

Index File

ZM-141-13

Bieri Family Limited Partnership

Assessor's Parcel No. 38A2-9-1

Request to amend the York County Zoning Map by reclassifying an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134), at its intersection with York Downs Drive (Route 1677), from LB (Limited Business) to conditional GB (General Business). The property is further identified as Assessor's Parcel No. 38A2-9-1. The Comprehensive Plan designates this property for General Business.

Attachments:

- Staff Report
- Zoning Map
- Narrative Statement
- Sketch Plan
- Survey
- Proffer Statement
- Table of uses
- Proposed Resolution No. PC13-12

COUNTY OF YORK

MEMORANDUM

DATE: June 4, 2013 (PC Mtg. 6/12/13)

TO: York County Planning Commission

FROM: Earl W. Anderson, AICP, Planner

SUBJECT: Application No. ZM-141-13, Bieri Family Limited Partnership

ISSUE

This application seeks to amend the York County Zoning Map by reclassifying an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134), at the intersection York Downs Drive (Route 1677), from LB (Limited Business) to conditional GB (General Business).

DESCRIPTION

- Property Owner: Bieri Family Limited Partnership
- Location: 3301A Hampton Highway (Route 134)
- Area: Approximately 4.1 acres
- Frontage: Approximately 210 feet along Hampton Highway and approximately 200 feet on York Downs Drive
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: General Business
- Zoning Classification: Conditional GB (General Business)
- Existing Development: A shopping center with various businesses
- Surrounding Development:
 - North: Several Yorkshire Downs condominiums
 - East: Yorkshire Downs Information Center and pool
 - South: Sunoco convenience store with accessory fuel pumps and The Peninsula Academy preschool, and across Hampton Highway the Four Seasons apartment complex, an office complex, and the Pines of York apartment complex
 - West: Seven Yorkshire Downs single-family detached dwellings

- Proposed Development: Amend the LB zoning to conditional GB with a wider range of permitted uses

CONSIDERATIONS/CONCLUSIONS

1. The original Yorkshire Downs planned development approved in 1973 (as the Shady Banks PUD) and revised and reapproved 1986 included a commercial component within which the Zoning Ordinance allowed motels/hotels, restaurants, and other commercial uses that were accessory to the whole development. In 1995, the subject parcel and its out-parcels were reclassified from Planned Development to Limited Business (LB) as part of the comprehensive revision to the Zoning Ordinance and Map. The intent of the LB district is to provide for commercial activities having relatively low external impacts, which can be acceptable in proximity to residential areas. The activities envisioned for the district should be the type that generally occur only during daylight hours, have relatively low impacts (i.e., light, noise), and ensure compatibility with surrounding land uses. The shopping center that occupies the parcel (Yorkshire Downs Shopping Center – approximately 24,000 square feet of floor area) was constructed in 1998.

The applicant has submitted this application to rezone the shopping center parcel to General Business (GB) district in order to provide opportunities for a broader range of commercial activities. The uses in the GB district usually have a need for large amounts of outdoor display and storage of goods or materials, require significant parking, and have a dependency on truck traffic. These areas have an activity level and aesthetic character, which set them apart from the types of uses permitted in the lower intensity commercial districts.

2. The Comprehensive Plan designates the area as General Business, which is “intended to provide opportunities for retail and other commercial uses oriented primarily towards supplying goods or services for a community or regional market.” Additionally, the Comprehensive Plan’s sub-area description states that the General Business designation at the small commercial node at York Downs Drive and Route 134 is in recognition of the existing commercial activities in area and limits commercial development to key areas along Route 134.
3. Surrounding development is mainly residential with a range of housing unit types including apartments, condominiums, townhouses, and single-family detached homes. The two outparcels along Hampton Highway are occupied by a convenience store with accessory gas pumps and a preschool. No changes to the site design are proposed as part of this rezoning request. The subject shopping center is similar to the existing Shady Banks shopping center located approximately four-tenths of a mile to the north on Hampton Highway, which is zoned GB and also abuts a high-density residential development. The applicants noted in their narrative “the market for high quality retail tenants in the subject corridor is very competitive, particularly in the current economy, and the limitation on the types of uses allowed in... LB... places the Yorkshire Downs shopping center at a competitive disadvantage.”

4. The applicant has proffered to exclude certain uses that would otherwise be allowed in the GB district. The attached table identifies all the uses that would be permitted, specially permitted, and prohibited in the shopping center if this application is approved. Some of the uses that would be permitted that are not allowed under the existing zoning include appliance sales; grocery store; household furnishings, furniture; bait and tackle; department, variety, and discount stores; household items repair; restaurant/brew pub; and wholesale auction and trade establishments with no outdoor storage. Some of the uses that would otherwise be permitted as a matter of right under GB zoning, but have been proffered to be allowed only with a Special Use Permit are animal hospitals with indoor runs; meeting halls; fitness centers with indoor and outdoor activity; funeral homes; hotel/motels; drive in restaurants; small engine repair; and boat sales and service with outdoor storage/display. General Business uses that are proffered to be prohibited are bowling alleys, skating rinks, golf driving ranges, home improvement centers, and bus or rail terminals.

The proffers include several uses that could utilize outdoor storage of materials or goods; however, according to the approved site plan, the shopping center has the minimum allowable number of parking spaces. Therefore, the owner has no flexibility to remove any parking spaces in order to accommodate outdoor storage. The Zoning Ordinance does allow for the display of merchandise in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it.

5. The subject property is fully developed. The shopping center has three access points – the main entrance on Hampton Highway between the two outparcels, a second entrance at York Downs Drive, and a third right-in/right-out onto Hampton Highway to the northwest of the site. The large stormwater pond to the northwest serves the area and has buffering landscaping along the shared northwest property line with the single-family dwellings on Sheffield Lane. Additional buffering is located to the rear of the shopping center along the northeastern property line shared with the condominiums off East Bristol Lane. The parking lot has several landscape islands spread throughout.

