

BK 0638PG1963
BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

O-01-15

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the New Kent Administration Building in New Kent, Virginia, on the 12th day of January, 2015:

| | |
|-----------------------|-------|
| Present: | Vote: |
| W. R. Davis, Jr. | Aye |
| James H. Burrell | Aye |
| Ron Stiers | Aye |
| Thomas W. Evelyn | Nay |
| C. Thomas Tiller, Jr. | Aye |

Motion was made by Mr. Stiers, which carried 4:1, to adopt the following ordinance:

AN ORDINANCE TO AMEND O-16-03 "AN ORDINANCE TO APPROVE APPLICATION PUD-2-03 AND RECLASSIFY APPROXIMATELY 253 ACRES OF LAND TO PLANNED UNIT GENERALLY REFERRED TO AS 'PATRIOTS LANDING'" AND TO AMEND THE STATEMENT OF PROFFERS

WHEREAS, Clem Carlisle of Patriots Landing Management Corporation and Adena Patterson and Brennen Keene of McGuire Woods LLP, have submitted a "Planned Unit Development (PUD) Amendment Application" dated July 22, 2014 and a Statement of Proffers Amendment dated July 22, 2014 and revised July 31, 2014; and

WHEREAS, said application requests several amendments to the original Patriots Landing Planned Unit Development Ordinance (O-16-03) and proffer statement listed below; and

WHEREAS, the intent of the amendments is to allow the roads in Phase 2 as depicted in Plat Book 19, Page 200 in the New Kent County Clerk of the Circuit Court of the Patriots Landing PUD to be private roads; and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, on August 18, 2014 the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, the New Kent Planning Commission voted 6:1:2 to forward the application to the New Kent County Board of Supervisors with a favorable recommendation; and

WHEREAS, the application has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, approval of the application and amended proffer statement through the adoption of this Ordinance will further the public necessity, convenience, general welfare and good zoning practices in the County of New Kent;

NOW THEREFORE, BE IT ORDAINED that on this, the 12th day of January, 2015, by the New Kent County Board of Supervisors, that Application PUD-01-14 submitted by Clem Carlisle of Patriots Landing Management Corporation and Adena Patterson and Brennen Keene of McGuire Woods LLP, be approved.

BE IT FURTHER ORDAINED that the statement of proffers amendment associated with the Patriots Landing PUD be approved.

BE IT FURTHER ORDAINED that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance, and the proffers associated with it, recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

All those certain pieces and parcels of land owned by the Peavy-Richmond Partnership, containing 253 acres, more or less, and located in the County of New Kent, State of Virginia, shown on "Patriots Landing Boundary Map", dated October 9, 2003, prepared by Timmons Group, and more particularly described as follows:

Description of a 33.4 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 1650'+/- from the northeast corner of the U.S. Route 60/249/33 intersection,

Thence, from said point of beginning, n 52°54'08" w, 809.16 feet to a point;

Thence, n 18°20'36" w, 313.11 feet to a point;

Thence, n 17°20'24" w, 838.22 feet to a point;

Thence, n 64°57'29" e, 574.76 feet to a point;

Thence, s 22°49'09" e, 782.92 feet to a point;

Thence, s 55°32'02" e, 176.20 feet to a point;

Thence, s 39°30'55" e, 160.44 feet to a point;

Thence, s 51°38'53" e, 246.29 feet to a point;

Thence, n 70°31'22" e, 120.98 feet to a point;

Thence, s 71°11'37" e, 390.64 feet to a point;

Thence, s 18°48'23" w, 370.76 feet to a point;
Thence, s 02°51'39" e, 50.00 feet to a point;
Thence, s 88°18'14" w, 122.55 feet to a point;
Thence, s 37°05'52" w, 240.05 feet to a point;
Thence, s 52°54'08" e, 51.83 feet to a point;
Thence, s 37°05'52" w, 100.00 feet to a point;
Thence, n 52°54'08" w, 317.83 feet to a point;
Thence, s 37°05'52" w, 162.75 feet to the point of beginning.
Containing: 33.4 acres

Description of a 34.0 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 2350' +/- from the northeast corner of the U.S. Route 60/249/33 intersection,
Thence, from said point of beginning, n 71°11'37" w, 390.64 feet to a point;
Thence, s 70°31'22" w, 120.98 feet to a point;
Thence, n 51°38'53" w, 246.29 feet to a point;
Thence, n 39°30'55" w, 160.44 feet to a point;
Thence, n 55°32'02" w, 176.20 feet to a point;
Thence, n 22°49'09" w, 782.92 feet to a point;
Thence, n 64°57'29" e, 594.21 feet to a point;
Thence, n 89°35'38" e, 214.60 feet to a point;
Thence, s 81°42'26" e, 651.50 feet to a point;
Thence, s 41°40'06" e, 145.57 feet to a point;
Thence, s 22°26'26" e, 382.94 feet to a point;
Thence, s 67°22'09" w, 122.38 feet to a point;

Thence, n 22°37'51" w, 17.14 feet to a point;
Thence, s 67°22'09" w, 230.65 feet to a point;
Thence, s 27°48'15" w, 138.58 feet to a point;
Thence, s 08°42'35" e, 412.90 feet to a point;
Thence, s 18°48'23" w, 242.12 feet to the point of beginning.
Containing: 34.0 acres

Description of a 143.1 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 2950' +/- from the northeast corner of the U.S. Route 60/249/33 intersection,
Thence, from said point of beginning, n 52°53'36" w, 470.96 feet to a point;
Thence, n 16°33'37" e, 95.45 feet to a point;
Thence, n 32°27'21" e, 141.21 feet to a point;
Thence, n 52°46'34" e, 265.08 feet to a point;
Thence, along a curve to the right with a radius of 100.00 feet, a tangent length of 34.30 feet, a central angle of 37°52'06", the radius of which bears s 34°14'56" e, the long chord of which bears n 74°41'07" e for a distance of 64.90 feet; thence along the arc of said curve for a distance of 66.09 feet to a point;
Thence, n 53°18'58" w, 72.06 feet to a point;
Thence, n 30°35'02" e, 201.45 feet to a point;
Thence, along a curve to the right with a radius of 175.00 feet, a tangent length of 46.69 feet, a central angle of 29°52'39", the radius of which bears n 68°32'30" w, the long chord of which bears n 06°31'10" e for a distance of 90.22 feet; thence along the arc of said curve for a distance of 91.26 feet to a point;
Thence, n 08°25'09" w, 356.19 feet to a point;
Thence, n 06°56'35" w, 96.94 feet to a point;
Thence, along a curve to the right with a radius of 325.00 feet, a tangent length of 42.89 feet, a central angle of 15°02'06", the radius of which bears n 88°41'16"

e, the long chord of which bears n $06^{\circ}12'19''$ e for a distance of 85.04 feet; thence along the arc of said curve for a distance of 85.28 feet to a point;

Thence, along a compound curve to the right with a radius of 25.00 feet, a tangent length of 23.63 feet, a central angle of $86^{\circ}45'44''$, the radius of which bears n $76^{\circ}16'38''$ w, the long chord of which bears n $29^{\circ}39'30''$ w for a distance of 34.34 feet; thence along the arc of said curve for a distance of 37.86 feet to a point;

Thence, along a compound curve to the right with a radius of 327.47 feet, a tangent length of 60.69 feet, a central angle of $20^{\circ}59'59''$, the radius of which bears s $16^{\circ}55'23''$ w, the long chord of which bears n $83^{\circ}34'37''$ w for a distance of 119.35 feet; thence along the arc of said curve for a distance of 120.02 feet to a point;

Thence, n $02^{\circ}51'39''$ w, 50.00 feet to a point;

Thence, n $18^{\circ}48'23''$ e, 370.76 feet to a point;

Thence, n $18^{\circ}48'23''$ e, 242.12 feet to a point;

Thence, n $08^{\circ}42'35''$ w, 412.90 feet to a point;

Thence, n $27^{\circ}48'15''$ e, 138.58 feet to a point;

Thence, n $67^{\circ}22'09''$ e, 230.65 feet to a point;

Thence, s $22^{\circ}37'51''$ e, 17.14 feet to a point;

Thence, n $67^{\circ}22'09''$ e, 122.38 feet to a point;

Thence, s $22^{\circ}26'26''$ e, 565.79 feet to a point;

Thence, s $13^{\circ}09'46''$ e, 328.40 feet to a point;

Thence, n $75^{\circ}15'34''$ e, 586.24 feet to a point;

Thence, n $19^{\circ}16'06''$ w, 633.65 feet to a point;

Thence, s $71^{\circ}58'34''$ w, 210.53 feet to a point;

Thence, n $08^{\circ}46'06''$ w, 540.79 feet to a point;

Thence, s $81^{\circ}42'26''$ e, 2025.48 feet to a point;

Thence, s $64^{\circ}53'29''$ e, 483.81 feet to a point;

Thence, along a curve to the right with a radius of 839.76 feet, a tangent length of 64.89 feet, a central angle of $8^{\circ}50'16''$, the radius of which bears $s 73^{\circ}41'22''$ e, the long chord of which bears $s 11^{\circ}53'30''$ w for a distance of 129.40 feet; thence along the arc of said curve for a distance of 129.53 feet to a point;

Thence, along a compound curve to the right with a radius of 126.92 feet, a tangent length of 10.57 feet, a central angle of $9^{\circ}31'13''$, the radius of which bears $s 82^{\circ}31'38''$ e, the long chord of which bears $s 02^{\circ}42'46''$ w for a distance of 21.07 feet; thence along the arc of said curve for a distance of 21.09 feet to a point;

