

**COUNTY OF ISLE OF WIGHT  
REVISED PROFFER STATEMENT #2**

**Applicant's name(s):** Francis P. Norsworthy Jr.

**Owner's name(s):** Francis P. Norsworthy Jr.

**Project name:** Brewer's Station

**Date:** April 9, 2018

**Parcel-Tax Map Numbers and deed book reference:**

33-1-142 (Deed Book 215, page 405), (Deed Book 230, page 55)

33-01-142H

33-1-142A (Deed Book 215, page 405)

33-01-142A3

Collectively, the "Property"

These proffers are made as of February 2, 2018, by Francis P. Norsworthy, Jr. (collectively "Owner"), of the "Property" containing approximately (69.38) acres of land. Owner has filed a rezoning application with the Isle of Wight County Planning and Zoning Department requesting to amend proffered conditions dated March 12, 2014 to amend Sections III.1.A, III.1.B, III.2.A, and VII.. The Property was rezoned by the Isle of Wight County Board of Supervisors from Rural Agricultural Conservation (RAC) to Conditional Planned Development – Mixed Use (C-PD-MX) on March 20, 2014. Owner voluntarily proffers that the development of the Property proposed for rezoning under this amended application shall be in strict accordance with the amended conditions set forth below.

These proffered conditions ("Proffers") are the only conditions offered on this rezoning, and any prior proffered conditions on the Property are hereby superseded by these proffers and any and all previous proffers on the Property are hereby void and of no further force and effect.

All improvements, land, easements, dedications, gifts, proffers and other conveyances to the County shall be in fee simple, without cloud of title or encumbrance of any kind.

**I. Development of the Property**

1. Development of the Property associated with this amended application shall be generally consistent as determined by the reviewing authority with Exhibit A, entitled Brewer's Station : A Mixed Use Community, prepared by Hopke & Associates, Inc., dated July 12, 2013 and attached hereto, as determined during preliminary and final site plan approval and/or preliminary and final subdivision construction plan approval.
2. All buildings shall be in accordance with the design criteria attached as "Design Standards for Brewer's Station, revised May 13, 2013, and attached hereto as Exhibit 'G', which is part of this proffer statement.

3. The maximum number of residential units shall not exceed 65 townhouse units, 34 multi-family condominiums, and 162 multi-family apartment units.
4. The maximum amount of commercial development shall not exceed 85,000 square feet in Land Bay III.
5. Applicant shall cause to be constructed the clubhouse, pool, park areas, tot-lots, multi-use trails, and pedestrian sidewalks and open spaces for residents of the development in general accordance with Exhibit A.

## **II. Land Use**

The Property shall be used as permitted by right under Section 4-18002, Planned Development – Mixed Use District and for the following conditional uses under Section 4-18003 of the Zoning Ordinance of Isle of Wight County, Virginia:

- Agriculture
- Farmers Market
- Adult care center
- Assisted living facility
- Child care center
- Life care facility
- Nursing home
- Post office
- Medical office
- Commercial indoor amusement
- Commercial indoor entertainment
- Commercial indoor sports and recreation
- Commercial outdoor entertainment/sports and recreation
- Commercial outdoor swimming pool and tennis facility
- Convenience store
- Garden center
- Gasoline station
- Medical clinic
- Restaurant, drive-in fast food
- Communication tower

### III. Cash Proffers

#### 1. Residential Units

- A. Single Family Attached Townhouse Units- The Owner agrees to make cash proffers to the County in the amount of \$6,819.00 for each of the 65 single family attached townhouse units that generate a need for additional capacity for Carrollton Elementary, Westside Elementary and Smithfield High School according to the capacity and enrollment numbers provided by Isle of Wight County Schools and County staff of the Department of Planning and Zoning. Accordingly, a maximum of 65 units X \$6,819 = \$443,235.

Payment per single-family unit shall be due at the issuance of each certificate of occupancy until all 65 units have been constructed for a maximum total of \$443,235.

- B. Multi-family Units- The Owner agrees to make cash proffers to the County in the amount of \$5,328.00 for each of the 196 multi-family units that generate a need for additional capacity for Carrollton Elementary, Westside Elementary and Smithfield High School according to the capacity and enrollment numbers provided by Isle of Wight County Schools and County staff of the Department of Planning and Zoning. Accordingly, a maximum of 196 units X \$5,328 = \$1,044,288.