RECOMMENDATION

The proposed rezoning would allow the applicant to broaden the range of potential tenants, thereby improving the marketability of the center with the objective of reducing the number of vacant units within the center. Staff believes this can be accomplished while protecting the residential uses nearby since the conditions proffered by the applicant will ensure that any GB uses that could potentially have adverse impacts on the surrounding area would either be prohibited or require a Special Use Permit, which would require a public hearing process, Planning Commission review, and provide the opportunity for establishing additional conditions to ensure compatibility. Therefore, based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions voluntarily proffered by the applicant. This can be accomplished through the adoption of proposed Resolution No. PC13-12.

EWA

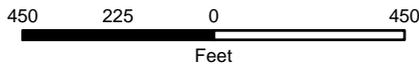
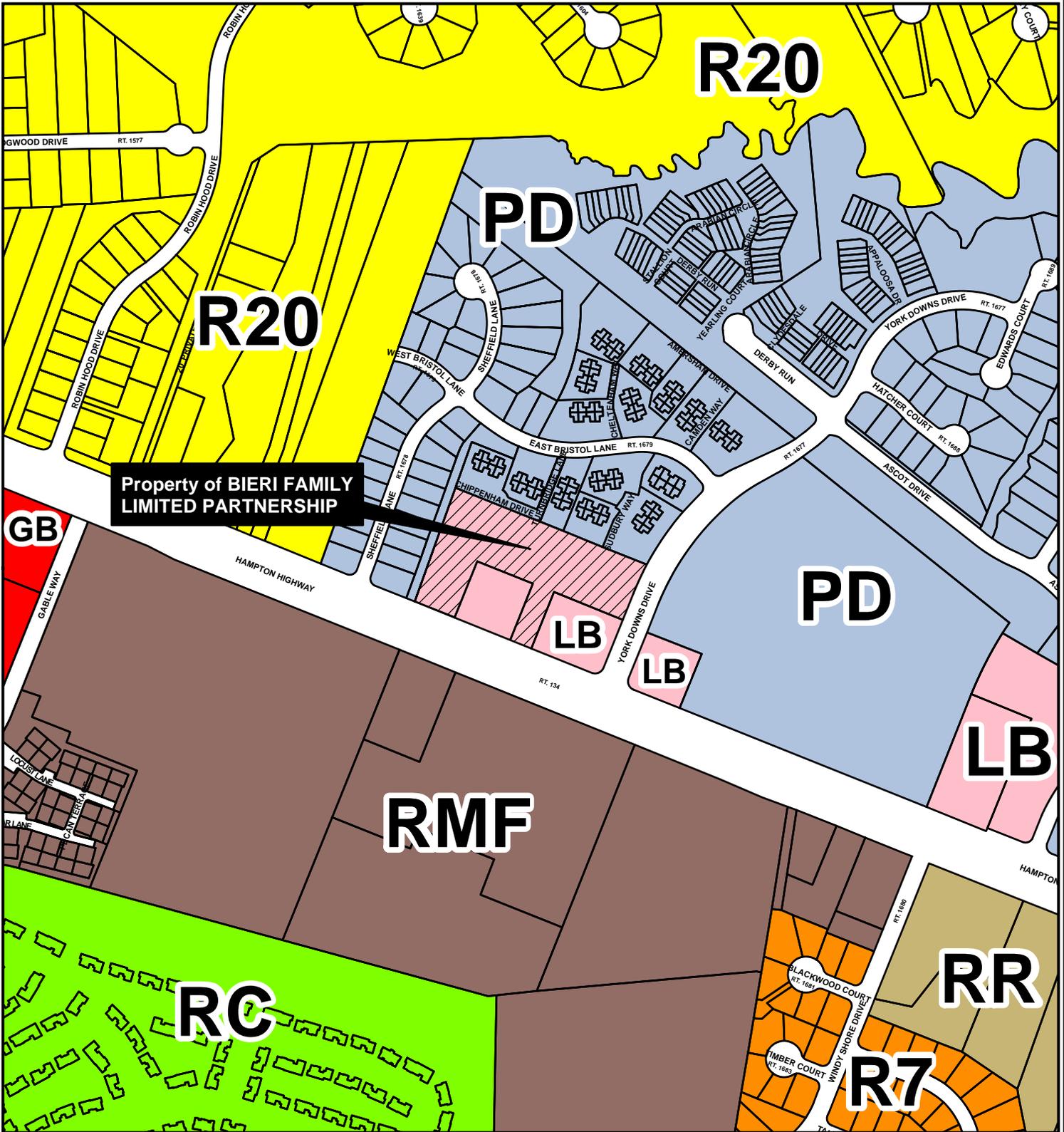
Attachments:

- Zoning map
- Narrative statement
- Sketch plan
- Survey
- Proffer statement
- Table of uses
- Proposed Resolution No. PC13-12

APPLICANT Bieri Family Limited Partnership
Request to amend the Zoning Map by reclassifying a parcel
from LB (Limited Business) to conditional GB (General
Business) 3301A Hampton Hwy

ZONING MAP

APPLICATION NUMBER: ZM-141-13



Printed on May 23, 2013



SOURCE: YORK COUNTY
GIS PARCEL DATA and
ZONING COVERAGE

THIS IS NOT A LEGAL PLAT.
This map should be used for
information purposes. It is not
suitable for detailed site planning.

NARRATIVE STATEMENT IN SUPPORT OF REQUEST

The subject property is currently zoned LB – Limited Business, however, the property is designated GB – General Business on the County’s Comprehensive Plan Land Use Map and designated as one of two commercial nodes on the Rt. 134/Tabb East corridor. The other commercial node, the Shady Banks Shopping Center, is approximately ½ mile north along Rt. 134 in a similarly situated area and is zoned GB – General Business consistent with the County’s Comprehensive Land Use Plan.