Thence, along a compound curve to the right with a radius of 8111.80 feet, a tangent length of 99.37 feet, a central angle of $1^{\circ}24'13''$, the radius of which bears $s 87^{\circ}57'09''$ w, the long chord of which bears $s 01^{\circ}20'44''$ e for a distance of 198.72 feet; thence along the arc of said curve for a distance of 198.72 feet to a point;

Thence, along a compound curve to the right with a radius of 83.18 feet, a tangent length of 27.41 feet, a central angle of $36^{\circ}28'47''$, the radius of which bears $s 89^{\circ}21'22''$ w, the long chord of which bears $s 17^{\circ}35'46''$ w for a distance of 52.07 feet; thence along the arc of said curve for a distance of 52.96 feet to a point;

Thence, along a compound curve to the right with a radius of 1768.99 feet, a tangent length of 116.52 feet, a central angle of $7^{\circ}32'14''$, the radius of which bears $n 54^{\circ}09'51''$ w, the long chord of which bears $s 39^{\circ}36'16''$ w for a distance of 232.54 feet; thence along the arc of said curve for a distance of 232.70 feet to a point;

Thence, along a compound curve to the right with a radius of 495.43 feet, a tangent length of 46.59 feet, a central angle of $10^{\circ}44'42''$, the radius of which bears $n 46^{\circ}37'37''$ w, the long chord of which bears $s 48^{\circ}44'44''$ w for a distance of 92.78 feet; thence along the arc of said curve for a distance of 92.91 feet to a point;

Thence, along a compound curve to the right with a radius of 8087.18 feet, a tangent length of 336.12 feet, a central angle of $4^{\circ}45'35''$, the radius of which bears $s 35^{\circ}52'55''$ e, the long chord of which bears $s 51^{\circ}44'18''$ w for a distance of 671.66 feet; thence along the arc of said curve for a distance of 671.85 feet to a point;

Thence, along a compound curve to the right with a radius of 418.92 feet, a tangent length of 163.55 feet, a central angle of $42^{\circ}39'04''$, the radius of which bears $n 40^{\circ}38'30''$ w, the long chord of which bears $s 70^{\circ}41'02''$ w for a distance of 304.69 feet; thence along the arc of said curve for a distance of 311.84 feet to a point;

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Thence, along a compound curve to the right with a radius of 1655.62 feet, a tangent length of 41.71 feet, a central angle of $2^{\circ}53'10''$, the radius of which bears $s 02^{\circ}00'34'' w$, the long chord of which bears $n 89^{\circ}26'01'' w$ for a distance of 83.39 feet; thence along the arc of said curve for a distance of 83.40 feet to a point;

Thence, along a compound curve to the right with a radius of 168.89 feet, a tangent length of 113.51 feet, a central angle of $67^{\circ}48'42''$, the radius of which bears $s 00^{\circ}52'36'' e$, the long chord of which bears $s 55^{\circ}13'03'' w$ for a distance of 188.42 feet; thence along the arc of said curve for a distance of 199.89 feet to a point;

Thence, $s 21^{\circ}18'42'' w$, 243.20 feet to a point;

Thence, along a curve to the right with a radius of 179.84 feet, a tangent length of 34.92 feet, a central angle of $21^{\circ}58'48''$, the radius of which bears $s 77^{\circ}04'54'' e$, the long chord of which bears $s 01^{\circ}55'42'' w$ for a distance of 68.57 feet; thence along the arc of said curve for a distance of 68.99 feet to a point;

Thence, along a compound curve to the right with a radius of 232.76 feet, a tangent length of 110.08 feet, a central angle of $50^{\circ}37'17''$, the radius of which bears $s 80^{\circ}56'18'' w$, the long chord of which bears $s 16^{\circ}14'57'' w$ for a distance of 199.02 feet; thence along the arc of said curve for a distance of 205.65 feet to a point;

Thence, along a compound curve to the right with a radius of 530.94 feet, a tangent length of 44.77 feet, a central angle of $9^{\circ}38'26''$, the radius of which bears $s 48^{\circ}26'25'' e$, the long chord of which bears $s 36^{\circ}44'22'' w$ for a distance of 89.23 feet; thence along the arc of said curve for a distance of 89.34 feet to a point;

Thence, $s 31^{\circ}55'09'' w$, 223.13 feet to a point;

Thence, along a curve to the right with a radius of 7510.80 feet, a tangent length of 202.06 feet, a central angle of $3^{\circ}04'55''$, the radius of which bears $n 58^{\circ}00'42'' w$, the long chord of which bears $s 33^{\circ}31'45'' w$ for a distance of 403.97 feet; thence along the arc of said curve for a distance of 404.02 feet to a point;

Thence, $s 50^{\circ}31'07'' w$, 280.37 feet to a point;

Thence, $s 47^{\circ}35'19'' w$, 153.22 feet to a point;

Thence, along a curve to the right with a radius of 399.68 feet, a tangent length of 117.42 feet, a central angle of $32^{\circ}44'40''$, the radius of which bears $n 42^{\circ}24'41'' w$, the long chord of which bears $s 63^{\circ}57'39'' w$ for a distance of 225.32 feet; thence along the arc of said curve for a distance of 228.42 feet to a point;

Thence, along a compound curve to the right with a radius of 475.30 feet, a tangent length of 261.42 feet, a central angle of $57^{\circ}37'24''$, the radius of which bears $n 09^{\circ}40'01'' w$, the long chord of which bears $n 70^{\circ}51'19'' w$ for a distance of 458.12 feet; thence along the arc of said curve for a distance of 478.02 feet to a point;

Thence, along a compound curve to the right with a radius of 208.89 feet, a tangent length of 127.52 feet, a central angle of $62^{\circ}48'24''$, the radius of which bears $s 47^{\circ}57'23'' w$, the long chord of which bears $n 73^{\circ}26'49'' w$ for a distance of 217.69 feet; thence along the arc of said curve for a distance of 228.98 feet to a point;

Thence, along a compound curve to the right with a radius of 184.91 feet, a tangent length of 82.13 feet, a central angle of $47^{\circ}54'00''$, the radius of which bears $s 14^{\circ}51'01'' e$, the long chord of which bears $s 51^{\circ}11'59'' w$ for a distance of 150.12 feet; thence along the arc of said curve for a distance of 154.58 feet to a point;

Thence, $s 30^{\circ}32'19'' w$, 123.32 feet to the point of beginning.

Containing: 143.1 acres

Description of a 30.7 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 1528' +/- from the northeast corner of the U.S. Route 60/249/33 intersection,

Thence, from said point of beginning, $n 52^{\circ}53'36'' w$, 1528.21 feet to a point;

Thence, $n 04^{\circ}27'48'' e$, 181.19 feet to a point;

Thence, $n 21^{\circ}57'12'' e$, 509.73 feet to a point;

Thence, $n 23^{\circ}12'56'' e$, 300.37 feet to a point;

Thence, $n 42^{\circ}31'08'' e$, 212.16 feet to a point;

Thence, $n 64^{\circ}57'29'' e$, 133.14 feet to a point;

Thence, $s 17^{\circ}20'24'' e$, 838.22 feet to a point;

Thence, $s 18^{\circ}20'36'' e$, 313.11 feet to a point;

Thence, $s 52^{\circ}54'08'' e$, 809.16 feet to a point;

Thence, $s 37^{\circ}05'52'' w$, 600.20 feet to a point;

Thence, s 37°05'52" w, 0.06 feet to a point;

Thence, n 52°53'31" w, 0.00 feet to the point of beginning.

Containing: 30.7 acres

Description of a 5.6 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 2470' +/- from the northeast corner of the U.S. Route 60/249/33 intersection,

Thence, from said point of beginning, n 52°53'36" w, 213.76 feet to a point;

Thence, n 46°33'12" w, 226.38 feet to a point;

Thence, n 62°23'22" w, 21.94 feet to a point;

Thence, n 37°05'52" e, 157.09 feet to a point;

Thence, n 52°54'08" w, 25.50 feet to a point;

Thence, n 37°05'52" e, 274.33 feet to a point;

Thence, n 52°54'08" w, 6.67 feet to a point;

Thence, n 37°05'52" e, 79.87 feet to a point;

Thence, s 53°18'58" e, 486.82 feet to a point;

Thence, s 53°18'58" e, 72.06 feet to a point;

Thence, along a curve to the right with a radius of 100.00 feet, a tangent length of 34.30 feet, a central angle of 37°52'06", the radius of which bears s 03°37'10" w, the long chord of which bears s 74°41'07" w for a distance of 64.90 feet; thence along the arc of said curve for a distance of 66.09 feet to a point;

Thence, s 52°46'34" w, 265.08 feet to a point;

Thence, s 32°27'21" w, 141.21 feet to a point;

Thence, s 16°33'37" w, 95.45 feet to the point of beginning.