- i. Payment for the units contained within the 1<sup>st</sup> and 2<sup>nd</sup> multi-family apartment buildings shall be due at the issuance of the certificate of occupancy for the 2<sup>nd</sup> apartment building. A standby letter of credit for the number of units contained within the 1<sup>st</sup> apartment building shall be issued to the County upon issuance of the certificate of occupancy for the 1<sup>st</sup> apartment building guaranteeing payment of the total amount owed for the units contained therein in the event that the 2<sup>nd</sup> apartment building has not been constructed and a certificate of occupancy issued within one (1) year from the receipt of the certificate of occupancy for the 1<sup>st</sup> apartment building

Each building thereafter shall pay \$5,328 per unit at the issuance of each certificate of occupancy per building until all 162 units have been constructed for a maximum total of \$863,136.

- ii. Payment per multi-family (condominium) unit shall be due at the issuance of each certificate of occupancy per building unit until all 34 units have been constructed for a maximum total of \$181,152.

- C. At the time of the recordation of the first subdivision plat for the single-family (townhouse) residential phase of development, or approval of the first

site plan for the multi-family (apartment/condominium) residential phase, the total agreed amount of Residential Cash Proffer for said phase shall be evidenced by a Demand Note of Applicant to County, without interest. The Note shall be secured by a deed of trust ("Cash Proffer Deed of Trust") on all residential units in such phase and this Cash Proffer Deed of Trust will be secondary to all acquisition, development and construction loans obtained by Owner and the County shall execute such subordination or other agreements as may be necessary.

- D. Releases by County under the Cash Proffer Deed of Trust shall be made upon payment of the applicable cash contribution for the released unit(s).

## 2. Transportation

- A. The Owner agrees to make a one-time cash payment to the County in the amount of \$311,979.00 to be used for roadway improvements, including but not limited to right of way acquisition, design and engineering, utility relocation and construction costs associated with the Brewer's Neck Corridor Study. The payment shall be made on or before the issuance of the 50<sup>th</sup> Final Certificate of Occupancy for any residential unit on the Property following the inclusion of such roadway improvements in the Isle of Wight County Capital Improvement Program in accordance with Section 15.2-2298(A) of the Code of Virginia (1950, as amended).

## IV. **Environmental Protection**

The Property shall be served by one or more Low Impact Development measures, such as infiltration trenches, rain gardens, bio-retention filters and/or rainwater harvesting in accordance with County specifications, or as approved by the Engineering Division. These features will provide for enhanced stormwater management techniques appropriate for increasing opportunity throughout the development for groundwater recharge to the degree feasible as agreed upon by the Owners and Isle of Wight County.

## V. **Archaeology**

A Phase I Archaeological Study for the Property shall be submitted to the Zoning Administrator for their review and approval prior to final site plan approval. A treatment plan shall be submitted to, and approved by, the Zoning Administrator for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Zoning Administrator and a treatment plan for said sites shall be submitted to, and approved by, the Zoning Administrator for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III

study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Zoning Administrator prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

## **VI. Transportation**

1. The Owner, at its sole cost and expense, shall cause to be constructed the recommended transportation improvements noted below and depicted on the Access Management Plan, prepared by Kimley-Horn and Associates, Inc. and dated March 11, 2014, illustrating said improvements is attached as Exhibit 'C'.

Transportation improvements shall include the following:

### **Brewer's Neck Boulevard/Norsworthy Drive/New Towne Haven Lane**

- Eastbound Brewer's Neck Boulevard
  - Extend the left-turn lane to provide approximately 550 feet of storage.
- Westbound Brewer's Neck Boulevard
  - No change to existing geometry on this approach.
- Northbound New Towne Haven Lane
  - Provide two approach lanes
    - Construct one exclusive left-turn lane with 200 feet of storage
    - Provide shared through/right-turn lane
    - Modify median of Brewers Neck Boulevard to accommodate opposing left turn vehicular movements
- Southbound Norsworthy Drive
  - Provide two approach lanes
    - Construct one exclusive left-turn lane with 250 feet of storage
    - Provide one shared through/right-turn lane
    - Modify median of Brewers Neck Boulevard to accommodate opposing left turn vehicular movements
- Modify traffic signal to provide flashing yellow arrow protected/permissive major street left- turn movements on eastbound and westbound Brewer's Neck Boulevard