The LB – Limited Business zoning district is more restrictive than the GB – General Business zoning district and excludes or requires special use permits for certain retail uses that are permitted by-right in the GB – General Business zone and would generally be seen as desirable tenants in the Yorkshire Downs Shopping Center. Some examples of the types of the types of uses in question include Appliance Stores, Furniture Stores, Toy Stores, Seafood Stores, and Bait & Tackle Shops.

The market for high quality retail tenants in the subject corridor is very competitive, particularly in the current economy, and the limitation on the types of uses allowed in the LB – Limited Business zone places the Yorkshire Downs Shopping Center at a competitive disadvantage. It is important to the vibrancy and viability of the center that it be rezoned to GB – General Business consistent with the County’s Comprehensive Land Use Plan and competing shopping centers.

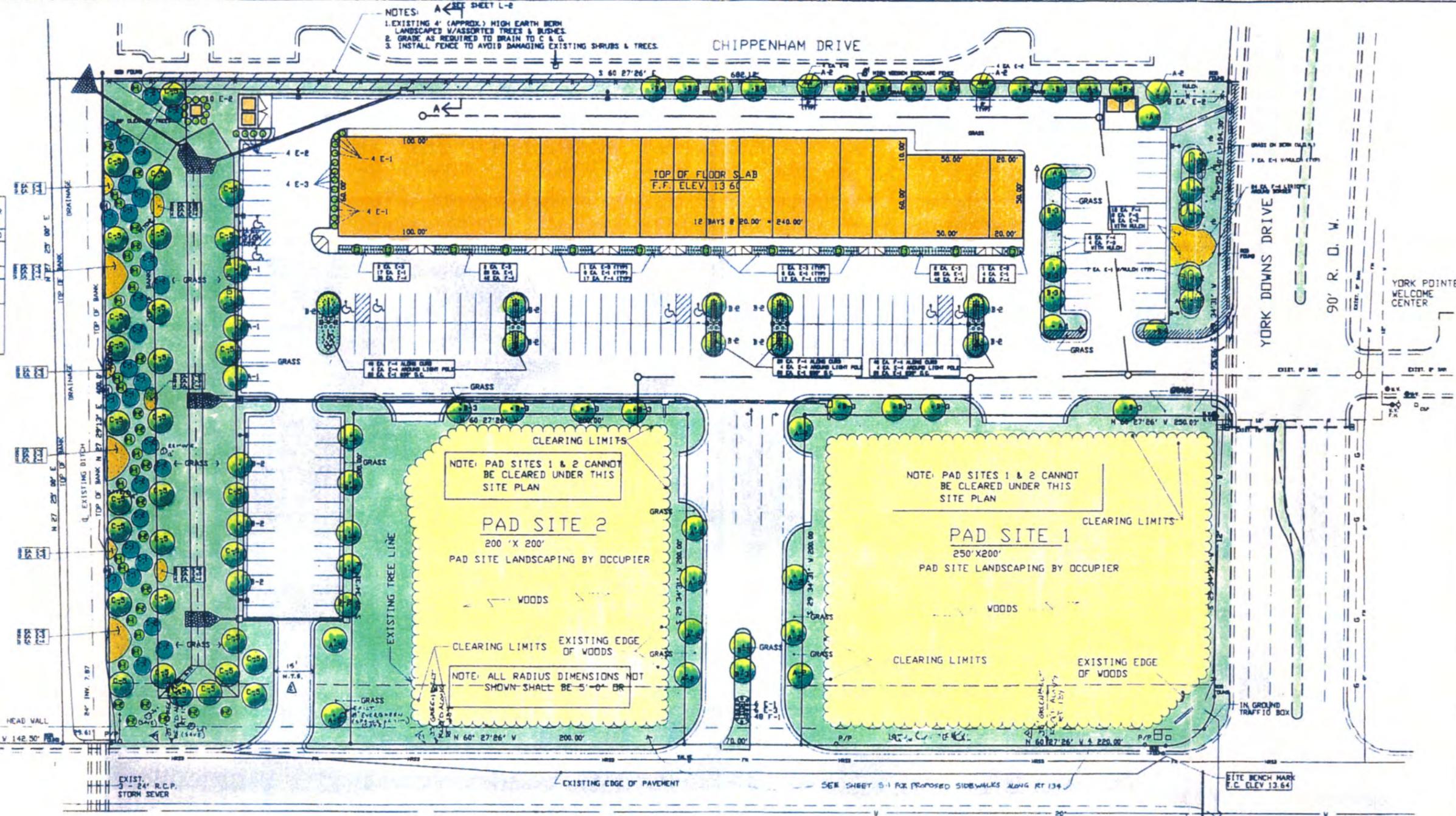
RECEIVED
York County

APR 5 2013

NOTES: A SEE SHEET L-2
 1. EXISTING 4' (APPROX.) HIGH EARTH BORN LANDSCAPED W/ ASSORTED TREES & BUSHES.
 2. GRADE AS REQUIRED TO DRAIN TO C & G.
 3. INSTALL FENCE TO AVOID DAMAGING EXISTING SHRUBS & TREES.

SUMMARY TRANSITIONAL BUFFER		
LANDSCAPING DISTANCE		
	PROVIDED	REQ'D
C-1	14	27
C-2	14	
C-3	19	16
B-1	22	40
B-2	18	
E-1	0	
E-2	36	120
E-3	43	
E-4	39	

N/F YORKSHIRE DOWNS PHASE 1, SECTION P.B. 10 PG. 429



NOTE: THERE ARE VERY FEW EXISTING TREES IN THE 50' TRANSITION BUFFER. PART OF THE BUFFER AREA MUST BE GRADED FOR THE ONE SLOPED SIDE OF THE RETENTION BASIN.

