent  
1,000 employment (office park) gross square feet (GSF) - 0.97 residential equivalent.

c. Phase 1 - Prior to the issuance of a building permit for the first residential unit or the issuance of occupancy permits for 150th residential equivalency units for the commercial portion of the development the following off-site improvements shall have been completed:

- (1) Construct two lanes of the Widewater Parkway from the 90 degree bend at State Route 658 (northwest of Tax Map 32, Parcel 4) to the CSX railroad crossing.
- (2) Construct a two-lane bridge over the CSX railroad crossing and State Route 633.
- (3) Construct a two-lane half section of the Widewater Parkway from west of State Route 633 to Tax Map 22, Parcel 57A.
- (4) Construct a two-lane collector street from the proposed Parkway north to State Route 611, approximately 600-900 feet east of the State Route 635/State Route 611 intersection. Alignment options to connect to State Route 635 approximately 400 feet south of State Route 611 shall be considered consistent with the improvements stated above, subject to upgrading State Route 635 to two travel lanes with shoulders from the proposed Collector to State Route 611. Route location shall minimize impacts to existing residential dwelling units on Tax Map 22, Parcels 109B and 109E.
- (5) Upgrade State Route 611 from the Mt. Joy Fire Station (Tax Map 22, Parcel 109A) to the proposed collector road as a two-lane VDOT rural collector with shoulders.
- (6) Construct a left turn lane on State Route 637 to eastbound State Route 611.
- (7) Construct a right turn lane from State Route 611 to northbound State Route 637.

- (8) Modify the traffic signal at the U. S. Route 1/State Route 637 intersection.
- (9) Construct a right turn lane from State Route 637 to northbound U. S. Route 1.
- (10) Improve State Route 637 to a two-lane section with curb and gutter (30-foot face of curb to face of curb) on the existing alignment from U. S. Route 1 to State Route 611.
- (11) Improve the left turn storage lane on U. S. Route 1 to southbound State Route 637.
- (12) Submit a conceptual intersection improvement plan for the U. S. Route 1/State Route 637 intersection and for the State Route 637 improvements described in item #10 above prior to April 1, 1999 to outline improvements eligible for possible state funding.
- (13) Submit a conceptual improvement plan for the improvements to State Route 611 improvements described in item #5 above prior to April 1, 1999 to outline improvements eligible for possible state funding.

d. Phase 2 - Prior to the issuance of a building permit for the 487th residential equivalency unit (341 of 720 DU), the following off-site improvements shall have been commenced:

- (1) Construct two-lane half section of Widewater Parkway from U. S. Route 1 to State Route 637, including grading for a four-lane section.
- (2) Construct separate left and right turn lanes on U. S. Route 1 at Widewater Parkway.
- (3) Install traffic signal at Widewater Parkway and U. S. Route 1, subject to VDOT warrants having been met.
- (4) Construct separate left turn lanes on Widewater Parkway at Route 637.
- (5) Construct a two lane half section of Widewater Parkway from State Route 637 to the Phase 1 Parkway improvements on Tax Map 22, Parcel 57A.

- (6) Relocate State Route 635 on Tax Map 22, Parcel 57A at the proposed Widewater Parkway intersection.

An occupancy permit for the 487th residential equivalency unit (not more than 341 of 720 DU) shall not be issued until the foregoing improvements have been completed.

e. Phase 3 - Prior to the issuance of a building permit for the 951st residential equivalency unit (639 of 720 DU), the following off-site improvements shall have been commenced:

- (1) Construct two additional lanes of the Widewater Parkway from U. S. Route 1 to the eastern property line of Tax Map 21, Parcel 145 (Brents Mill).
- (2) Install traffic signal at Widewater Parkway and Route 637, subject to VDOT warrants having been met.

An occupancy permit for the 951st residential equivalency unit (no more than 639 of 720 DU) shall not be issued until the foregoing improvements have been completed.

f. Phase 4 - Prior to the issuance of a building permit for the 1064th residential equivalency unit (719 of 720 DU), the following off-site improvements shall have been commenced:

- (1) Construct two additional lanes of the Widewater Parkway from Tax Map 21, Parcel 145 (Brents Mill) to the proposed collector road west of State Route 661 (Tax Map 22, Parcel 23A).
- (2) Install a traffic signal at Widewater Parkway and Route 635, subject to VDOT warrants having been met.
- (3) Construct two-lane collector road from Widewater Parkway at Parcel 23A to Route 661.