- Construct pedestrian accommodations crossing the west leg of the intersection including a pedestrian signal phase
  - Stripe a pedestrian crosswalk across the west leg of Brewer's Neck Boulevard
  - Construct/install pedestrian push buttons/pedestrian crossing displays at crosswalk
  - Incorporate pedestrian crossing phase into traffic signal operations
  - Construct a pedestrian refuge area across/within the existing grass median across the west leg of Brewers Neck Boulevard
  - Construct a pedestrian sidewalk 5' in width to/from the pedestrian landing areas in the vicinity of the intersection crosswalks to/from the proposed developments located to the north and south of intersection

#### **Brewer's Neck Boulevard/Site Driveway A**

- Northbound Site Driveway A
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/through/right-turn lane
- Southbound Site Driveway A
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/through/right-turn lane
- Eastbound Brewer's Neck Boulevard
  - Construct one left-turn lane with 200 feet of storage and a 200-foot taper
  - Construct one right-turn lane with 200 feet of storage and a 200-foot taper
- Westbound Brewer's Neck Boulevard
  - Construct one left-turn lane with 200 feet of storage and a 200-foot taper
  - Construct one right-turn lane with 200 feet of storage and a 200-foot taper

#### **Brewer's Neck Boulevard/Site Driveway B**

- Northbound Site Driveway B
  - Construct one inbound and one outbound lane 14 feet in width in each direction.
  - Provide "YIELD" control
  - Construct one channelized right-turn lane
- Eastbound Brewer's Neck Boulevard
  - Construct one right-turn lane with 200 feet of storage and a 200-foot taper.

#### **Brewer's Neck Boulevard/Site Driveway C**

- Southbound Site Driveway C
  - Construct one inbound and one outbound lane 14 feet in width in each direction.
  - Provide “YIELD” control
  - Construct one channelized right-turn lane
- Eastbound Brewer’s Neck Boulevard
  - Construct one left-turn lane with 250 feet of storage and a 200-foot taper.
- Westbound Brewer’s Neck Boulevard
  - Construct one right-turn lane with 200 feet of storage and a 200-foot taper

#### **Norsworthy Drive/Site Driveway D**

- Eastbound Site Driveway D
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/right-turn lane
- Northbound Norsworthy Drive
  - Provide one shared left-turn/through lane
- Southbound Norsworthy Drive
  - Provide one shared through/right-turn lane

#### **Norsworthy Drive/Site Driveway E**

- Eastbound Site Driveway E
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/right-turn lane
- Northbound Norsworthy Drive
  - Construct one exclusive left-turn lane with 50 feet of storage and and one through lane
- Southbound Norsworthy Drive
  - Provide one shared through/right-turn lane

#### **New Towne Haven Lane/Site Driveway F**

- Eastbound Site Driveway F
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/right-turn lane
- Northbound New Towne Haven Lane
  - Provide one shared left-turn/through lane

- Southbound New Towne Haven Lane
  - Provide one shared through/right-turn lane

**New Towne Haven Lane/Site Driveway G**

- Eastbound Site Driveway G
  - Construct one inbound and one outbound lane 12 feet in width in each direction.
  - Provide stop control
  - Construct one shared left-turn/right-turn lane
- Northbound New Towne Haven Lane
  - Provide one shared left-turn/through lane
- Southbound New Towne Haven Lane
  - Provide one shared through/right-turn lane

**VII. Water and Sewer Improvements**

Water and sewer improvements for the Property shall be designed and constructed in accordance with Chapter 14 – Sewers and Sewage Disposal and Chapter 16 – Water, of the Isle of Wight County Code of Ordinances. The public portion of the water and sewer systems serving the Property shall be conveyed to the County, at no cost, for its ownership, operation, and maintenance at the time applicable phases of the water and sewer systems are completed during site development of the Property. The public portions of the water and sewer systems will be located within dedicated public street rights-of-way, public utility easements or other public property controlled by the County. The size of water and sewer lines interior to the development shall be determined as part of the final engineering approval.