SEE SHT L-2 FOR ALTERNATE BUFFER LANDSCAPING PLAN UTILIZING EXIST. TREES, PINK SAPPLINGS & NATURAL UNDERGROWTH TO RECREATE BUFFER AREA TO A NATURAL WOODED AREA.

SITE PLAN LAND SCAPING

1" = 30'-0"



APR 5 2013

Planned Division

REVISIONS	BY
01-31-96	PA
05-07-96	JL
05-07-96	AP

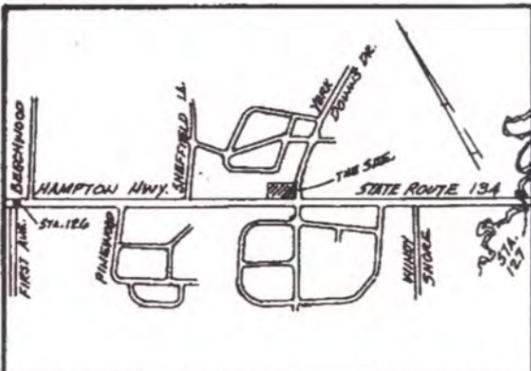


BAY DESIGN ARCHITECTURE - PLANNING
 11747 JEFFERSON AVE. NEWPORT NEWS, VA 23606
 (804) 399-6585



LANDSCAPING
 YORKSHIRE DOWNS SHOPPING CENTER
 HAMPTON HIGHWAY
 YORK COUNTY, VIRGINIA

DATE	10-10-95
SCALE	1" = 30'
DRAWN	K.A.
PROJECT NO	9480
SHEET	L-1



VICINITY MAP SCALE: 1" = 2000'

UTILITIES NOTES:
 1. EACH LOT WITHIN THIS SUBDIVISION WILL BE SERVED BY PUBLIC WATER PROVIDED BY NEWPORT NEWS WATERWORKS.
 2. EACH LOT WITHIN THIS SUBDIVISION WILL BE SERVED BY PUBLIC SEWER PROVIDED BY YORK COUNTY.

THE PLATTING OF THE LAND HEREON SHOWN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE REQUIREMENTS OF PRINCIPAL ANNE SERVICE CORP., A DIVISION OF VIRGINIA BEACH FEDERAL SAVINGS BANK.

John M. Reddell, Jr.
 JOHN M. REDDELL, JR.
 AUTHORIZED AGENT FOR:
 PRINCIPAL ANNE SERVICE CORP.
 DB 941, P. 140 DATED: 12-30-91

MICHELE M. MASON A NOTARY PUBLIC IN AND FOR THE CITY OF VIRGINIA BEACH VIRGINIA, DO HEREBY CERTIFY THAT THE ABOVE NAMED PERSON WHOSE NAME IS SIGNED TO THE FOREGOING WRITING HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY AND STATE AFORESAID.

GIVEN UNDER MY HAND THIS 25th DAY OF July 1996.

Michele M. Mason
 NOTARY PUBLIC
 MY COMMISSION EXPIRES 9/30/97

RESUBDIVISION OF PARCEL 2
 YORKSHIRE DOWNS, PHASE I, SECT. II
 P.B. 10, P. 555

TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL THE REQUIREMENTS AS SET FORTH IN THE ORDINANCE FOR APPROVING PLATS OF SUBDIVISION IN THE COUNTY OF YORK, VIRGINIA HAVE BEEN COMPLIED WITH INCLUDING A CLAUSE OF NOT LESS THAN 1" / 20,000'. THIS IS TO CERTIFY THAT THE LAND EMBRACED IN THIS SUBDIVISION IS IN THE NAME OF BIERI, INC., A VIRGINIA CORPORATION AND WAS ACQUIRED FROM VIRGINIA BEACH FEDERAL SAVINGS BANK BY DEED DATED DEC. 21, 1991, AND DULY RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF YORK, VIRGINIA, IN DEED BOOK 641, PAGE 158. CERTAIN MONUMENTS AND IRON PIPES AS SHOWN ON THIS PLAT WILL BE SET ON OR BEFORE SEPT. 30, 1996.

T.J. Savage, Jr.
 T.J. SAVAGE, JR. CLS

 YORKSHIRE DOWNS
 PHASE I, SECTION I
 P.B. 10, P. 429

THE PLATTING OF THE LAND HEREON SHOWN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER AND PROPRIETOR.

Robert D. Bieri
 ROBERT D. BIERI, PRESIDENT
 BIERI, INC.

KIRSTIN L. YOUNG, A NOTARY PUBLIC IN AND FOR THE COUNTY OF YORK, VIRGINIA, DO HEREBY CERTIFY THAT THE ABOVE NAMED PERSON WHOSE NAME IS SIGNED TO THE FOREGOING WRITING HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY COUNTY AND STATE AFORESAID.

GIVEN UNDER MY HAND THIS 28th DAY OF MAY 1996.