Containing: 5.6 acres

Description of a 6.3 acre parcel of land located in the County of New Kent, State of Virginia, in accordance with a plan entitled "**Patriots Landing Boundary Map**", dated 10/9/03, prepared by Timmons Group. Said parcel being more fully described as follows:

Beginning at a point, said point being 2500'+/- from the northeast corner of the U.S. Route 60/249/33 intersection,

Thence, from said point of beginning, n 53°18'58" w, 486.82 feet to a point;

Thence, n 37°05'52" e, 209.42 feet to a point;

Thence, n 52°54'08" w, 25.00 feet to a point;

Thence, n 37°05'52" e, 100.00 feet to a point;

Thence, n 52°54'08" w, 100.00 feet to a point;

Thence, n 52°54'08" w, 51.83 feet to a point;

Thence, n 37°05'52" e, 240.05 feet to a point;

Thence, n 88°18'14" e, 122.55 feet to a point;

Thence, along a curve to the right with a radius of 327.47 feet, a tangent length of 60.69 feet, a central angle of 20°59'59", the radius of which bears s 04°04'36" e, the long chord of which bears s 83°34'37" e for a distance of 119.35 feet; thence along the arc of said curve for a distance of 120.02 feet to a point;

Thence, along a compound curve to the right with a radius of 25.00 feet, a tangent length of 23.63 feet, a central angle of 86°45'44", the radius of which bears s 16°57'38" w, the long chord of which bears s 29°39'30" e for a distance of 34.34 feet; thence along the arc of said curve for a distance of 37.86 feet to a point;

Thence, along a compound curve to the right with a radius of 325.00 feet, a tangent length of 42.89 feet, a central angle of 15°02'06", the radius of which bears s 76°16'38" e, the long chord of which bears s 06°12'19" w for a distance of 85.04 feet; thence along the arc of said curve for a distance of 85.28 feet to a point;

Thence, s 06°56'35" e, 96.94 feet to a point;

Thence, s 08°25'09" e, 356.19 feet to a point;

Thence, along a curve to the right with a radius of 175.00 feet, a tangent length of 46.69 feet, a central angle of 29°52'39", the radius of which bears s 81°34'51" w, the long chord of which bears s 06°31'10" w for a distance of 90.22 feet; thence along the arc of said curve for a distance of 91.26 feet to a point;

Thence, s 30°35'02" w, 201.45 feet to the point of beginning.

Containing: approximately 6.3 acres

Meaning and intending to include all that property owned by Peavy-Richmond Partnership lying generally south of I-64, east of Route 249/33, north of Route 60, and west of Five Lakes subdivision, at the common boundary of the subdivision and the Peavy-Richmond Partnership property generally along the centerline of the westernmost lakes that are part of that boundary, but specifically not including those parcels now or formerly owned by the Isham Estate and the Winn Dixie and the out parcels that are part of the Winn Dixie tract.

- Said properties described above comprising tax map parcels 19-45, 19-1-1, 19-1-2, 19-1-3, 19-1-4, 19-1-5, and 19-1-6.

BE IT FURTHER ORDAINED that the following general conditions and provisions shall apply to the development of property located within this Planned Unit Development:

1. References and Definitions

- a. The application package entitled "Rezoning Request, Patriots Landing, Bottoms Bridge, received by New Kent County on 19 May 2003, together with all attachments, exhibits and enclosures is cited as the Application. In all instances of conflict between the Application and this PUD Ordinance, this PUD ordinance shall prevail.
- b. For the purposes of interpreting and applying this ordinance, certain words and terms shall have the following meanings:

Applicant: East West Partners of Virginia, a Virginia Corporation and its assignees.

Commercial, Neo-traditional: A development that may encompass a combination of uses, including retail, office, and residential, within the same structure or project. Design features include placement of buildings in close proximity to the street with shared parking located on street or behind the structure.

Dam. The Dam noted in this document is a man-made structure across an unnamed watercourse that retains or store waters and is located in Phase 2 of the Property.

Developer: A person or entity that acquires property within the PUD for the purpose of further developing such property for its permitted uses.

Development Area: A portion of the subject property delineated as a Residential or Commercial Development Area on the Patriots Landing Re-Zoning Map prepared by Timmons Group, as revised August 26, 2003.

Development Ordinances: The New Kent County Zoning Ordinance and Subdivision Ordinance in existence as of the date the PUD Ordinance is approved by the Board of Supervisors.

Development Parcel: Any portion of the subject property or an individual "Development Area" for which a site plan or subdivision plat is submitted to the County for review and approval.

Dwelling, Cluster: Single-family detached homes on small lots located close to the street.

Dwelling, Neo-Traditional: Single-family detached homes on small lots located close to the street with design features such as front porches that are designed to encourage interaction among neighbors.

Dwelling, Single-Family Attached: Two or more units attached by common vertical walls without opening between them and with separate entrances for each dwelling unit; may include patio homes, townhouses, zero-lot line, two-family, duplexes, triplexes and quadraplexes.

Dwelling, Multiple-Family: Four or more dwelling units contained within a single structure which are either offered for rent or for sale under condominium ownership.

General Design Guidelines: The General Design Guidelines described in Section 16 of this PUD Ordinance.

Model home: A dwelling that is temporarily used as real estate office to market dwellings within the PUD.

Open Space: Any area of land or water which is set aside, dedicated, designated or reserved for the use and enjoyment of residents of Patriots Landing. Open Space includes buffers, water, landscaped features, Chesapeake Bay Preservation Areas, recreational areas, parks or playgrounds, trails, wetlands, floodplains, or other open area that provides passive or active recreation, visual relief, or focal point for the area. Common open space will be owned or maintained by one or more of the Property Owners Associations.

Phasing Schedule: The schedule for constructing infrastructure improvements as described in "Exhibit B" of the proffers submitted by the Applicant and accepted by the County, as modified from time to time.

Plan: The Plan entitled "Patriots Landing Re-Zoning Map" prepared by Timmons Group as revised on August 26, 2003.

PUD Ordinance: This Patriots Landing Planned Unit Development Ordinance, as amended.

Sign Area: The total square footage of signage shall be calculated by totaling the square footage of each individual letter, if they are applied directly to the building or structure face. If the signs are not individual letters, then the area of the signs shall be measured as the area within a rectangle or series of rectangles that encompasses the limits of the copy and background, framing, ornamentation, or sign boxes of the sign.

Tree, Large Evergreen: An evergreen tree having a height upon maturity of at least forty (40) feet and having a minimum height at time of planting of six (6) feet.

Tree, Small Evergreen: An evergreen tree having a height upon maturity of between ten (10) and twenty (20) feet and having a minimum height at time of planting of four (4) feet.

2. Relationship to the Zoning Ordinance

- a. This ordinance is intended to provide specific and unique development standards for Patriots Landing. It is intended to work together with the generally applicable Development Ordinances of New Kent County by modifying otherwise applicable provisions and providing standards and requirements that may not otherwise exist.
- b. The Development Ordinances of New Kent County, as of the date of approval of this PUD Ordinance shall generally control the development of the land contained within this project except as modified herein. The definitions contained in the Zoning Ordinance shall apply to the provisions of this document unless a different definition is provided herein, in which case the definition provided herein shall control.
- c. Conflicts between the provisions contained herein and those contained in the Development Ordinances shall be resolved in favor of the provisions contained herein.
- d. The Zoning Administrator shall be vested with the authority to interpret the provisions of this ordinance and shall be the arbiter of all conflicts between this ordinance and the Development Ordinances. Appeals of the Zoning Administrator's determinations and interpretations with respect to this document shall be heard by the Board of Zoning Appeals in full accord with the process and requirements contained in the Zoning Ordinance.
- e. Nothing in this ordinance shall be interpreted as modifying or waiving any applicable requirement of the County's implementation of the Chesapeake Bay Preservation Areas or Erosion and Sediment Control laws and regulations as promulgated by the Commonwealth of Virginia nor shall this PUD be vested with respect to any changes that may occur to those laws or regulations except to the extent such vesting is protected under state law.

3. Permitted Uses – The following principal uses shall be constructed or appropriate land shall be provided for the uses within each of the specified Development Areas, and they shall be the only principal uses permitted:

a. Residential Development Areas "A" and "B"

- i. Detached single-family dwellings
- ii. Parks, playgrounds, golf courses, community centers and non-commercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries, etc., including passive recreation areas.
- iii. Electric, gas, oil and communication facilities, excluding multilegged tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations, and appurtenances owned and operated by the County, its designee, or an approved private operator.
- iv. Public uses and buildings such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the County or its designee.
- v. Temporary construction uses.
- vi. Sales centers and/or model homes.
- vii. Reasonable and customary accessory uses and structures including home occupations and storage facilities.
- viii. Water tanks serving this development in part or whole.
- ix. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers.

b. Residential Development Area "C"

- i. All uses allowed in Residential Development Areas "A" and "B".
- ii. Semidetached and attached single-family dwellings such as duplexes, triplexes, quadraplexes, townhouses, atrium houses and patio houses.
- iii. Multiple-family dwellings

c. Residential Development Area "D"

- i. All uses allowed in Residential Development Areas "A", "B", and "C"
- ii. All uses permitted in zoning districts B-1 and B-2, with the exception of the following uses:
 - (1) Amusement parks.
 - (2) Auto sales, service, body work, or auto painting.
 - (3) Bus terminals, truck terminals, or truck stops.
 - (4) Hospitals.
 - (5) Lumber and building supply.
- iii. Fire and rescue squad stations.
- iv. Sheriff substation.
- v. Parking structures located wholly or partly above grade.
- vi. Sales center, sales office, and model homes, if developed residentially.

d. Commercial Development Areas "E" and "F"

- i. All uses permitted in zoning districts B-1 and B-2, with the exception of the following uses:
 - (1) Amusement parks.
 - (2) Auto sales, service, body work, or auto painting.
 - (3) Bus terminals, truck terminals, or truck stops.
 - (4) Hospitals.
 - (5) Lumber and building supply.
- ii. Fire and rescue squad stations.
- iii. Sheriff substation.
- iv. Parking structures located wholly or partly above grade.
- v. Sales center or sales office but not model home.

e. Recreation ("Rec") Site

- i. Parks, playgrounds, golf courses, community centers and non-commercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries, etc., including passive recreation areas.
- ii. If the recreation site is moved in whole or in part, uses permitted in 3.c. above.

f. All reasonable and customary accessory uses to the principal permitted uses in each Development Area are permitted

g. The maximum number of residential dwelling units to be constructed on the Property shall be 640, provided however, the maximum number of multi-family units for rent shall be 250.

h. At the time of the first site plan or subdivision plan submittal, the Applicant shall submit an overall conceptual plan of the commercial development showing that enough land is available to build a minimum of 270,000 square feet of commercial, office and/or service space along with sufficient parking as required by the New Kent County Code.

