

BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA

**O-09-06 (R)**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 10<sup>th</sup> day of July 2006:

Present:

Vote:

James H. Burrell  
Stran E. Trout  
W.R. Davis, Jr.  
Mark W. Hill  
David M. Sparks

Aye  
Aye  
Aye  
Aye  
Aye

Motion was made by Mr. Hill, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE TO APPROVE PUD APPLICATION BY  
WILLIAM E. CUNNINGHAM DEVELOPMENT, LLC TO RECLASSIFY  
APPROXIMATELY 14.2 ACRES OF LAND IN NEW KENT COUNTY  
FROM R-1, SINGLE FAMILY TO PLANNED UNIT DEVELOPMENT  
GENERALLY REFERRED TO AS "ROCK CREEK VILLAS"**

WHEREAS, William E. Cunningham Development, LLC ("Developer") has submitted application PUD-02-06; and

WHEREAS, said application requests the rezoning of approximately 14.2 acres from R-1, Single Family to PUD, Planned Unit Development; and

WHEREAS, said application was formally referred to the New Kent County Planning Commission in accordance with applicable procedures; and

WHEREAS, within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly-advertised public hearing on 19 June 2006, carefully considering the public comment received; and

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WHEREAS, the Planning Commission voted 9:0:1 to recommend approval of the application; and

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

WHEREAS, in order to assure compliance with §15.2-2286.A.7 of the Code of Virginia, it is stated by the Board of that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning in the County of New Kent and that approval will further these public purposes; and

WHEREAS, the New Kent County Board of Supervisors has made the following findings with regard to this application:

- The application is in conformance with the New Kent County Comprehensive Plan, "Vision 2020"
- The proposed rezoning would provide for the long-range development of the subject property in a coordinated and well-planned fashion
- The proposed rezoning would provide a positive, long-range fiscal impact to the community
- The proposed rezoning would address the County's desire to provide home ownership opportunities for a growing senior population
- Approval of the subject application would further the health, safety and general welfare of the citizens of New Kent County and further the implementation of good zoning practice within the County.

NOW THEREFORE BE IT ORDAINED this, the 10<sup>th</sup> day of July 2006, by the New Kent County Board of Supervisors that pursuant to §98-701 of the New Kent County Code that application PUD-02-06, is accepted for consideration even though it does not meet the minimum PUD size requirement; and

BE IT FURTHER ORDAINED this, the 10<sup>th</sup> day of July 2006, by the New Kent County Board of Supervisors that application PUD-02-06 be, and it hereby is, approved by amending the New Kent County Zoning Map to reclassify the following property as PUD, Planned Unit Development:

Beginning at the northeast intersection of Longview Drive and Route 60, extended; thence North 44°00'46" East 50.42 feet to the True Point of Beginning; thence North 44°00'46" East, a distance of 210.83 feet to a point of cusp on a curve concave to the east having a radius of 25.00 feet and a central angle of 102°00'21", a tangent of 30.88 feet and being subtended by a chord which bears South 06°59'24" East 38.86 feet;

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thence southwesterly along said curve, a distance of 44.51 feet to a point; South 57°59'34" East, a distance of 1132.44 feet; thence to a point on a curve concave to the northeast having a radius of 1682.90 feet and a central angle of 6°42'05", a tangent of 98.53 feet, and being subtended by a chord which bears South 61°20'38" East 196.72 feet; thence southeasterly along said curve, a distance of 196.83 feet to a point; thence, South 64°41'40" East, a distance of 867.53 feet; thence South 31°45'53" East, a distance of 141.26 feet to the right of way of Forest Drive; thence, along the right of way of Forest Drive to the beginning of a curve concave to the southeast having a radius of 220.00 feet and a central angle of 35°34'52", a tangent of 70.59 feet and being subtended by a chord which bears South 45°10'33" West 134.44 feet; thence southwesterly along said curve, a distance of 136.62 feet; thence South 27°23'07" West tangent to said curve, a distance of 4.86 feet to the beginning of a curve tangent to said line; thence southwesterly, a distance of 84.69 feet along the curve concave to the north, having a radius of 50.00 feet and a central angle of 97°02'59", a chord of South 75°54'37" West 74.92 feet, a tangent of 56.56 feet; thence North 55°33'53" West tangent to said curve, a distance of 57.67 feet to the right of way of Route 60; thence, along the right of way of Route 60, North 68°31'59" West, a distance of 301.60 feet; thence North 62°38'00" West, a distance of 1123.20 feet to the beginning of a curve tangent to said line; thence northwesterly a distance of 794.76 feet along the curve concave to the northeast, having a radius of 2815.79 feet and a central angle of 16°10'19", a chord of North 54°32'51" West 792.13 feet, a tangent of 400.04 feet; thence, to the beginning of a curve concave to the east having a radius of 50.00 feet and a central angle of 90°28'28", a tangent of 50.42 feet and being subtended by a chord which bears North 01°13'28" West 71.00 feet; thence northwesterly, along said curve, a distance of 78.95 feet to the Point of Beginning and containing 14.209 ACRES, more or less.