Kirstin L. Young
 NOTARY PUBLIC
 MY COMMISSION EXPIRES October 31, 1999

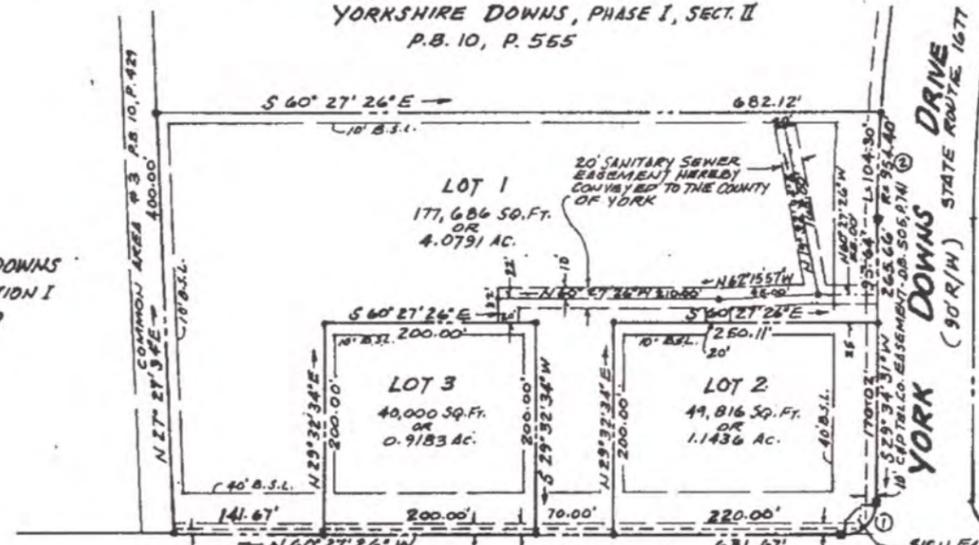
NOTES:
 1. DRAINAGE AND UTILITY EASEMENTS CONVEYED TO THE COUNTY BY RECORDATION OF THIS PLAT SHALL BE EXCLUSIVE TO THE COUNTY, UNLESS OTHERWISE NOTED. CONVEYANCE OF SUCH EASEMENTS TO THE COUNTY ALSO INCLUDE: (1) THE RIGHT OF INGRESS AND EGRESS OVER THE OWNERS LAND ADJACENT TO THE EASEMENT AS NECESSARY TO INSPECT, MAINTAIN AND OPERATE THE COUNTY'S FACILITIES WITHIN THE EASEMENT AND (2) THE RIGHT OF THE COUNTY TO ASSIGN TO OTHERS FROM TIME TO TIME THE RIGHT TO LOCATE FACILITIES THEREIN SERVING THE PUBLIC, INCLUDING, BUT NOT LIMITED TO, WATER, ELECTRIC, TELEPHONE, COMMUNICATIONS, AND GAS UTILITY FACILITIES.

2. THE RECORDATION OF THIS PLAT SHALL OPERATE TO TRANSFER TO THE COUNTY OF YORK ANY EASEMENT INDICATED ON THIS PLAT FOR DRAINAGE AND FOR SANITARY SEWER TO CREATE A PUBLIC RIGHT-OF-PASSAGE OVER THE SAME, UNLESS OTHERWISE NOTED ON THIS PLAT.

3. NONE OF THE AREA CONTAINED IN THIS SUBDIVISION IS WITHIN A RESOURCE PROTECTION AREA OR RESOURCE MANAGEMENT AREA.

CURVE DATA

NO.	RADIUS	DELTA	TANGENT	ARC	CHORD	CHORD BEARING
1	30.00'	89°58'05"	29.98'	47.11'	42.41'	S74°33'33"W
2	954.40'	6°15'41"	52.20'	104.30'	104.25'	S32°42'21"W



HAMPTON HWY. STATE ROUTE NO. 134
 (168' R/W)

AREA WITHIN LOTS - 6.1410 ACRES = TOTAL AREA

- MINIMUM BUILDING SETBACK LINES
- DENOTES CONCRETE MONUMENTS
- DENOTES IRON PIPES TO BE SET AT ALL PROPERTY LINE JUNCTURES

FLOOD ZONE: ZONE 'X', PANEL NO. 43-B
 COMMUNITY NO. 510182, DATED: 12-16-88
 TAXMAP 38-AZ, PARCEL NO. 9-C

YORKSHIRE COMMERCIAL DEVELOPMENT
 SUBDIVISION OF THE PROPERTY OF BIERI, INC.
 COUNTY OF YORK, VIRGINIA

T.J. SAVAGE, JR.
 SURVEYOR AND LAND PLANNER
 1900 E. PEMBROKE AVE.
 HAMPTON, VIRGINIA-23663
 SCALE: 1" = 100' DATE: APRIL 26, 1996

 GRAPHIC SCALE

PRIMARY GEODETIC CONTROL MONUMENTS

STA. 126 - A 3 1/4" DISK IN CONCRETE, APPROXIMATELY 2" BELOW THE GROUND SURFACE, STAMPED "STATION NO. 126". THE DISK IS LOCATED IN THE EASTERN GRASS MEDIAN AT THE INTERSECTION OF ROUTE 134 (HAMPTON HIGHWAY) AND FIRST AVENUE, 13.5' WEST OF THE TRAFFIC LIGHT POLE, 13.5' NORTH OF THE EDGE OF THE PAVEMENT OF THE EASTBOUND LANES OF ROUTE 134. COORDINATES - U.S. SURVEY FEET - 12089688.687 (E), 3567512.061 (N)

STA. 127 - A 3 1/4" DISK IN CONCRETE, APPROXIMATELY 3" BELOW THE GROUND SURFACE, STAMPED "STATION NO. 127". THE DISK IS LOCATED IMMEDIATELY WEST OF THE BOUNDARY BETWEEN YORK COUNTY AND THE CITY OF HAMPTON, 7.5' NORTH OF THE EDGE OF THE PAVEMENT OF THE WESTBOUND LANES OF ROUTE 134 (HAMPTON HIGHWAY), 61.5' EAST OF THE HIGHWAY MILEAGE SIGN. COORDINATES - U.S. SURVEY FEET - 12095023.924 (E), 3565458.579 (N)

APPROVED
 YORK COUNTY BOARD OF SUPERVISORS
 BY: *John T. Quinn, AS*
 PLAT APPROVING AGENT
 DATE: 10/30/96

STATE OF VIRGINIA
 COUNTY OF YORK
 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE COUNTY OF YORK THE 31st DAY OF Oct 1996, THIS MAP WAS PRESENTED AND ADMITTED TO RECORD AS THE LAW DIRECTS IN PLAT BOOK 122, PAGE 415 10:15
 TESTE: Nancy B. Kane Clerk
 CLERK
 BY: *John M. Reddell, Jr.*
 Deed BK 921 pg 694

APR 5 2013

YORKSHIRE DOWNS PROFFERED CONDITIONS

THESE PROFFERED CONDITIONS are voluntarily made this 5th day of June, 2013 by and among **BIERI FAMILY LIMITED PARTNERSHIP**, a Virginia limited partnership ("Applicant") (to be indexed as grantor), and the **COUNTY OF YORK, VIRGINIA**, a political subdivision of the commonwealth of Virginia ("County") (to be indexed as grantee).