4. Adjustments to Development Area Boundaries and Approved Densities

- a. Overall project boundaries generally shall be consistent with those contained in the legal descriptions in this ordinance; however, the Applicant may make minor adjustments to such internal boundaries, with the approval of the Zoning Administrator, provided such adjustments do not increase or decrease the size of any land bay by more than ten (10) percent. This provision notwithstanding, Commercial Development Areas "E" and "F" may be increased, but not decreased in size.
- b. Any deviation from the above-referenced uses or increase in residential densities shall require the prior review of the New Kent County Planning Commission after a duly advertised public hearing and approval of the Board of Supervisors also after a duly advertised public hearing. The application shall be in the form of a Planned Unit Development amendment.

- c. The subdivision of individual Development Areas into separate Development Parcels shall be permissible; however, individual development plans for each Development Parcel shall be subject to review and approval by the New Kent County Planning Commission, as is the case with all site plans and subdivision plans.

5. Site Plan and Subdivision Plan Submissions and Approval

- a. Site plans and subdivision plans shall be submitted to the County for approval in accordance with applicable procedures contained in the Development Ordinances.
- b. In any case where the site plan for a Development Parcel includes less than the entire Development Parcel, it shall be accompanied by a concept plan showing the general relationship between the area of the Development Parcel and the existing and proposed future development pattern and vehicular access for the remainder of the Development Parcel.

6. Project Phasing – Developments within the PUD and timing of dedications, reservations and improvements shall be carried out in accordance with the Phasing Schedule, which is attached to and incorporated into this ordinance by reference. Any revisions to this Phasing Schedule shall be reviewed by the New Kent County Planning Commission and approved by the Board of Supervisors. This shall require duly advertised public hearings by both the Planning Commission and the Board of Supervisors or a jointly convened public hearing. The application shall be in the form of a Planned Unit Development amendment.

7. Conditions Under Which Sites May be Sold – The conditions attached to this PUD including the covenants, restrictions, proffered conditions and General Design Guidelines established by the PUD shall run with the land, and shall be binding on successors in title. Covenants and restrictions may be established for the PUD as a whole or on the basis of separate sections or Development Parcels as determined by the Applicant. Copies of all covenants and restrictions shall be submitted to the County as a part of the review of subdivision and site plan submittals, and must be approved by the County as to compliance with the requirements of this PUD Ordinance.

8. Conservation Areas – Conservation areas include wetlands, Chesapeake Bay Resource Protection Areas (RPAs), and steep slopes exceeding 25%. Site-specific delineation of the conservation areas will be required to be shown on final site plans. Conservation areas in the residential areas shall be encumbered by permanent conservation easements dedicated in favor of New Kent County, the Property Owners Association, or such other entity as may be approved by the County, and shall be shown on all recorded plats. Maintenance of all conservation areas shall be vested with one or more Property Owners Associations.

9. Yard, Height and Setback Requirements – The following height, setback, and yard requirements shall apply:

- a. Residential Development Areas “A” and “B”

- i. Residential Use—Single family detached

- (1) Maximum density: 3.0 dwelling units per acre
- (2) Minimum lot size requirement: 7,000 square feet.
- (3) Minimum lot width at street: 25 feet
- (4) Minimum yard requirements for primary structures:
 - Front: 30 feet
 - Side: 7.5 feet
 - Rear: 20 feet
- (5) Minimum yard requirements for permitted accessory structures
 - Front: 10 feet behind the front of the principal structure
 - Side: 5 feet
 - Rear: 15 feet
- (6) Minimum lot width: 25 feet.
- (7) Building height limitation: 40 feet maximum. In no case shall accessory structures exceed the height of principal structures

ii. Non-Residential Use

- (1) Lot size requirement: No requirement.
- (2) Minimum lot width at street: No requirement.
- (3) Minimum yard requirements:
 - Front: 30 feet
 - Side: Requirement controlled by fire code
 - Rear: 25 feet
- (4) Building height limitation: Maximum 40 feet for principal structures. In no case shall accessory structures exceed the height of principal structures
- (5) Minimum open space on each parcel: 25%

b. Residential Development Areas "C" and "D"

i. Residential Use

- (1) Maximum density
 - Conventional, single-family detached dwellings: 3.0 dwelling units per acre
 - Cluster/Neo-traditional dwellings: 5.0 dwelling units per acre
 - Duplex dwellings: 5.5 dwelling units per acre
 - Townhouses: 10.0 dwelling units per acre
 - Apartments/Condominiums: 12.5 dwelling units per acre
- (2) Lot size requirement:
 - Conventional, single-family detached dwellings: 7,000 square feet
 - Cluster/Neo-traditional, and duplex dwellings: 5,000 square feet
 - Townhouses: 2,000 square feet
 - Apartments and condominiums: no requirement
- (3) Minimum lot width at street:
 - Conventional, single-family detached dwellings: 25 feet
 - Cluster/Neo-traditional dwellings: 20 feet
 - Duplex dwellings: 20 feet

- Townhouses: 15 feet
- Apartments/Condominiums: no requirement
- (4) Minimum yard requirements for primary structures:
 - Conventional, single-family detached dwellings:
 - Front: 30 feet
 - Side: 7.5 feet
 - Rear: 20 feet
 - Cluster/Neo-traditional dwellings
 - Front: 8 feet
 - Side: 2 feet and 13 feet
 - Rear: 15 feet
 - Duplex dwellings:
 - Front: 8 feet
 - Side: 0 feet and 15 feet
 - Rear: 15 feet
 - Townhouses:
 - Front: No requirement
 - Side: 10 feet for end units
 - Rear: 15 feet
 - Apartments/Condominiums: No requirements
- (5) Building height limitation:
 - Apartments/Condominiums: 50 feet
 - All other structures: 40 feet
 - In no case shall accessory structures exceed the height of principal structures
- (6) Minimum open space on each parcel: 25 percent

ii. Non-Residential Use

- (1) Lot size requirement: No requirement
- (2) Minimum lot width: No requirement
- (3) Minimum yard requirements:
 - Front: 8 feet
 - Side: Requirement controlled by fire code
 - Rear: 25 feet
- (4) Building height limitation: Maximum 50 feet for principal structures. In no case shall accessory structures exceed the height of principal structures

c. Commercial Development Areas “E” and “F”

- i. Lot size requirement: No requirement
- ii. Minimum lot width: No requirement
- iii. Minimum yard requirements:
 - (1) Front: 8 feet
 - (2) Side: Requirement controlled by fire code
 - (3) Rear: 25 feet
- iv. Building height limitation: Maximum 50 feet

d. Recreation Site when used for recreational uses. Other permitted uses follow the applicable standards provided above.

- i. Lot size requirement: No requirement
- ii. Minimum lot width: No requirement
- iii. Minimum yard requirements:
 - (1) Front: 30 feet
 - (2) Side: Requirement controlled by fire code
 - (3) Rear: 25 feet
- iv. Building height limitation: Maximum 50 feet

e. Modifications to the yard, height and setback requirements established herein may be authorized by the Zoning Administrator during the review and approval process of individual Development Parcels when such modifications would clearly contribute to a superior design, reduce environmental impacts, enhance vistas and viewsheds, or provide other demonstrable benefits to the community based on the specific proposal for the specific Development Parcel under review. In the sole discretion of the Zoning Administrator, such modifications may be conditioned on certain other performance factors deemed by the Zoning Administrator to be relevant to the request

10. Open Space – No less than twenty-five percent (25%) of the total project shall be maintained as Open Space for the enjoyment of the residents and guests of the PUD. Nothing in the foregoing shall prevent the grading, clearing, or installation of recreational improvements or amenities, including, but not limited to, landscaped features, lakes and water, passive recreational areas, parks or playgrounds, swimming pools, or trails.

- a. Site-specific delineation of Open Space will be required to be shown on final site plans or subdivision plats.
- b. Common Open Space shall be dedicated in favor the Property Owners Association, and shall be shown on all recorded plats. Maintenance of all Common Open Space shall be vested with one or more Property Owners Associations.

11. Buffers – Buffers shall be provided as follows:

- a. A 200 foot building setback from the existing Interstate 64 right-of-way to any dwelling unit shall be provided. Within that 200 foot setback, a landscaped buffer of no less than 100 feet in width from the edge of the existing right-of-way of Interstate 64 shall be provided. No part of the 100 foot buffer shall be included in residential lots. The buffer shall be left in its undisturbed vegetative state, except as provided in 12.b. below and grading shall be permitted within the buffer provided that such encroachment shall be the minimum necessary for grading of adjacent sites and shall, in no event, exceed twenty five (25) feet. The buffer shall be replanted where disturbed for utilities or grading, as necessary, with one Large Evergreen Tree and one Small Evergreen Tree for every 1000 square feet of open area, to achieve no less than a 100-foot treed depth at maturity in order to provide both a visual screen and a sound barrier. The buffer shall be required along the I-64

mainline as well as the interchange ramps and shall be provided regardless of the adjacent land use. Existing trees that are preserved shall be credited against the above planting requirements. Fencing sections that blend with the architectural and design features of the community may be placed within the buffer.