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. Relationship to the Development Ordinances**

- a. This PUD Ordinance is intended to provide specific and unique development standards for the Rock Creek Villas. 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.

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- b. The Zoning Ordinance of New Kent County, in force at the date of approval of this Planned Unit Development ordinance, and the Subdivision Ordinance of the County 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 Zoning Ordinance shall be resolved in the favor of the provisions contained herein.
- d. Conflicts between the proffered conditions and the provisions of this PUD Ordinance shall be resolved in favor of the most restrictive requirement as applied to the Applicant.
- e. 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.
- f. 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, Stormwater Management 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.
- g. Restrictive Covenants may be established for the PUD as a whole or on the basis of separate sections or Development Parcels at the sole discretion of the Applicant. Copies of all Restrictive Covenants shall be submitted to the County as part of the review of subdivision and the site plan submittals, and must be approved by the County as to compliance with the requirements of this PUD Ordinance; said approval shall not be unreasonably withheld.

**2. Permitted Uses**

The following uses shall be constructed or appropriate land shall be provided for the uses within each of the specified and they shall be the only principal uses permitted:

a. Residential

- i. A maximum of 65 lots for the construction of new single family attached dwellings each with a minimum square footage of 1,200 square feet of finished space excluding the garage. These units shall be age restricted to owners that are at least 55 years of age. Also at least 80% of the population residing within this development shall be 55 years of age or greater. 100% of the population residing within this development shall be 18 years of age or greater.
- ii. No more than seven (7) residential apartments may be constructed on the second floor of the commercial area, shall not be age restricted, and may be rented to the general public. All such apartments shall be either studio or one-bedroom apartments.

b. Commercial Area

- i. The first floor shall be of a general retail, business service, commercial use or restaurant type of use. The second floor shall be residential apartments, office use or space to support first floor businesses.
- ii. Permitted uses, or uses of a similar type, include Antique shop, bank, barber and beauty shop, bicycle sales and repair, book card shop, clothing store retail, computer sales and services, convenience, mini supermarket, copy center, drugstore, dry cleaning outlet, florist shop, gift, record and tobacco shop, hand crafted goods, traditional crafts, personal service and hygiene establishment, photography, dance music studio, professional office, restaurant (sit-down), retail bakery, spa, day spa.
- iii. Uses not permitted include agricultural equipment sales and services, amusement facility, automobile fueling stations, automobile sale and services (golf carts excluded), gas pumps, auto body and painting, auto parts sales-new, auto service stations, automobile repair services and garages, bar nightclub, car wash, child care center, contractor office, hotel, motel, Laundromat.

### **3. Plan Submissions and Approval**

The Plan entitled Rock Creek Villas General Development Plan Cunningham Property and dated March 20, 2006 (revised May 23, 2006) (General Development Plan or Plan) shall guide development of the property and shall be treated as the area plan for the project.

- a. Revisions or amendments to the Plan shall be considered in the same manner as the original, unless the Zoning Administrator shall determine in writing that the proposed changes are reasonably insignificant.
- b. After approval of the Plan, site plans and subdivision plans shall submitted to the County for approval in accordance with the applicable procedures contained in the Development Ordinances and with any conditions established by this PUD Ordinance or the Area Plan approval.

### **4. Conditions Under Which Sites May be Sold**

The conditions attached to this PUD including this PUD Ordinance, the Restrictive Covenants, proffered conditions if any, and other Guidelines established by the PUD shall run with the land, and shall be binding on successors in title.