RECITALS

R-1. Applicant is the owner of certain real property (the "Property") located within the territorial confines of the County at 3301 Hampton Highway, Yorktown, Virginia 23693, GPIN V02c-1965-1959, Tax Parcel # 038A2-9-1, commonly known as Yorkshire Downs Shopping Center, and more particularly described on **Exhibit A** attached hereto and made part hereof.

R-2. Applicant has filed an application (the "Application") requesting that the zoning of the Property be changed from LB – Limited Business to GB – General Business with proffers as described in Section 24.1-333 of the County's zoning ordinance in effect on the date hereof (the "Zoning Ordinance") in order to be consistent with the Property's designation in the comprehensive plan and to be consistent with other similarly situated shopping centers in the area.

R-3. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Applicant, in furtherance of the Application, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection of the community and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296, et seq. of the Code of Virginia (1950), as amended (the "Virginia Code") and the County Zoning Ordinance.

R-4. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the County of the Application and pursuant to Section 15.2-2296, et seq., of the Virginia Code and the County Zoning Ordinance, the Applicant hereby voluntarily agrees that if the Application is approved and the Board of Supervisors of the County rezones the Property from LB – Limited Business to GB – General Business with proffers, then development of the Property shall be in strict accordance with the proffered conditions set forth below:

PROFFERS:

1. Uses.

A. The permitted uses on the Property shall be those (i) listed on **Exhibit B** attached hereto and incorporated herein by reference, and (ii) such other uses as the County may hereafter adopt as permitted uses in the GB – General Business zone.

B. The uses permitted on the Property by special use permit shall be those (i) listed on **Exhibit C** attached hereto and incorporated herein by reference, and (ii) such other uses as the County may hereafter adopt as specially permitted uses in the GB – General Business zone.

C. The uses permitted on the Property by administratively issued permit shall be those listed in the Zoning Ordinance.

D. The terms "Outdoor Display/Storage" or "Outdoor Facilities" as used in the above-referenced Exhibits shall not be deemed to include the exterior display of inventory, products, materials, etc. on a covered sidewalk immediately adjacent to the premises, which type of display shall be treated in the same manner as indoor storage and/or indoor facilities.

2. Successors and Assigns. These Proffers shall run with the title to the Property and shall be binding on the parties hereto and their respective successors and assigns; provided, however once a party ceases to own any portion of the Property, such party shall have no continuing liability hereunder.

3. 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 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, subsection or provision 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, subsection or provision hereof.

4. Headings. All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not part of these Proffers.

5. Conflicts. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Zoning Appeals and the Courts as otherwise provided by law.

6. Void if Application not Approved. In the event that the Application is not approved by the County or is overturned by subsequent judicial determination, these Proffers and the Master Plan shall be null and void.

7. Incorporation of Recitals. The Recitals set forth above shall be included and read as part of these Proffers and are incorporated herein by reference.

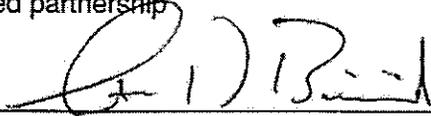
[SIGNATURE LOCATED ON FOLLOWING PAGE]

[SIGNATURE PAGE TO YORKSHIRE DOWNS PROFFERS]

WITNESS the following signature, thereunto duly authorized:

APPLICANT:

BIERI FAMILY LIMITED PARTNERSHIP, a Virginia limited partnership

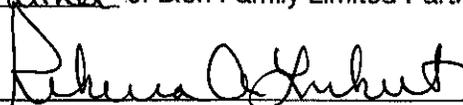
By: 

Print Name: LESTER D. BIERI JR.

Title: GENERAL PARTNER

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 5th day of June, 2013 by Lester D. Bieri Jr. as General Partner of Bieri Family Limited Partnership, a Virginia limited partnership.


NOTARY PUBLIC

My commission expires: 2.28.2017
Registration No.: 365200

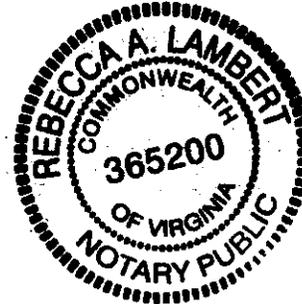


EXHIBIT A

All that certain lot, piece and parcel of land, together with the buildings and improvements thereon, and the appurtenances thereunto belonging, situate, lying and being in the County of York, Virginia, being know, numbered and designate as "LOT 1" as shown on that certain plat entitled, "Yorkshire Commercial Development, Subdivision of the Property of Bieri, Inc., County of York, Virginia," made by T.J. Savage, Jr., Surveyor and Land Planner, dated April 26, 1996, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Plat Book 12, at Page 415, to which reference is hereby made for a more particular description.