- b. Adjacent to State Route 33/249, a 100-foot wide landscaped buffer shall be established between the existing right-of-way of Route 33/249 and all residential uses. The buffer shall be left in its undisturbed vegetative state, except as provided in 12.b. below and grading shall be permitted within the buffer provided that such encroachment shall be the minimum necessary for grading of adjacent sites and shall, in no event, exceed twenty five (25) feet. The buffer shall be replanted where disturbed for utilities or grading, as necessary, with one Large Evergreen Tree and one Small Evergreen Tree for every 1000 square feet of open area, to achieve no less than a 100-foot treed depth at maturity in order to provide both a visual screen and a sound barrier. Commercial or public uses (and any emergency access) shall be exempt from such buffers but shall still be subject to the open space requirements in this section. Existing trees that are preserved shall be credited against the above planting requirements. Fencing sections that blend with the architectural and design features of the community may be placed within the buffer.
- c. A Transitional Buffer consisting of a strip of landscaped open space a minimum of 50 feet wide shall be provided between residential and non-residential uses, provided, however, if there is a mix of residential and non-residential uses within the same building or series of buildings (such as in Neo-Traditional design) such Transition Buffer shall not be required between the uses. The Transitional Buffer shall be replanted where disturbed for utilities or grading, as necessary, with one Large Evergreen Tree and one Small Evergreen Tree for every 1000 square feet of open area, to achieve no less than a 100-foot treed depth at maturity in order to provide both a visual screen and a sound barrier. Existing trees that are preserved shall be credited against the above planting requirements.
- d. A minimum one hundred foot (100') setback from the edge of the existing lakes on and adjacent to the Property shall be provided. This setback shall be provided as open space for Patriots Landing. Within this setback, the Developer may provide additional amenities such as trails, lake access, parks, or fishing piers. Access to the lakes by emergency vehicles shall be provided.

12. Buffer and Open Space Guidelines

- a. Where the required buffers and open space traverse wetlands and other environmentally sensitive areas, installation of landscape materials shall not be required.
- b. Buffers may be broken only where driveways, utility easements, sight distance easements, pedestrian ways, or other openings exist or are required.
- c. Plant material installed in buffers shall be spaced to achieve a naturalized appearance, except where specifically indicated otherwise. Landscaping within

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buffers shall be maintained in a healthy growing condition at all times, replaced when necessary, and kept free of trash and litter.

- d. The Planning Commission may on a case-by-case basis modify or grant deviations from the requirements for the setbacks and buffers contained herein upon a finding that the need for the more stringent requirements has been eliminated by the arrangement of the uses, condition of existing vegetation, or other mitigating factors. The Planning Commission additionally may modify buffers where existing vegetation is used to provide part or the entire buffer screening upon finding that an equivalent degree of buffering is provided. In granting modifications, reductions or deviations, the Planning Commission may require that reductions in buffers in one location be added to another location within the same Development Parcel upon a finding that the enhanced buffering is appropriate and necessary to fulfill the objectives of the buffer being enhanced.

13. Transportation Improvements and Standards – Various transportation improvements shall be constructed as a part of the PUD in general accordance with the Plan, Proffers and Phasing Schedule, and shall include the following:

a. “Access #1” as shown on the Plan shall be completed as follows:

- i. The Developer shall construct a west-bound, right-hand turn lane of sufficient length and width as determined by VDOT from Route 60 to Access #1.
- ii. The Developer shall construct an east-bound, left-hand turn lane of sufficient length and width as determined by VDOT from Route 60 to Access #1.
- iii. The Developer shall dedicate all additional right-of-way needed for the improvements in (i) and (ii) above.
- iv. Completion of all Access #1 construction shall occur not later than the recordation of the 100th residential lot in the Project.

b. “Access #2” as shown on the Plan shall be completed as follows:

- i. The Developer shall construct a west-bound, right-turn lane of sufficient length and width as determined by VDOT from Route 60 to Access #2.
- ii. The Developer shall modify the existing east-bound, left-hand turn lane to provide sufficient length and width as determined by VDOT from Route 60 to Access #2.
- iii. The Developer shall dedicate all additional right-of-way needed for the improvements in (i) and (ii) above.
- iv. Construction of Access #2 shall commence not later than the issuance of the 250th residential building permit and shall be completed before the issuance of the 351st residential building permit.

c. “Access #3” as shown on the Plan shall be completed as follows:

- i. The Developer shall construct a right-in/right-out that will prevent direct access to the Property from east-bound traffic on Route 60.

- ii. The access shall have deceleration and acceleration lanes of sufficient length and width as determined by VDOT
 - iii. The Developer shall dedicate all additional right-of-way needed for this access.
 - iv. Construction of Access #3 shall be completed prior to issuance of building permits for more than 30,000 square feet of commercial uses in Development Areas E and/or F, or upon prior to the recordation of the 450th residential lot, whichever occurs first.
- d. The Applicant shall install the conduit under any new roadway (including turn lanes) for one (1) traffic signal at Access #1. If the Virginia Department of Transportation determines, at the time of the first site plan or first subdivision submission, that the future traffic signal should be provided at Access #2 or Access #3, then the conduit shall be installed under any new roadway (including turn lanes) at the other access. If warranted by VDOT on or before one (1) year after the recordation of all residential lots that can be accommodated on the land in Residential Development Areas A, B, C or D, or ten (10) years from the date the first residential or commercial building permit is issued in Patriots Landing, whichever occurs first, the Developer shall install a traffic signal warranted by VDOT at the Developer's expense. If such traffic signal is not warranted by VDOT within this timeframe, the Developer shall be relieved of the responsibility to install this traffic signal. The Developer shall provide a letter of credit or other surety at the time of the issuance of the 550th building permit to guarantee the installation of the signal if warranted by VDOT, and shall keep the instrument of surety current, including increasing the amount as needed to account for inflation or other cost increases as long it is within the aforementioned timeframes. At the end of the last of the aforementioned timeframes, the surety shall automatically terminate and be of no further force or effect.
- e. ~~All internal roads serving single family detached housing lots shall be, except for those in the Development Area known as "Patriots Landing Residential Phase 2, Sections 1 and 2 Subdivision," (the "Phase 2"), shall be public and~~ dedicated for public use and maintenance.
- f. The internal roads serving the Phase 2, including the extension of Patriots Landing Drive from its existing terminus east of Patriots Landing Place, and the Dam over which the internal roads will run, shall be private and maintained by a sub-association of Patriots Landing Homeowners Property Owners Association.
- g. The Dam shall be maintained in accordance with the applicable standards set forth in the Virginia Department of Conservation and Recreation guidelines.
- h. ~~g. f.~~ All internal roads, whether intended as public or private, shall be designed and constructed to public road standards as found in the most recent edition of the Virginia Department of Transportation Subdivision Street Requirements, except that private roads shall also meet the requirements set forth in the New Kent County Subdivision Ordinance for private streets. On a case-by-case basis and for good cause shown, alternative surface treatments may be approved provided that the alternative has similar maintenance and longevity characteristics as would the otherwise required surface treatment.

- i. ~~h.g.~~* Curb and gutter road sections shall be used in all residential and Commercial Development Areas. Open ditch sections shall not be permitted except as may be required in the Phase 2 and only as approved by the County.
- i. ~~i.h.~~* All streets in Residential Development Areas A, B, C and D shall be designed to interconnect and all Development Areas shall be designed to afford, at a minimum, the ingress and egress points shown on the Plan. An emergency access shall constitute a path of ingress and egress. Cul-de-sacs shall not be considered a desirable design technique except where exceptional and extreme environmental constraints exist. For the purposes of this paragraph, boulevard streets that are divided by a median shall constitute two (2) paths of ingress and egress.
- k. ~~i.i.~~* Pedestrian pathways, sidewalks, and trails shall be provided in a network that connects the various neighborhoods to the recreational sites and commercial areas. Sidewalks shall be fully accessible to the handicapped.
- l. ~~k.j.~~* Where sidewalks and pedestrian paths parallel a roadway, a planting strip shall be maintained between the back of curb and the edge of the sidewalk or pedestrian path, except at necessary intersections. Such planting strip shall be not less than four feet (4') in width. Said planting strip shall be used for the cultivation and propagation of landscape materials, the placement of required utilities or traffic control signs, and installation of street lighting.
- m. ~~l.k.~~* Bicycle facilities and accommodations and pedestrian sidewalks and paths plus any multiuse paths shall be designed and constructed to VDOT specifications when developed in VDOT rights-of-way.
- n. ~~m.l.~~* Street lights shall be provided the PUD where pedestrian facilities are present using light standards and luminaires that are architecturally compatible with the design standards of the General Design Guidelines. Luminaires shall direct all illumination downward and cut off illumination above the fixture to prevent upward light scatter.
- o. ~~n.m.~~* Private streets, where permitted, shall be placed within a deeded right-of-way or ingress/egress easement of no less than the width required by the Virginia Department of Transportation Subdivision Street Requirements for a comparable public street. The right-of-way or easement shall be conveyed to a property owners association or sub-association with the recording of the plat creating the right-of-way or the ingress/egress easement. The maintenance responsibilities for all private streets shall be vested in one or more property owners associations.