### **5. Utilities Improvements and Standards**

- a. All new development within the Rock Creek Villas shall be served by public water and sewer systems constructed to standards promulgated by the New Kent County Department of Public Utilities or otherwise approved by the Director of Public Utilities.
- b. The plans, specifications, construction documents and surety for all necessary public utility infrastructure, whether on site or off site, required to serve the portion of the PUD under consideration shall be reviewed and approved by the County prior to approval for the Development Parcels other than to convey necessary land and easements to the Commonwealth or County.
- c. All new utility lines shall be installed underground. Any existing above-ground utilities that require relocation shall be replaced underground.
- d. If available and in the event that a service provider agrees to extend high speed data communications to the PUD, the POA shall allow for the extension of such facilities generally throughout the development.

- e. Chemical toilets or other appropriate facilities shall be provided for construction workers at each construction site or lot within the PUD for the duration of construction on the site or lot.

**6. Community Association**

- a. The Developer shall establish a Community Association (CA) for the Rock Creek Villas PUD. If the CA takes the form of a Property Owners Association ("POA"), the POA shall comply with the Virginia Property Owners Association Act, § 55-508, et seq., of the Virginia Code. If the CA takes the form of a Unit Owners Association ("UOA"), it shall comply with the Virginia Condominium Act, § 55-79.39, et seq., of the Virginia Code.
- b. If the Developer contemplates community associations subordinate to that CA, the CA shall take the form of a Master Association.
- c. The Declaration of Covenants, Conditions, and Restrictions ("Declaration") shall provide for mandatory membership of all property owners within the area subject to its terms.
- d. With the exception of property to be dedicated to the Commonwealth of Virginia or to New Kent County, every piece of property within the PUD shall be subject to the Declaration.
- e. The CA shall be responsible for maintaining all of the Common Area or Common Elements within the development. Any subordinate community association shall have the same responsibilities with respect to their Common Area or Common Elements. The Common Area or Common Elements shall specifically include all buffers and common open space, private streets, stormwater management facilities, streetscapes, streetlights and signs, private utilities and recreation areas and facilities.
- f. The Declaration shall be recorded in the Land Records of New Kent contemporaneously with the first subdivision plat of any property within the Rock Creek Villas.
- g. The Developer will submit the recorded Declaration, the Articles of Incorporation ("Articles") of the CA, the Bylaws ("Bylaws") of the CA, and any existing corporate resolutions pertaining to due process, collections, and parking to the County Attorney in validation of the corporate existence of the CA. If no corporate resolutions exist, the Developer shall so state. Developer shall also identify the legal counsel for the CA.

## **7. Universal Design Features**

The construction of all residential units and community elements shall incorporate the following universal design standards to ensure visitability.

- a. Accessible path between parking and the dwelling units; also includes apartments.
- b. All common areas must meet ADA standards.
- c. No-step entrance to community buildings and all dwellings.
- d. Front door must be 36 inches wide with exterior lighting of entrance.
- e. All interior doorways at least 32 inches in width.
- f. Hallways at least 36 inches in width.
- g. Structural blocking for grab bars in bathroom walls near toilet and shower.
- h. Smooth vertical transitions between rooms.
- i. Maneuvering space at entrance, between main living areas, in front of appliances, and in baths.
- j. Low maintenance exterior
- k. Pull-out shelves in kitchen base cabinets.
- l. Residential dwellings with a first floor entrance shall include complete first floor living area with master bedroom and bath.

## **8. Landscaping/ Buffers**

- a. Landscaping including street trees, streetscape and median treatments, buffers and yards shall be provided.
- b. 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. Shade trees installed to meet the planting requirements shall have a minimum caliper of two & one quarter inches (2.25") 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 nursery stock. Shrubs shall have a minimum height or spread of eighteen (18") inches 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.
- d. 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.
- e. The property owner shall be responsible for the maintenance of all landscaping and screening material on his or her lot required by this ordinance. The CA shall be responsible for the maintenance of all landscaping and screening material on its Common Area or Common Elements. Should there exist subordinate community associations, those associations shall be responsible for the maintenance of all landscaping and screening material on its Common Area or Common Elements. In the event that any required landscaping material shown on the plan is subsequently replaced, the new material shall be generally conforming to the original approval.
- f. All plant materials installed on a site shall be certified as having been grown in conformance with the American Standard for Nursery Stock (American Nursery and Landscape Association, 1996 or as may be amended from time to time), provided however, that the Zoning Administrator may approve in writing the transplanting of trees and shrubs when such transplanting is done in accordance with accepted horticultural and silvicultural practices.
- g. No fencing shall be constructed in the side or front yards.
- h. All trees installed to meet the requirements of this chapter shall be comprised of a combination of tree types.
- i. All trees installed to meet the requirements of this chapter should be dispersed throughout the required planting areas, should be planted with a combination of single and group of trees in a staggered clustered or other pattern designed to complement the building and site design and

promote appropriate views and sight lines. Trees shall not be installed in a continuous single row except where necessary and appropriate to meet screening or transitional buffer requirements.