EXHIBIT B

Tourist Home, Bed and Breakfast
Plant Nursery or Greenhouse - Wholesale only
Plant Nursery or Greenhouse - Retail sale with or without wholesale sales
Farmer's Market
Pre-school, Child Care, Nursery School
Elementary, Intermediate, High School and/or Vo-Tech and Related Support Facilities - York County Public Schools
Elementary, Intermediate, High School and/or Vo-Tech and Related Support Facilities - Other
Technical, Vocational, Business School
College/University
Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Accessory Cemetery
Emergency Care/First-Aid Centers or Clinic
Conference Center
Post Office
Museum
Government Offices
Libraries
Public Safety Facilities (Fire, Rescue, Sheriff)
Park or Recreation Facilities (Civic or Semi-Public), excluding golf courses
Governmental Park & Recreation Facilities (Athletic and Non-Athletic)
Cemetery
Correction Facility - County Jail
Temporary Construction Workers' Parking
Health, Exercise, Fitness Centers Including Swimming and Racquet Sports - Indoor Only
Indoor Family Amusement Center
Antiques/Reproductions, Art Gallery
Wearing Apparel Store
Appliance Sales
Auction House
Grocery Store
Book, Magazine, Card Shop
Camera Shop, One-Hour Photo Service
Florist
Gifts, Souvenirs Shop
Hardware, Paint Store
Hobby, Craft Shop
Household Furnishings, Furniture
Jewelry Store
Music, Records, Video Tapes
Drug Store
Radio and TV Sales
Sporting Goods Store

Tobacco Store
Toy Store
Gourmet Items/Health Foods/Candy/Specialty Foods/Bakery Shops
ABC Store
Bait, Tackle/Marine Supplies Including Incidental Grocery Sales
Office Equipment & Supplies
Pet Store
Bike Store, Including Rental/Repair
Piece Goods, Sewing Supplies
Optical Goods, Health Aids or Appliances
Fish, Seafood Store
Department, Variety, Discount Store
Auto Parts, Accessories (new parts)
Second Hand, Used Merchandise Retailers (household items, etc.) - without outside display/storage
Broadcasting Studio
Barber/Beauty Shop
Apparel Services (Dry Cleaning/Laundry Retail) Laundromat, Tailor, Shoe Repair, etc.
Photographic Studio
Film Processing Lab
Household Items Repair
Banks, Financial Institutions
Freestanding Automatic Teller Machines
Offices
Restaurant/Sit Down
Restaurant/Brew-Pub
Restaurant/Fast Food
Restaurant - Carryout/Delivery only
Catering Kitchens/Services
Tool, Household Equipment, Lawn & garden Equipment, Rental Establishment without outdoor storage/display
Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users
Professional Pharmacy
Boat Sales, Service, Rental without outdoor storage/display
Taxi or Limousine Service
Neighborhood Shopping Center
Community or Regional Shopping Center
Specialty Shopping Center
Office Park
Wholesale Auction Establishment - without outdoor storage/activity
Wholesale Trade Establishment (may include accessory retail sales) - without outdoor storage
Publishing, Printing, Other than general public and business/professional services
Computer and Technology Development and Assembly
Contractors' Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.) - With enclosed storage of equipment or materials

Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass without outdoor storage/display
Reclamation of Non-Conforming Borrow Pits
Sewage Pump/Lift Stations

EXHIBIT C

Senior Housing - Independent Living Facility - multi-unit structures w/internal entrances
Senior Housing - Independent Living Facility - multi-unit structures w/internal or external entrances to individual units when established in an adapted structure formerly used as hotel or motel
Housekeeping in Conjunction with Residential Use
Plat Nursery or Greenhouse - Retail or Wholesale with accessory landscape contracting storage & equipment
Animal Hospital, Vet Clinic, Commercial Kennel with or without outside runs
Commercial Orchard or Vineyard
Forestry
Meeting Halls, Recreational, Social Uses, Or Private Clubs Operated by Social, Fraternal, Civic, Public, or Similar Organizations
Senior Housing - Congregate Care
Senior Housing - Assisted Living
Senior Housing - Continuing Care Retirement Community
Nursing Home
Medical Care Facility, including General Care Hospital, Trauma Center
Secured Medical Facility
Flea Markets
Model Home Display Parks
Theater - Indoor
Health, Exercise, Fitness Centers Including Swimming and Racquet Sports - Indoor & Outdoor
Video Arcade, Pool Hall, Billiards Hall, Bingo Hall
Firing Range-Indoor Only
Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Commercial Amusement
Campgrounds
Theme Park, Amphitheater, Stadium
Convenience Store
Lumberyard, Building Materials
Drug Store with 24 hour operation
Firearms Sales and Service
Second Hand, Used Merchandise Retailers (household items, etc.) - with outside display/storage
Storage shed and utility building sales/display
Funeral Home (may include cremation services)
Cremation Services (human or pets)
Fortune Teller
Pawn Shop
Payday Loan Establishments
Hotel & Motel
Timeshare Resort
Restaurant/Drive In
Nightclub

Commercial Reception Hall or Conference Center
Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)
Tool, Household Equipment, Lawn & garden Equipment, Rental Establishment with outdoor storage/display
Car Wash
Automobile Fuel Dispensing Establishment / Service Station (May include accessory convenience store and/or car wash)
Auto Repair Garage
Auto Body Work & Painting
Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s) - Without Auto Body Work & Painting
Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s) - With Auto Body Work & Painting
Heavy Truck and Equipment Sale, Rental, Service
Farm Equipment Sales, Rental, Service
Manufactured Home Sales, Rental, Service
Boat Sales, Service, Rental, and Fuel Dispensing with outdoor storage/display
Heliport
Helipad
Recreational Vehicle Storage Facility
Wholesale Auction Establishment - with outdoor storage
Warehousing, Including Moving and Storage Establishment
Wholesale Trade Establishment (May include accessory retail sale) - with outdoor storage
Mini-Storage Warehouses - Single-story
Mini-Storage Warehouses - Multi-story
Laboratories, Research/Development Testing Facilities
Contractors' Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.) - With Outdoor / Exposed Storage
Manufacture or Assembly of Electronic Instruments, Components, Devices
Machine Shops & Fabricators
Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass with outdoor storage/display
Recycling Center
Water Storage Towers
Radio, Television, Microwave Facilities
Utility Transmission Facilities other than Normal Distribution Facilities