14. Utilities Improvements and Standards

- a. All development within the PUD shall be served by public water and sewer, as specified in the Proffers.
- b. The plans, specifications, construction documents and surety for all public utility infrastructure, whether on site or off site, required to serve the PUD shall be reviewed

and approved by the County prior to approval for recordation of any subdivision plat pertaining to any of the Development Areas other than to convey necessary land and easements to the Commonwealth or County.

- c. Except for building permits for a maximum of nine Model Homes in each Development Area, no building permit for a residential unit shall be issued until all public utilities necessary to serve that residential section have been constructed and tested or are within ninety (90) days of completion as certified by the project engineer for the utility or utilities.
- d. All new utility lines shall be installed underground. Any existing above-ground utilities that require relocation shall be placed underground.

15. Property Owners Association

- a. A master Property Owners Association (POA) shall be established for the PUD. At the option of the applicant, sub-associations may be created on the basis of separate sections or Development Areas or a combination thereof and may be constituted such that only sub-associations must be members of the master association. Articles of incorporation and bylaws of the POA and each such sub-association shall provide for mandatory membership of all property owners, authority for the POA and sub-associations to enforce the covenants and restrictions, and assessment of members for maintenance of property owned or maintained by the POA, according to the provisions of state law.
- b. For the purposes of this ordinance, "Community Facilities" shall include all common elements appurtenant to the development. This shall specifically include all buffers and open space, private streets, stormwater management facilities, streetscapes, streetlights and signs, and recreation areas and facilities.
- c. In Residential Development Areas A and B, the master POA will own and maintain the Community Facilities.
- d. In Residential Development Areas C and D and Commercial Areas E and F, either the master POA will own and maintain the Community Facilities, or the sub-association specific to those areas will own and maintain the Community Facilities, or a combination of the two shall own and maintain the Community Facilities.
- e. The documents creating the master POA shall be reviewed and approved by the County Attorney for compliance with the requirements of the PUD Ordinance, and shall be recorded contemporaneously with the first subdivision plat of any property within the Patriots Landing PUD.
- f. With the exception of property to be dedicated to the Commonwealth or to New Kent County, every piece of property within the PUD shall be encumbered by membership in the POA or sub-association or both.

- g. Each prospective property owner within the PUD shall be provided with a written outline of the restrictive covenants that apply to the property being considered and POA structure, responsibilities and mandatory membership provisions plus an estimated average annual cost of POA membership in accordance with the Virginia Property Owners Association Act.
 - h. The Developer shall fund any shortfall to the operating expenses of the POA for the first two (2) years of the project, as calculated from the date of the issuance of the first residential building permit.
 - i. The construction of the Community Facilities and dues shall be structured so that the needed operating expenses are covered by the POA after the first two (2) years of funding of the project by the Developer, as defined in (h) above.
 - j. The New Kent County Department of Public Utilities has approved a utility plan that allows the water main for Phase 2 to run through the Dam. The Developer shall convey the Dam to a sub-association of the Patriot's Landing Property Owners Association subject to the condition that neither the Developer nor the sub-association shall have any claim against the County caused by water main breaks or other failures of the water main in the Dam.
 - k. The Developer agrees to dedicate easements in Phase 2 to the New Kent County Board of Supervisors for all public water and sewer mains, laterals, fire hydrants, manholes and all other appurtenances related to public water and sewer per New Kent County Utility Standards, latest edition.
16. General Design Guidelines ("Design Guidelines"): General design guidance shall be codified into the Design Guidelines that shall apply to the entire Patriots Landing PUD. Supplemental design guidelines may be provided for each Development Area within the Design Guidelines. The General Design Guidelines shall be prepared by the Applicant and reviewed and approved by the Planning Commission for compliance with this PUD Ordinance prior to the first building permit for any structure within the Patriots Landing PUD being issued. Once adopted and for a period of five (5) years following their adoption, the General Design Guidelines may not be substantially changed or modified in such a way as to impact the Patriots Landing PUD Ordinance except with the approval of the Zoning Administrator. If the Zoning Administrator, in his/her sole discretion, determines that the changes require Planning Commission review, then the modifications shall be reviewed and approved by the Planning Commission. After the five (5) year period referenced above, the General Design Guidelines may be amended or repealed by the Architectural Review Committee for Patriots Landing (see Paragraph 17, below) or for each Development Area. Each prospective property owner within the PUD shall be provided with a written outline of the Design Guidelines contents and provisions as well as the architectural review process. Landscaping requirements for residential lots, other residential uses, and commercial and office development shall be included in the Design Guidelines. The Design Guidelines shall provide that copies of the US Green Building Council Leadership in Energy and Environmental Design (LEED) design principles will be provided to all builders in the PUD, and the Applicant will encourage the use of such principles. In

addition, the General Design Guidelines shall provide for construction techniques that provide for the preferred use of the following:

- a. Native plant and tree conservation and replacement
- b. Filter/buffer strips and other multifunctional landscape areas adjacent to parking facilities and other impervious areas
- c. Vegetated open channels
- d. Bio-retention facilities where the soil is suitable to handle roof and other impervious surface runoff
- e. Minimization of clearing and grading to protect existing trees

17. Architectural Review Committee – One or more architectural review committees (ARC) shall be established by the Applicant. The ARC shall review all building plans for all structures proposed for erection within the PUD and shall have the authority to approve or disapprove the character and design of final building plans within the entire PUD or specific Development Area for which it has responsibility. The constitution, membership, procedures and authorities of the ARC shall ~~be~~ reviewed and approved by the County Attorney for compliance with the requirements of this PUD Ordinance and shall be recorded contemporaneously with the first subdivision plat of any property within the PUD. If multiple ARCs are established, each set of documents shall be reviewed and approved by the County Attorney for compliance with this PUD Ordinance and be recorded with the first subdivision plat of property within the PUD or Development Area thereof to which the ARC pertains. With the exception of property to be dedicated to the Commonwealth or to New Kent County, all Development Areas shall be controlled by architectural review requirements provided in the Design Guidelines.

18. Landscaping

- a. Landscaping, including street trees, streetscape and median treatments, buffers and yards shall generally be provided in accordance with the Design Guidelines.
- b. Landscaping plans for Common Open Space and commercial yards shall accompany all subdivision and site plans submitted for Patriots Landing and shall be in accordance with the Design Guidelines. The landscape plans shall be prepared and certified by a landscape architect, landscape nursery person, or other design professional practicing within their area of competence.
- c. Unless specifically approved otherwise during the review of a specific Development Area proposal, landscape areas may only be used for the cultivation of landscape materials and the provision of pedestrian accommodations and passive recreation.
- d. Except in neo-traditional developments, a landscape yard no less than twenty feet (20') in width shall be provided along the perimeter property lines of commercial sites. In addition, a landscaped area ten feet (10') in width shall be provided adjacent to and surrounding all multi-family structures and adjacent to the front and sides of commercial structures. Notwithstanding the foregoing, where two commercial sites or a commercial site and a multifamily site adjoin one another, the combined yard between the two sites need only have a minimum width of twenty feet. Any landscaped area specified in this paragraph may be bisected by pedestrian sidewalks providing access to

entrances, but no more than one-half (50%) of the required area may be impervious. Where vehicular access into the building is required, the portion of the required landscape yard used for vehicular access shall be transferred to the front yard. The requirements for landscaped areas under this paragraph shall not be additional to any requirements for buffers; any area meeting a requirement for a buffer shall satisfy the requirements of this paragraph.

- e. Trees and shrubs shall be cultivated and propagated within all landscape yards and strips within commercial areas required above in accordance with the following ratios:

| LOCATION | PLANTING RATIOS number: square footage | |
|-----------------------|---|--------|
| | Trees | Shrubs |
| Front Yard | 1:350 | 3:350 |
| Side Yard | 1:700 | 3:700 |
| Rear Yard | 0 | 0 |
| Building Perimeter | 1:500 | 3:350 |

Both trees and shrubs are required. The ratios for yards are calculated based on the total size of the yard less the area encumbered by a required utility easement; the ratios for building perimeters are calculated based on total amount of planting area.

- f. Existing mature trees on the site shall be protected and preserved on site to the maximum extent possible while still enabling development of the site. Such trees shall count toward fulfilling the planting ratios above.
- g. Deciduous trees installed to meet the planting requirements shall have a minimum caliper of one and one-half inches (1.5") at installation; evergreen and ornamental trees shall have a minimum caliper of one and one-quarter inches (1.25") at installation. Caliper shall be measured one foot (1') above ground for nursery stock and four and one-half feet (4.5') above ground for all other applications. Shrubs shall have a minimum spread of twenty-four inches (24") at installation. All trees and shrubs installed to meet the requirements of this section shall have been grown or have been transplanted in accordance with the standards of the American Nursery and Landscape Association and shall be rated as hardy for Zone 7 on the USDA Plant Hardiness Zone Map. Species that have low drought tolerances shall be avoided.
- h. All plant material and planting areas shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse, litter, and debris.

19. Entrance Signs – Entrance signs to identify the development residential components shall conform to the following standards:

- a. The maximum sign area of each sign face shall be forty (40) square feet and the maximum height shall be twelve feet (12') above average ground elevation or street elevation, whichever is higher. Signs have a minimum setback requirement of ten feet (10') and shall not encroach into sight triangles required for vehicular or pedestrian safety.
- b. Only the component name and logo and any symbols indicating compliance with or participation in a governmentally sponsored or mandated fair housing practices program or code may be placed on any such sign.
- c. Illumination shall be reviewed and approved by the Zoning Administrator.
- d. The design of entrance signs and monuments shall conform to the design concepts in the "Sign Elevation Concept" dated 31 July 2003 prepared by Basham & Lucas Design Group, Inc. and submitted with the Application.
- e. Nothing in this section shall be deemed to restrict or prohibit the reasonable use of directional signs provided that they are not posted along or legible from external public roadways.