- j. Shrubs, perennials and ornamental grasses installed to meet the requirements of this chapter should be installed in groupings and integrated with trees except for areas serving as LIDD (as defined hereafter) purposes.
- k. Existing vegetation which is suitable for use in the landscape shall be preserved and used as required plantings to the maximum extent practicable.
- l. Modifications of the landscaping may be approved by the Zoning Administrator.

## **9. Buffers**

- a. Buffers shall be provided as indicated on the generalized development plan, shall be continuous except where driveways or other breaks are necessary, and shall not be used for accessory structures storage or off street parking or loading.
- b. Buffers shall not be required in the RPA areas.
- c. Along rear of property: Buffers shall consist of a minimum 10 foot wide visual buffer that average a rate of one (1) large evergreen tree for every twenty (20) linear feet, except where existing foliage meets the intent of the buffer requirement.
- d. Commercial Area: The commercial site will also consist of a minimum ten-foot landscape yard along all road frontages to be measured from the lot line. Landscape yards may include driveways. A landscape open space strip shall be provided adjacent to and surrounding all buildings and shall be landscaped in with combination of trees, low-growing shrubs, annuals and perennial landscape plants, ornamental grasses and appropriate mulch.
- e. Route 60 (Pocahontas Trail) Frontage: A landscaped open space strip of 10 feet in width shall be provided adjacent to and between the road and the backs of the structures and shall be landscaped in with a combination of shade trees, ornamental trees, low growing shrubs, annuals and perennial landscape plants, ornamental grasses, and appropriate mulch.

This strip may be bisected by necessary entrances and may include sidewalk provisions.

- f. Unless otherwise specified in this ordinance, the following ratio shall be required:

Location	Shade Trees/ Ornamental Trees	Shrubs
Adjacent to existing road	1 per 500 square feet	1 per 250 square feet
Parking Lots	2 per 10 spaces	4 per 10 spaces

**10. Entrance Signs**

Entrance Signs to identify the development components shall conform to the following standards.

- a. The maximum size of each sign face shall be forty (40') square feet and the maximum height shall be eight feet (8') above average ground elevation or street evaluation, whichever is higher. Signs have a minimum setback requirement of ten (10') feet 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 governmentally sponsored or mandated fair housing practices program or code may be placed on any such sign.
- c. Only external illumination shall be permitted and the size, placement, and number of luminaries shall be reviewed and approved by the Zoning Administrator. All sign illumination shall be directed downward and use cut-off fixtures that prevent upward light scatter to protect the dark night sky.
- d. The design of entrance signs and monuments shall clearly convey a thematic standard common throughout the PUD and shall conform to the design concepts in the Application. Signage design shall be part of the Area Plan approval process.
- e. Nothing in this section shall be deemed to restrict or prohibit the use of directional signs of the modest size appropriate to the purpose for which erected.

**11. Recreational Standards**

- a. Common recreational facilities shall be provided for the benefit of the residents of the PUD. Such recreation areas shall be owned, operated and maintained by the CA, or such entity as may be approved by the Zoning Administrator.
- b. Recreational equipment shall include:
  - i. 1,800 square foot clubhouse.
  - ii. Open recreation area to include uses such as horseshoe pits or bocce or putting green or shuffle board, at a combination of at least two or more activities.
  - iii. Walking paths and benches.
  - iv. Picnic Area.
- c. Open Space, areas designated as such on the plan shall be maintained by the Community Association. These areas shall generally be used passively unless activities are identified on the General Development Plan.

**12. Low Impact Development Design**

- a. All disturbances in the wetlands must be approved by the Corps of Engineers.
- b. Low impact development design (LIDD) shall be implemented throughout the Rock Creek Villas to the extent reasonable and practical, and in accordance with sound engineering practices. All reasonable and practical measures will be undertaken and each subdivision or site plan submission shall specifically address the LIDD measures to be employed. Included shall be consideration of the following.
  - i. Mandatory soils testing and analysis prior to initially establishing lawns and landscape areas; copies of such analysis shall be provided to the Property Owner Association.
  - ii. There shall be more trees established with this development than prior to development.
  - iii. Native plant and tree replacement.