**VIII. Public Sidewalk**

The Owner, at its sole cost and expense, shall cause to be constructed the approximately 400 linear feet of proposed concrete sidewalk from Carrollton Elementary School to the Isle of Wight County public library as illustrated as Option ‘A’ on the attached Exhibit ‘F’. A credit of \$30,000.00 or such amount as approved by the County, shall be provided to the developer for the overall public benefit of providing the pedestrian sidewalk connection to Carrollton Elementary School and the Isle of Wight County public library. The credit shall be applied against the residential Cash Proffer on a pro-rata basis in accordance with the County’s adopted Economic Development Incentive Policy.

**IX. Easements, Rights-of-Way and Buffers**

1. The Owner, at its sole cost and expense, shall dedicate a twelve (12) foot



easement to the County for public access for recreational purposes to the multipurpose trail (to be constructed in accordance with #2 below) to be located along both the north and south sides of the Brewers Neck Boulevard right-of-way. The precise location of the easement will be determined during the site plan review process.

2. The Owner, at its sole cost and expense, shall cause to be constructed in accordance with County specifications an eight (8) foot wide asphalt multipurpose trail. The trail shall be located along both the north and south sides of the Brewers Neck Boulevard right-of-way and shall be connected to sidewalks which shall be constructed adjacent to internal roads, and within the road right-of-way when possible, and along building frontages within the development to provide internal access between uses. The precise location of the multipurpose trail and the internal sidewalks will be determined during the site plan review process and shall be in general conformance to those shown on Exhibit A, entitled Brewer's Station: A Mixed Use Community, prepared by Hopke & Associates, Inc., dated July 12, 2013.
3. In order to provide connectivity between adjacent parcels and to minimize the need for traffic entering and exiting Brewers Neck Boulevard, the Owner shall grant cross access to provide unobstructed passage of vehicles and pedestrians between Land Bay I on the Property and TPIN 33-1-106 (D.B. 384, PG 593). The Owner shall construct a gravel drive- unless otherwise required by VDOT, on their property to the shared property line with TPIN 33-1-106 (D.B. 384, PG 593) in general accordance with Exhibit A. No barriers, fences or other obstructions shall be erected or maintained on the Property that prevents or obstructs vehicular or pedestrian traffic thereon, except for temporary barriers of obstruction reasonably required in connection with the construction, replacement or repair of improvements located on the Property.
4. Under the prior approval of the Property to Conditional Planned Development - Mixed Use (C-PD-MX) approved on March 20, 2014 by the Isle of Wight County Board of Supervisors, the Owner, in accordance with the procedures outlined in the Isle of Wight County Subdivision Ordinance, moved to extinguish the property lines and rights-of way created by the recordation of the subdivision plat for the **NORSWORTHY SUBDIVISION, PHASE ONE**, being a part of TPIN 33-01-142 and which created seven (7) single family lots, a pump station parcel and the Rebecca Drive Right-of-Way.

#### **X. Property Owners' Association and Restrictive Covenants**

1. The Owner agrees that it shall retain sole responsibility for the maintenance of the stormwater management system and all of the amenities built solely for the occupants of the development, including but not limited to improvements and open space of the Property until such time as 80% of the lots shown on the final

subdivision plat or overall subdivision, if phased, have building permits issued to individual lot owners for the construction of units thereon, at which time the obligation shall be assigned to such other legally authorized entity as may be designated by the Owner for that particular Land Bay.

## **XI. General**

1. Successors and Assigns - This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.
2. Severability - In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, subparagraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, subparagraph, section or provision hereof.
3. Void if Application is not approved - In the event that the Application is not approved by the County, these Proffers shall be null and void.

**SIGNATURE  
PAGE**

Owner / Applicant: Francis P. Norsworthy, Jr.

Owner / Applicant: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

Commonwealth of Virginia

City/County of \_\_\_\_\_

Subscribed and sworn to before me \_\_\_\_\_,

A Notary Public in and for the City/County of \_\_\_\_\_,

Commonwealth of Virginia, this \_\_\_\_\_ day of

March, 2018.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_