20. Street Signs

- a. Street identification signs shall be provided and installed by the developer at all intersections. The specific design of the sign is at the discretion of the developer provided that it is double-sided and conforms to the minimum requirements of Virginia Department of Transportation. The minimum sign and lettering size shall depend upon the posted or anticipated speed limit of the street that the sign faces in accord with the following chart:

| | | Lettering Height | |
|-------------|--------------|------------------|------------|
| Speed Limit | Sign Size | Upper case | Lower case |
| ≤ 35 mph | 9" x 30-48" | 6" | 4½" |
| >36 mph | 12" x 45-55" | 8" | 6" |

- b. In order to assure that public safety services can be delivered during the construction phases of the development, temporary street signs shall be installed at all intersections within the development or section thereof before any building permit for individual structures will be issued by the County. Temporary signs may be hand made provided that they are conspicuous and sufficiently durable to withstand the weather conditions during construction. Temporary signs that are damaged or defaced shall be repaired or replaced promptly.

- c. Any street signs located in the Phase 2 shall identify those streets as private.

21. Commercial Site Development Standards – No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly used in the Patriots Landing PUD. In addition to the provisions of the General Design Guidelines, design and architectural features for commercial areas shall demonstrate consistency with the following provisions:
- a. Large work area doors or open bays shall not open toward or face the external roadways.
 - b. Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from public roadways. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
 - c. If used, fences in front of buildings on the site shall be landscaped and be of a style which is harmonious with the thematic fencing throughout the Patriot's Landing PUD.
 - d. Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line.
 - e. No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall not be interpreted to preclude the use of architectural block as a building material.
 - f. Site lighting generally shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns.
 - g. Outdoor storage shall be permitted provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. Outdoor display of items for sale shall not require screening.
 - h. Except in the case of shopping centers, each lot or parcel shall be permitted one (1) permanent free-standing sign. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten feet (10') and shall not interfere with sight triangles at points of ingress and egress from the site. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than fifty (50) square feet nor erected to a height greater than fifteen feet (15') above average ground level measured in a twenty-foot (20') radius around the midpoint of the sign. The ground-level may not be built-up in this area solely for the purpose of achieving greater sign height.

- i. A landscaped planting area shall be provided around the base of any free-standing sign. The planting area shall contain four (4) times the area of the sign, be a minimum of six feet (6') in width, be protected from vehicular encroachment, and be landscaped with a combination of low-growing shrubs and groundcovers (other than grass), including at least six (6) shrubs. The landscape treatment shall be designed and maintained to not exceed a height of three feet (3') above grade
- j. Building-mounted signage shall be permitted only on building faces and canopies that parallel or are visible to roadways from which access to the site is available. Each building shall be limited to a maximum of one (1) square-foot of sign area for each linear foot of the building's longest dimension. Canopies are not considered to be buildings for the calculation of building-mounted signage. The total permitted sign area may be distributed on the building and canopies or placed in one location. Signs that are not legible from a public road shall not be considered in the calculation of total sign area.
- k. The following provisions shall apply to shopping center signs:
 - i. One (1) free-standing sign shall be permitted for each street frontage from which access is permitted and provided.
 - ii. The maximum area of any one (1) free-standing sign shall be one hundred fifty (150) square feet.
 - iii. The maximum cumulative free-standing sign area per shopping center shall be two hundred fifty (250) square feet.
 - iv. Each individual tenant within a shopping center shall be permitted one (1) marquee or canopy sign provided that such sign shall not exceed a maximum area of three (3) square feet and shall have a minimum ground clearance to the bottom of the sign of not less than eight (8) feet.
 - v. In addition to the marquee or canopy sign, wall signs shall be permitted at the ratio of a maximum of one (1) square-foot of sign area for each linear foot of the building face parallel or nearly parallel to the public street from which access is obtained.
 - vi. Individual free-standing signs for individual shopping center tenants shall not be permitted. For the purposes of this section, lawfully subdivided out parcels which have been depicted on the approved shopping center site plan shall be considered as separate parcels and may be signed as such.
- l. No logo, brand name, or sign which is legible from adjacent public roads may be placed on fuel dispensing pumps or drive-in window menu boards or on-premises directional signs or other similar structure.

- m. Compliance with the provisions of this section shall be evidenced by the submission to the Zoning Administrator and/or Planning Commission at time of site plan application of the following plans and information, in addition to complying with all applicable provisions of the Subdivision or Zoning Ordinances:
- i. Conceptual sign plan including design, materials, and colors to be utilized.
 - ii. Elevations for building(s) including building materials and colors to be utilized.
 - iii. Landscaping plan.
 - iv. The location and design of all proposed exterior site lighting within the proposed Development Parcel.

22. Parking Lot Design Standards

- a. All parking areas shall be surrounded with non-roll-top barrier curbing except to provide access for the disabled, paved with asphalt or concrete or equivalent permanent dustless surface, constructed in bays of approximately 20 spaces separated by traffic islands that are also surrounded by barrier curbing, and shall have no less than seven and one-half percent (7.5%) of its surface area maintained as landscaped open space. Within the landscaped open space and the perimeter around the parking bays shall be cultivated landscape plant materials at the rate of one (1) tree and three (3) shrubs per ten (10) parking spaces or fraction thereof. No less than one-half (50%) of the required trees shall have a minimum caliper of two and one-half inches (2.5") at installation. Caliper shall be measured one foot (1') above ground for nursery stock and four and one-half feet (4.5') above ground for all other applications.
- b. All parking areas available for night use other than temporary parking areas shall be illuminated using light standards and luminaires that are architecturally compatible with the design standards of the Development Area.
- c. All parking areas other than temporary parking areas shall be provided with sidewalks to facilitate safe and convenient pedestrian access. Sidewalks shall be placed no less than four feet (4') behind the curb or wheel blocks to prevent blockage by vehicle overhangs. Sidewalks shall be fully accessible to the handicapped and sidewalk ramps shall be avoided by having parking area surfaces and driveway crossings brought up to the level of the sidewalk rather than the sidewalk cut down to parking area or driveway level.
- d. Numerical standards for parking shall be as found in the New Kent County Zoning Ordinance. In commercial nodes, where uses are designed to inter-relate, shared parking shall be permitted.

23. Recreational Standards

- a. Common recreational facilities shall be provided for the benefit of the residents of the PUD. Such recreation areas generally shall be owned and operated and maintained by a

Property Owners Association before the end of the development or such entity as may be approved by the Zoning Administrator. Such recreational amenities shall include, at a minimum, the following:

- i. Pedestrian paths
 - ii. Trails and/or sidewalks that connect the neighborhoods, recreational areas and commercial areas
 - iii. At least one (1) active playground area
 - iv. A swimming pool containing a minimum of 3000 square feet and poolhouse containing a minimum of 1000 square feet
 - v. Ancillary community facilities associated with the active recreation areas
- b. Each recreation area shall be located so that essential utilities including water, public sewage, and power will be easily accessible to serve planned and potential future recreational facility development.
 - c. Each recreation area shall not be substantially encumbered by fuel, power, or other transmission lines and rights-of-way, which restricts practical use of the recreation area.
 - d. The recreation area(s) shall be identified at the time that the first plan of development for the PUD is submitted, and shall be constructed according to the following schedule as contained in the Phasing Plan:
 - i. The Developer shall begin construction of the swimming pool and clubhouse facility not later than the issuance of the 300th residential building permit. Construction shall be completed or fully guaranteed with an agreement secured by surety prior to the issuance of the 401st residential building permit.
 - ii. The Developer shall begin construction of the walking paths, sidewalks or trails in conjunction with the development of each residential section.
24. Recyclable materials collection points shall be provided within the Patriot's Landing PUD. All multi-family, commercial and office areas shall have designated pads adjacent to trash collection points where recyclable collection containers may be placed. Multi-family units shall provide a location within each unit or convenient to a small group of units for the accumulation of recyclable materials.
25. Amendments – Amendments to the requirements contained herein shall be made in the manner prescribed in the Zoning Ordinance in effect at the time that the amendment is requested.

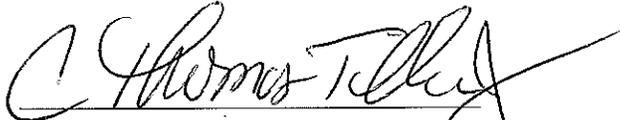
BE IT FURTHER ORDAINED that the proffers voluntarily offered by the applicant as evidenced by the proffer statement dated 16 October 2003 and incorporated by reference herein and made a part hereof are recommended for acceptance by the County and shall, if accepted, be fully binding upon the applicant.

BE IT FURTHER ORDAINED that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance and the Proffers associated with it recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

Attest:



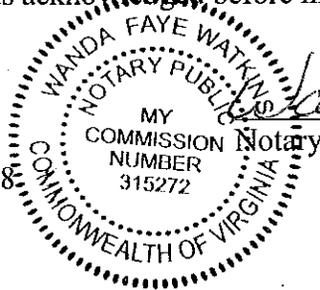
Rodney A. Hathaway
County Administrator



C. Thomas Tiller
Chairman

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 20th day of January, 2015 by
C. Thomas Tiller, Jr.