An occupancy permit for the 1064th residential equivalency unit (no more than 719 of 720 DU) shall not be issued until the foregoing improvements have been completed.

g. Phase 5 (Commercial) - At such time that the neighborhood commercial center exceeds 37,100 gross square feet and/or prior to the completion of a the 1158th residential equivalency unit, and an occupancy permit has been issued for the 720th

residential unit, or in the event that the average Daily Traffic, attributed to the rezoning, exceeds 12,852 vpd, based upon County initiated traffic study, the following off-site improvements shall have been made:

- (1) Construct a two-lane VDOT collector from State Route 633 to the Widewater Parkway on Tax Map Parcel 31-97.
- (2) Install a traffic signal at Widewater Parkway and proposed State Route 633 collector road, subject to VDOT warrants having been met.
- (3) Construct two additional lanes of the Widewater Parkway from the proposed Route 661 collector road to a point east of the collector road referred above at Proffer 3c(4), but west of State Route 633, as may be specifically determined by VDOT.

h. In the event that the County approves or authorizes amendments to the listed improvements that are different from those contained in Section 3 (Development Phasing), and such amendments will not result in a violation of level of service C on any of the referenced roads, the County Administrator, in consultation with the Zoning Administrator may within his discretion authorize such amendments without the necessity of revising these proffers.

#### 4. PUBLIC UTILITIES.

a. Public Water and Sewer. The site shall be served by public water and sewer. Costs relating to the construction of on- and off-site utility lines serving applicant's property shall be borne by applicant subject to reimbursement in accordance with the County's pro rata policy for utility lines.

b. Water Treatment Facility. The applicant shall dedicate a site appropriate for a water treatment facility consistent with the Water and Sewer Master Plan revision, meeting all permitting requirements, as shown on the GDP, consisting of approximately one (1) acre, to be dedicated to the County, free and clear of monetary encumbrances. Four (4) well sites shall also be identified and dedicated by conveyance or easement. Applicant shall provide access easements to the treatment facility and well sites. In the event that the site identified for the water treatment facility cannot be permitted or proves inadequate for its intended purpose, applicant shall identify and dedicate an alternate site.

c. Wastewater Treatment Plant. Prior to the submission of Applicant's preliminary subdivision plan, a site, meeting all permitting requirements, shall be identified and dedicated to the County, free and clear of monetary encumbrances, including

appropriate access easements, for the wastewater treatment plant. In the event the site identified for a wastewater treatment facility cannot be permitted or proves inadequate for its intended purpose, applicant shall identify and dedicate an alternate site and shall bear the cost of any eminent domain proceeding.

d. Engineering Fees. Applicant proffers the sum of seventy-five thousand dollars (\$75,000.00) for preliminary engineering fees and costs associated with the construction of water and wastewater treatment facilities, provided that the Board of Supervisors authorizes a contract for same within one hundred eighty (180) days of the date of approval of this proffer amendment.

5. RECREATION AND OPEN SPACE. The following recreation facilities will be developed in phases as residential development occurs. The timing of construction shall be controlled by the submission of site plans by Applicant and approval thereof by the County.

a. Community Facilities. Applicant shall develop a community recreation center featuring a six lane, 25 meter swimming pool, four tennis courts, and club house and mini-parks and resource conservation parks, as shown on the GDP. The recreation center along Brent Point Road shall be completed by the date of the issuance of the building permit for the 487th residential equivalency unit. A marina, consisting of up to 125 boat slips, shall also be developed in the location shown on the GDP. The marina shall be operational by the date of the issuance of a building permit for the 878th residential equivalency unit.

b. Playing Fields. Applicant shall dedicate to the County a site free and clear of any liens or encumbrances for two (2) multi-purpose playing fields in the approximate location shown on the GDP by the date of recordation for the first residential plat. Applicant reserves the right to relocate the playing fields to another location agreeable to Applicant and the Board of Supervisors. In the event the playing fields do not have direct access to a subdivision street, access will be provided. Offstreet parking shall also be available.

c. Golf Course. Applicant shall construct an 18 hole semi-public golf course within Land Bay B and D, as shown on the GDP. Applicant shall develop and adhere to an Integrated Pest Management Plan for fertilization of the golf course.

d. Open Space. As defined by the current Zoning Ordinance, a minimum of sixty percent (60%) of the entire zoned area shall remain as open space. At the time the applicant submits a preliminary subdivision plan for any portion of the rezoned area, the applicant shall also submit a plan showing how compliance with this proffer shall be obtained for the entire zoned area.