- iv. Filter / buffer strips and other multifunctional landscape areas adjacent to parking facilities and other impervious areas.
  - v. Vegetated open channels.
  - vi. Bio-retention facilities where the soil is suitable to handle roof and other impervious surface runoff.
- c. The design criteria, hydrologic analysis and computational procedures for low- impact development design and storm water management plans shall follow criteria set forth by the following documents and the latest New Kent County Standards for LIDD:
- i. *Low-Impact Development Design Strategies: An Integrated Design Approach*, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-003 dated June 1999 and subsequent modifications and updates thereof.
  - ii. *Low-Impact Development Hydraulic Analysis*, United States Environmental Protection Agency, office of Water, EPA 841-B-00-002 dated June 1999 and subsequent modifications.
- d. Easements shall be recorded to identify the locations of low-impact management practices on lots or parcels.
- e. The property owner shall not remove or structurally alter low-impact management practices without prior written approval from the County program administrator.
- f. All storm water management practices, including low-impact management practices, shall be maintained by the CA.

### **13. Stormwater Management**

In addition to providing Low Impact Design Development standards, there shall be up to three stormwater management basins for the purpose of controlling stormwater release into an adequate channel.

- a. The stormwater areas shall be landscaped with wetland type plants.
- b. Should these facilities perennially retain water, fountains, bubblers or other aerating systems will be provided.

**14. Street Lights**

Street lights shall be provided as shown on the General Development Plan. Unless otherwise approved by the agent, streetlights shall conform to the following standards:

- a. All fixtures and mounting devices shall be architecturally compatible with the subdivision. In this regard, cobra-head lighting shall not be permitted.
- b. Luminaires shall be installed so as to reduce or prevent direct glare into residential units.
- c. All streetlights installed in the County shall utilize "cut-off" fixtures and luminaires that prevent upward light scatter and preserve the dark night sky.

**15. Architectural Design Standards**

- a. Structure facades facing Route 60 shall appear of the same quality as the front of the structures.
- b. Walls of buildings facing public street and the primary pedestrian way must have large window areas of at least three square feet per linear foot of building frontage that front the pedestrian way and the street.
- c. The Commercial area and residential area shall contain similar architectural designs and materials. No franchise architecture is permitted except in signage.
- d. The following exterior building materials are prohibited on all walls facing public streets and pedestrian ways
  - i. Metals, regardless of finish, except for roofing, bay windows and awnings.
  - ii. Unfinished wood.
  - iii. Barren concrete masonry unit block.

**16. Accessibility**

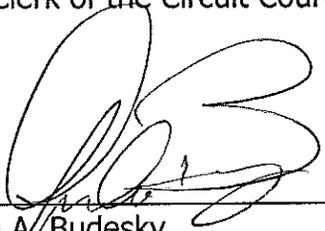
All age restricted residential structures and commercial uses in Rock Creek Villas shall be designed and constructed to meet or be able to meet with reasonable modification the accessibility requirements of the Americans with Disabilities Act.

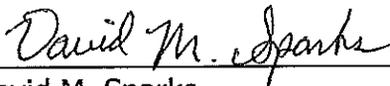
**17. Amendments**

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 July 10, 2006, as amended during the Public Hearing 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; and

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.

  
\_\_\_\_\_  
John A. Budesky  
County Administrator

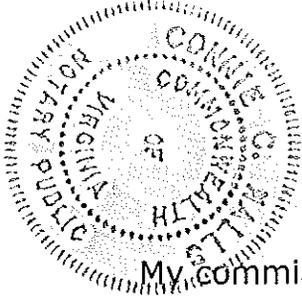
  
\_\_\_\_\_  
David M. Sparks  
Chairman

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STATE OF VIRGINIA

County of New Kent, to-wit:

Subscribed to before me, the undersigned Notary Public, on the  
12<sup>th</sup> day of July, 2006.



