Proffer Statement for Change of Zoning

TO: The Honorable Board of Supervisors, County of York Virginia

DATE: FEBRUARY 25, 2004

APPLICATION NUMBER:

REFERENCE: Request to Rezone the Property of Seaford Scallop Co., Inc. consisting of approximately1.8 acre portion of said Property from current zoning RR to Water-oriented Commercial/Industrial (WCI).

As part of the consideration by the Board of Supervisors for the County of York to honor the request for the aforementioned rezoning, the following proffers are voluntarily offered:

Conditioned: "I hereby proffer that the development of the subject property, both the RR parcel and the proposed WCI parcel (the "Property") shall be in accordance with the conditions set forth in this submission."

SEAFORD SCALLOP CO., INC.

By: William S. Wells Jr. - owner -
William S. Wells, Jr., President-Owner

1. **GENERAL:** The Property shall be developed in substantial conformance with the concept plan ("PLAN"), consisting of 1 sheet, entitled "Concept Plan Showing Proposed Zoning Amendment", dated January 20, 2004 by Davis & Associates, P.C. The County and the OWNER agree that all parcel lines, parcel sizes, public road locations, utility locations, pier extension, mooring piling installation, and dimensions of undeveloped areas shown on the PLAN shall be static to fulfill documented requirements of final engineering and design and/or compliance with local, state, and federal agency regulations including, but not limited to, York County Wetlands Board, VMRC, Army Corps of Engineers, DEQ, VDOT, etc., and compliance with the requirements of the County's development regulations and design standards manual, and zoning ordinance.

   Changes consistent with the original intent of the PLAN shall be permitted. Where it is necessary to determine if changes are consistent with the original intent of the PLAN, the same shall be referred to the County Zoning Administrator for determination thereof. However, the zoning line shall follow the proposed dividing property line.

2. **LAND USE:** (a) The OWNER agrees that the PROPERTY shown on the PLAN shall not be used for any of the following purposes:

   1) Horsekeeping in Conjunction with Residential use.

2) Private Kennel.
3) Forestry.
4) Home occupation activities with Limited On-Premises Retail Sales, Personal Services or Customer Contact.

5) Meeting Halls, Recreational, Social Uses, or Private Clubs Operated by Social, Fraternal, Civic, Public, or Similar Organizations.

6) Any Recreational or Social Uses Approved as a Part of a Subdivision or Site Plan and Operated Primarily for Use of Residents or Occupants of Such Development.

7) Pre-school, Child Care, Nursery School.

8) Place of Worship including Accessory Parochial School, Accessory Day Care, Accessory Cemetery.

9) Carnival, Circus, Fair, Festival or Similar Special Event.

10) Sale of Seasonal Items such as Christmas Trees, Produce.

11) Recycling Collection Point.

12) Craft Shows & Sales.

13) Flea Markets.

14) Temporary Trailers for Business or School Use.

15) Campgrounds.

16) Marina, Dock, Boating Facility (Private/Club).

17) Antiques/Reproductions, Art Gallery.

18) Bait, Tackle/Marine Supplies Including Incidental Grocery Sales.

19) Freestanding Automatic Teller Machines.

20) Hotel & Motel.

21) Timeshare Resort.

22) Small-Engine Repair (lawn and garden equipment, outboard motors, etc.).

23) Manufacture or Assembly of Electronic Instruments, Components, Devices.

24) Machine Shops & Fabricators.

25) Fish Canning, Curing, Grinding, Smoking.

26) Reclamation of Non-Conforming Borrow Pits.

(b) No parcel within the PROPERTY shall be conveyed to any Church or non-profit or charitable organization that has the right under state statutes or Constitution, at the time of said conveyance, to

apply for a real estate tax exemption for the property so owned by said Church, non-profit or charitable organization.

3. **TRANSPORTATION IMPROVEMENTS:** Currently a maximum number of 220 employees are employed at Seaford Scallop Co., Inc. and Wells Ice & Cold Storage. Shirley Road is the only vehicular access to the site. In order to limit the total vehicle trips per day and not further over burden Shirley Road, it is hereby further proffered that a maximum number of 220 employees are to be located at Seaford Scallop Co., Inc. and Wells Ice & Cold Storage. This proffer shall allow no increase in the total number of employees and shall be binding on the total properties owned by Seaford Scallop Co., Inc. and Wells Ice & Cold Storage until such time that Shirley Road is either deemed adequate to handle an increase in vehicle capacities as determined by standards established by the Virginia Department of Transportation or an alternate ingress and egress access is provided to the subject site.

4. **ENVIRONMENT**: In accordance with the resource protection and management practices stipulated by the Chesapeake Bay Preservation Ordinance, the OWNER shall address site-specific issues upon completion of all environmental and engineering studies.

5. **WATER, SEWER, AND UTILITIES**: The PROPERTY shall be served by public water and sewer. The size of all utility lines shall be determined as part of final engineering approval. All utility extensions shall be underground.

6. **DEVELOPMENT OF PROPERTIES**: The PROPERTY shall be accessed from Shirley Road by one gated driveway. The balance of the frontage along Shirley Road shall be landscaped in accordance with the PLAN.

   Outdoor lighting on the PROPERTY including accessory structures shall be of such design and location to provide no more than 0.1 foot-candle at the property line.
   Outdoor messaging loudspeakers on the PROPERTY including accessory structures shall be prohibited.

7. **SIGNS.** All signs erected by the OWNER on the Property shall be of the monument type in accordance with county ordinance.

8. **LANDSCAPING.** Where the property line of the PROPERTY abuts the adjoining residential parcel, also property of Seaford Scallop Co, Inc., the OWNER shall install a 25' wide landscaped transitional buffer with an 8' open slat privacy fence in accordance with the requirements of the York County Zoning Ordinance.
   All landscaping within the 25' wide transitional buffer shall be maintained at the expense of the OWNER. All landscaping shall be designed to provide noise reduction capabilities to the maximum extent practicable.

9. **EXHIBITS AND ILLUSTRATIONS:** Concept Plan. These Proffers refer to the PLAN which is being used to illustrate certain proffers, and to show the general parcel configuration. Subject to adjustments for final engineering and to comply with the requirements of the applicable York County Ordinances and Virginia Department of Transportation regulations and standards, development of the PROPERTY shall be in substantial conformance with the PLAN. Except for the PLAN attached to these Proffers, any plan submitted as part of the rezoning application, or as part of the rezoning process, shall be deemed illustrative only, and such plan shall not be deemed to be proffered. Should there be a conflict between the PLAN and these Proffers, then these Proffers shall govern.