6. COMMERCIAL. The following commercial facilities will be developed in phases as development of the property occurs. The timing of construction shall be controlled by the submission of site plans by applicant and approval thereof by the County.

a. Hotel Conference Center. Applicant shall construct a hotel conference center in the approximate location shown on the GDP and specifically agrees that at least 125 units of the hotel/conference center shall have been completed by the date of the issuance of the building permit for the 241st residential unit. In the alternative, if actual construction of the Widewater Parkway has been commenced prior to March 1, 2000, 125 units of the hotel/conference center shall be open for occupancy within 18 months of the completion of Phase 1 of the Parkway. At least two hundred twenty-five units of the hotel/conference center shall have been completed by the date of the issuance of the building permit for the 720th residential unit.

b. Golf Course. As described in Proffer 5(c) above, applicant shall construct an 18 hole semi-public golf course in Land Bays B and D, as shown on the GDP, which shall have been completed by the date of the issuance of a building permit for the 487th residential equivalency unit.

c. Neighborhood Center. Applicant shall provide a site sufficient for 50,000 square feet of commercial and office space. Applicant shall complete 10,000 square feet of the commercial and office space by the date of the issuance of the building permit for the 520th residential unit and shall complete 37,100 square feet of the commercial and office space by the date of the issuance of the building permit for the 700th residential unit. The retail commercial center shall not include a car wash, motel, plant and tree nursery, or any form of warehousing.

d. Architecture and Building Materials. The principle exterior building materials utilized in all structures constructed within the commercial zoned portions of the property shall be brick, glass, architecturally textured masonry, precast or jobcast concrete, stucco type material, wood or wood composite, comparable material, or a combination of such materials. No building having metal siding or non-textured cinderblock as a principal exterior building material shall be constructed on the property, unless said exterior is made to the satisfaction of the County substantially non-visible to the general public through the use of screening, landscaping, set-backs, or berms.

e. Signage. All permanent, freestanding signs shall be of a monument style type and shall be constructed of materials that are compatible with the materials used in construction of the buildings on the property. The height of all signs shall be in scale with the development in general. Freestanding signs shall not exceed eight feet (8') in height.

7. CASH CONTRIBUTION. Applicant shall proffer the sum of One Thousand Five Hundred Fifty-Four Dollars (\$1,554.00) per unit, payable at issuance of the building permit for each individual unit. The per unit payments shall, until paid, be subject to annual increases, with notice to applicant, to be calculated on a yearly basis after the date of rezoning, which is defined as July 1, 1997. Such increases shall be calculated by multiplication of the Consumer Price Index of the Department of Labor Statistics for the current year by the original per unit cash proffer amount.

The per unit contribution is as follows:

Library	63.00
Parks	28.00
Government Center	151.00
General Government	309.00
Schools	1,003.00

8. FIRE AND RESCUE. Applicant shall dedicate a four (4) acre site free and clear of any liens or encumbrances for fire and rescue uses, provided that any structure built on the site is constructed in a manner consistent with architectural guidelines for the commercial portion of the development. Applicant shall also permit the County to use the proposed community marina as a launch site for the fire boat, provided a ramp has been constructed at the marina site.

9. INTERPARCEL ACCESS. Applicant shall provide for interparcel access to any existing residence that becomes landlocked due to the development.


10. ELEMENTARY SCHOOL SITE. Applicant shall dedicate and convey to the County a site free and clear of any liens or encumbrances for an elementary school consisting of at least 20 acres, including 18 acres on which construction can occur, subject to utility easements, on Parcels 22-23A and 22-23B, in the approximate location shown on the attached plat. Such conveyance shall be made upon request by the County, but no earlier than January 1, 2004, or such earlier date that Phase 2 of the Widewater Parkway has been completed to the subject parcels. Provided that the Widewater Parkway has been completed to the subject parcels, the applicant shall also provide public water and sewer services adequate to service the school site. The specific site location shall be contingent on the results of subsurface geotechnical exploration, including soil analysis of the site. Should geotechnical exploration or other analysis, including final location of the Widewater Parkway, reveal issues affecting the physical suitability of the site, applicant shall relocate the elementary school site to another location meeting all permitting requirements agreeable to applicant and the County. In the event the County declines to accept the proffered site for

an elementary school the County may, prior to conveyance of the site, identify an alternative public use for the site, which shall be considered by the applicant.

11. SOIL DISTURBANCE. Applicant shall take all reasonable steps to ensure that disturbance of sensitive soils and vegetation in the vicinity of the development are minimized. When soils and vegetation are disturbed, applicant shall take all reasonable steps to restore soils to their pre-development condition.

12. ARCHAEOLOGICAL SURVEY. In the event that an archaeological survey is not requested by the Army Corps of Engineers in conjunction with the filing of an application for a wetlands permit or otherwise, applicant agrees to conduct a Phase IA survey in accordance with Historical Resource Guidelines and to make the survey results available to the County.

A Copy, teste:

  
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C. M. Williams, Jr.  
County Administrator

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