Connie C. Malls

Notary Public

**ROCK CREEK VILLAS  
Planned Unit Development**

**Proffer Statement  
Case No. PUD-02-06  
July 10, 2006**

1. The undersigned owners of property bearing the New Kent County Geographic Parcel Identification Number I06-3247-4500, (the "Property"), hereby proffer that the use and development of the property shall supersede all other proffers made prior to this submission. In the event the above-referenced rezoning is not granted, these proffers shall be withdrawn and shall become null and void.
2. "Final Rezoning" as the term is used herein shall be defined as the date upon which the New Kent County Board of Supervisors grants the rezoning.
3. The headings on the proffers set forth below have been prepared for convenience and reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers.
4. The term "Applicant" as referenced herein shall include within its meaning all present and future owners, assigns, and successors in interest.
5. Reference is made to this Proffer Statement to various plans and exhibits that correspond to the plans and exhibits submitted as a part of this filing, which are incorporated by reference.
6. The Applicant hereby proffers that the Development Agreement between the County of New Kent and William E. Cunningham Developer, LLC, is incorporated by reference and shall have the same force and effect as if set out fully herein.
7. The Applicant hereby proffers that it accepts and concurs with the terms and conditions of the Planned Unit Development Ordinance for the Rock Creek Villas ("PUD Ordinance") and said Ordinance shall be deemed incorporated herein by reference.
8. The Applicant agrees to pay for all costs related to jack and boring for sewer connection access for Rock Creek Villas only under the Route 60 right of way and as approved by VDOT.
9. The Applicant agrees to install streetlights at the entrances to Rock Creek Villas on Route 60 and Route 1208 (Longview Drive).
10. The Applicant agrees to install a sidewalk along the Route 60 right of way that connects to the sidewalk within Rock Creek Villas.

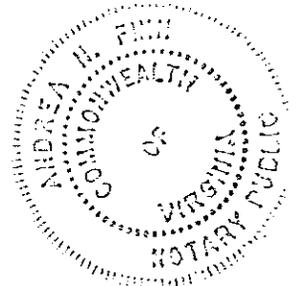
11. The Applicant agrees to construct a right turn taper on Route 1208 (Longview Drive) to serve the entrance to Rock Creek Villas as recommended by VDOT.
12. The Applicant agrees to reconstruct the westbound right turn lane at Route 1208 (Longview Drive) to provide 200' of storage and 200' of taper as recommended by VDOT.
13. The Applicant agrees to construct a new westbound right turn lane at the Rock Creek Villas entrance on Route 60 to provide 200' of storage with a 200' taper as recommended by VDOT to serve as access for fire and safety as a convenience to New Kent County and occupants of Rock Creek Villas.
14. The applicant shall construct a sidewalk at existing grade more or less on the east side of Route 1208 (Longview Drive) from the entrance of Rock Creek Villas to Route 1209 (Hairpin Drive) within the Virginia Department of Transportation right-of-way. This proffer is subject to approval from the Virginia Department of Transportation.
15. The developer shall construct a minimum of 11,000 square feet of commercial space within the Planned Unit Development.
16. The single-family dwellings shall be age restricted to owners as stipulated by the Fair Housing Codes.
17. Cash Proffers. At the time of the issuance of a building permit for each residential dwelling unit, the Applicant shall pay the following to New Kent County:
  - A. \$1,000 to be used for fire and rescue programs and services.
  - B. \$500 to be used for the New Kent County Purchase of Development Rights Program.
  - C. \$1,000 towards the New Kent County Sheriff's Training Equipment Fund.

William E. Cunningham  
William E. Cunningham Sr.

Date: 7/12/06

Peggy L. Cunningham  
Peggy L. Cunningham

Date: 7/12/06



STATE OF VIRGINIA  
CITY/COUNTY OF NEW KENT, TO-WIT:

This day William E. & Peggy S. Cunningham personally appeared before me, Andrea N. Finn, a Notary Public in and for the County and State aforesaid, swore or affirmed that the matters stated in the foregoing Statement of Proffer are true to the best of his acknowledgement and belief. Given under my hand this 12<sup>th</sup> date of July, 20 06.

Andrea N. Finn  
Notary Public

My commission expires: September 30, 2008

Embossed Hereon is My  
Commonwealth of Virginia Notary Public Seal  
My Commission Expires September 30, 2008  
ANDREA N. FINN

INSTRUMENT #060003362  
RECORDED IN THE CLERK'S OFFICE OF  
NEW KENT COUNTY ON  
JULY 28, 2006 AT 11:19AM  
KAREN A. BUTLER, CLERK

RECORDED BY: ADM