Notary

My commission expires: 12-31-2018
My Commission Number: 315272

~~PEAVY RICHMOND PARTNERSHIP~~ PATRIOTS LANDING MANAGMENT CORPORATION
(Owner)
~~EAST WEST PARTNERS OF VIRGINIA (Contract Purchaser)~~

STATEMENT OF PROFFERS

PATRIOT'S LANDING

May 19, 2003

August 8, 2003

September 16, 2003

September 29, 2003

October 16, 2003

November 13, 2003

December 4, 2003

STATEMENT OF PROFFERS AMENDMENTJuly 22, 2014Revised July 31, 2014

The Owners and the Developer (the "Developer") in this zoning case, pursuant to §15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of New Kent County, for themselves and their successors or assigns, voluntarily proffer that the development of the Property known as New Kent County Tax Map Number 19-45, 19-1-1 through 6 (the "Property") and the amendment for the parcel known as New Kent County Tax Map Number 19G1-2-C under consideration will be developed according to the following conditions if, and only if, the rezoning request and amendment for Village Planned Unit Development (PUD) is granted. In the event the request is denied or approved with conditions or in the ordinance not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

Exhibit A – Patriots Landing "Rezoning Map," prepared by Timmons Group, dated 5/12/03 and last revised November 12, 2003.

Exhibit B – Phasing Plan for Patriots Landing, dated September 26, 2003, last revised November 12, 2003.

- (1) Utilities. Public water and wastewater/sewer systems shall be used.
- (2) Density. The maximum number of residential dwelling units permitted on the Property shall be 640.
- (3) Open Space. Not less than 25% of the Property shall be open space. Open space shall include buffers, water, landscaped features, recreational areas, parks or playgrounds, trails, wetlands, floodplains, or other open area that provides passive or active recreation, visual relief, or focal point for the area.
- (4) Rezoning Plan. The rezoning plan shall show the general location of the proposed uses. The area boundaries (dotted lines) are intended for illustrative purposes only. The Developer may increase or decrease the size of any designated area by 10% based on market conditions and subject to approval by the New Kent County Zoning Administrator, provided, however, Areas E and F may be increased but not decreased in

size.

- (5) Transportation. To provide an adequate roadway system at the time of complete development, the Developer shall be responsible for the following improvements. If any of the improvements are provided by others, or if they are determined unnecessary by New Kent County, then the specific required improvement shall no longer be required of the Developer.
- a. Construction of Access #1 shall be completed as follows:
 - i. Construct a west-bound, right-hand turn lane from Route 60 to Access #1.
 - ii. Construct an east-bound, left-hand turn lane from Route 60 to Access #1.
 - iii. Dedication of the additional right-of-way needed for the improvements in (i) and (ii) above.
 - b. Construction of Access #2 shall be completed as follows:
 - i. Construct a west-bound, right-hand turn lane from Route 60 to Access #2.
 - ii. Modify the existing east-bound, left-hand turn lane from Route 60 to Access #2.
 - iii. Dedication of the additional right-of-way needed for the improvements in (i) and (ii) above.
 - c. Construction of Access #3 shall be completed as follows:
 - i. Construct a right-in/right-out that will prevent direct access from east-bound traffic on Route 60.
 - ii. Dedication of the additional right-of-way needed for the improvements in (i) above.
 - d. Developer will provide one traffic signal, if warranted by VDOT.
 - e. All Except for that section known as "Patriots Landing Residential Phase 2, Sections 1 and 2 Subdivision" ("Phase 2"), all internal roads shall be public and shall be constructed in accordance with New Kent County and VDOT subdivision standards and shall be built to their ultimate sections at the time of initial construction
 - f. The extension of Patriots Landing Drive, from its existing terminus east of Patriots Landing Place, and all internal roads in Phase 2 shall be private and maintained by a sub-association of Patriots Landing Homeowners Association. All the private roads in the Phase 2 shall be constructed in accordance with New Kent County and VDOT subdivision standards and shall be built to their ultimate sections at the time of initial construction.
 - g. F--An additional right-out only exit, west of Access #3 may be constructed on the Property, subject to VDOT approval.
- (6) Amenities. The Developer shall provide amenities for the Property that will include a pedestrian paths, trails, and/or sidewalks that connect the neighborhoods, recreational areas, and commercial areas, plus at least one active playground area, pool, and ancillary community facilities associated with the active recreation areas.

- (7) Lake Setback. A minimum one hundred (100) foot setback from the edge of the lakes shall be provided on the Property. This setback shall be provided as common open space for Patriots Landing. Within this setback, the Developer may provide additional amenities such as trails, lake access, parks, or fishing piers.
- (8) Home Owners Association ("HOA"). A master HOA shall be established for Patriots Landing. At the option of the Developer, sub-associations may also be created. In Residential Development Areas A and B, the master HOA will own and maintain the open space, amenities, lakes, stormwater management facilities or best management practices facilities, and community areas ("Community Facilities"). In Residential Development Areas C and D and Commercial Development Areas E and F, either the master HOA will own and maintain the Community Facilities or the sub-association specific to those areas will own and maintain the Community Facilities. The Developer shall fund any shortfall to the operating expenses of the HOA for the first two years of the project. The construction of the Community Facilities and dues shall be structured so that the needed operating expenses are covered by the HOA after the first two years of funding of the project by the Developer.
- (9) Water Tank. The Developer desires to join with other property owners to establish a Community Development Authority ("CDA") for the Bottoms Bridge area (the "District") to provide public water service. As a part of the CDA, the Developer shall construct and dedicate a 750,000 gallon elevated (subject to reasonable system pressures) water tank to serve the proposed District and in accordance with the provisions of the CDA petition and authorizing documents. In the event the CDA is not established, the Developer shall construct and dedicate a water tank sufficient for the development of Patriots Landing only. If New Kent County determines that a larger water tank is desired and necessary, the Developer shall construct the larger tank provided the total costs applicable to the Developer or the CDA do not exceed (i) the equivalent costs for the construction of the 750,000 gallon tank (if the CDA is established) or (ii) the costs of the construction of a tank sufficient for the development of Patriots Landing only, whichever one occurs. In the event a larger water tank is constructed, all additional costs for a larger water tank shall be paid by New Kent County or others. The construction of a larger water tank shall occur only if such additional funds are made available to the Developer prior to the construction.
- (10) Sewer Pump Station. The Developer desires to join with other property owners to establish a CDA for the District to provide public sewer service. As a part of the CDA, the Developer shall construct and dedicate a 0.5 million gallon per day sewer pump station (including a building sufficient to contain equipment for a 1.0 million gallon per day pump station) to serve the proposed District and in accordance with the provisions of the CDA petition and authorizing documents. The Developer shall also construct the associated sewer force main or an alternate sewer collection system that provides service to the property or the CDA if the County or others provide an alternative sewer treatment location. In the event the CDA is not established, the Developer shall construct and dedicate a sewer pump station or alternate treatment and collection system sufficient for the development of Patriots Landing only. If New Kent County determines that a larger sewer pump station or other such treatment and collection system is desired and necessary, the Developer shall construct the larger sewer pump station or other such treatment and collection system provided the total costs applicable to the Developer or the CDA do not exceed (i) the equivalent costs for the construction of the 0.5 million gallon

per day sewer pump station and sewer force main or (ii) the costs of the construction of the sewer pump station or alternate treatment and collection system sufficient for the development of Patriots Landing only, whichever one occurs. In the event the larger sewer facilities are constructed, all additional costs for larger sewer facilities shall be paid by New Kent County or others. The construction of such other larger sewer facilities shall occur only if such additional funds are made available to the Developer prior to the construction.

(11) Dam Repairs. The Developer shall be responsible for the repair and reconstruction of the existing Five Lakes dams in accordance with state regulations (provided access and ownership of the dams are resolved).

(12) Phasing Plan. The development of the Property shall be in accordance with the Phasing Plan attached as Exhibit B.

(13) Cash Proffers. The Developer shall pay the following to New Kent County. Payment shall be made at the time of the issuance of a ~~building permit~~ certificate of occupancy.

a. The Developer shall pay \$1,500 for each residential dwelling unit developed to be used for school infrastructure improvements.

b. The Developer shall pay \$325 for each residential dwelling unit developed to be used for fire and rescue infrastructure improvements.

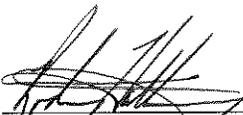
c. If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should New Kent County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees in a manner as determined by the County.

d. For a period of four (4) years after the date of approval ("Year Four") of this rezoning case, the cash proffers listed in A. and B. shall remain the same. At the end of Year Four, the cash proffers listed in A. and B. above shall be adjusted upward by any increase in the Marshall and Swift Building Cost Index as calculated between year four and the year in which the payment is made after Year Four.

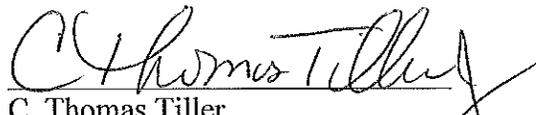
INSTRUMENT #150000335
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
FEBRUARY 9, 2015 AT 01:43PM

KAREN A. BUTLER, CLERK
RECORDED BY: KSM
150000335

Attest:



Rodney A. Hathaway
County Administrator

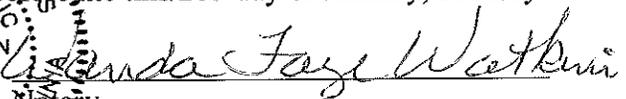


C. Thomas Tiller
Chairman

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 20th day of January, 2015, by
C. Thomas Tiller, Jr.





Wanda Faye Watkins
Notary

My commission expires: 12-31-2018
My Commission Number: 315272