General Business (GB), Limited Business, and Requested Land Uses for Yorkshire Downs Shopping Center

(Note: Items that appear in **Yellow** reflect no change between the use allowed in LB and in the requested GB proffers. Items in **BOLD ITALICS** have been proffered out in whole or in part. Items with a gray box in the LB and GB columns indicate a new use proposed by the applicant that is not in LB or GB)

LAND USE	LB	GB	GB w/Prof- fers
Tourist Home, Bed and Breakfast	P	P	P
Senior Housing – Independent Living Facility (multi-unit structures w/internal en- trances only)	S	S	S
Senior Housing – Independent Living Facility (multi-unit structures w/internal or ex- ternal entrances to individual units when established in an adapted structure for- merly used as a hotel or motel)	S	S	S
Horse keeping in Conjunction with Residential Use	S	S	S
Plant Nursery or Greenhouse		P	P
a) Wholesale Only		P	P
b) Retail Sales with or without wholesale sales	P	P	P
c) Retail or Wholesale with accessory landscape contracting storage & equipment		S	S
Animal Hospital, Vet Clinic Commercial Kennel Without Outside Runs	S	P	S
Animal Hospital, Vet Clinic Commercial Kennel With Outside Runs		S	S
Commercial Orchard or Vineyard		S	S
Forestry	S	S	S
Farmer's Market		P	P
Meeting Halls, Recreational, Social Uses, or Private Clubs Operated by Social, Fraternal, Civic, Public, or Similar Organizations	S	P	S
Pre-school, Child Care, Nursery School	P	P	P
Elementary, Intermediate, High School and/or Vo-Tech & Related Support Facili- ties	P	P	P
a) York County Public Schools			
b) Other	S	P	P
Technical, Vocational, Business School	S	P	P
College/University	S	P	P
Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Accessory Cemetery	P	P	P
Convent/Monastery	S		
Senior Housing – Congregate Care	S	S	S
Senior Housing – Assisted Living	S	S	S
Senior Housing – Continuing Care Retirement Community	S	S	S
Nursing Home	S	S	S
Medical Care Facility, including General Care Hospital, Trauma Center	S	P	S
Emergency Care/First-Aid Centers or Clinic	P	P	P
Secured Medical Facility		S	S
Conference Center	P	P	P
Post Office	P	P	P
Museum	P	P	P
Government Offices	P	P	P
Libraries	P	P	P
Public Safety Facilities (Fire, Rescue, Sheriff)	P	P	P
Park or Recreation Facilities (Civic or Semi-Public), excluding golf courses		P	P
Governmental Park & Recreation Facilities (Athletic and Non-Athletic)	P	P	P
Cemetery	P	P	P
County Jail	P	P	P
Carnival, Circus, Fair, Festival or Similar Special Event	A	A	A
Sale of Seasonal Items such as Christmas Trees, Produce	A	A	A
Recycling Collection Point	A	A	A

P = Permitted as a matter of right
S = Permitted only with a Special Use Permit
A = Administrative Permit required
Blank = Not permitted

LAND USE	LB	GB	GB w/Prof-fers
Craft Shows & Sales	A	A	A
Flea Markets		S	S
Temporary Construction Office Trailers & Buildings	A	A	A
Temporary Construction Workers' Parking	P	P	P
Temporary Trailers for Business or School Use	A	A	A
Model Home Display Parks		S	S
Theater - Indoor		P	S
Health, Exercise, Fitness Centers Including Swimming and Racquet Sports	P	P	P
a) Indoor Only			
b) Indoor & Outdoor	S	P	S
Bowling Alley		P	
Video Arcade, Pool Hall, Billiards Hall, Bingo Hall		S	S
Indoor Family Amusement Center	S	P	P
Skating Rink		P	
Firing Range-Indoor Only		S	S
Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Commercial Amusement		S	S
Golf Driving Range		P	
Country Club or Golf Course, Public or Private	S		
Campgrounds		S	S
Theme Park, Amphitheater, Stadium		S	S
Antiques/Reproductions, Art Gallery	P	P	P
Wearing Apparel Store	P	P	P
Appliance Sales		P	P
Auction House	P	P	P
Convenience Store	S	S	S
Grocery Store		P	P
Book, Magazine, Card Shop	P	P	P
Camera Shop, One-Hour Photo Service	P	P	P
Florist	P	P	P
Gifts, Souvenirs Shop	P	P	P
Hardware, Paint Store	P	P	P
Hobby, Craft Shop	P	P	P
Household Furnishings, Furniture		P	P
Jewelry Store	P	P	P
Lumberyard, Building Materials		S	S
Music, Records, Video Tapes	P	P	P
Drug Store	S	P	P
Drug Store with 24 hour operation			S
Radio and TV Sales	S	P	P
Sporting Goods Store	P	P	P
Firearms Sales and Service	S	S	S
Tobacco Store	P	P	P
Toy Store	S	P	P
Gourmet Items/Health Foods/Candy/Specialty Foods/Bakery Shops	P	P	P
ABC Store	P	P	P
Bait, Tackle/Marine Supplies Including Incidental Grocery Sales		P	P
Office Equipment & Supplies	P	P	P
Pet Store	P	P	P
Bike Store, Including Rental/Repair	P	P	P
Piece Goods, Sewing Supplies	P	P	P
Optical Goods, Health Aids or Appliances	P	P	P
Fish, Seafood Store		P	P
Department, Variety, Discount Store		P	P
Auto Parts, Accessories (new parts)	P	P	P

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LAND USE	LB	GB	GB w/Prof- fers
Second Hand, Used Merchandise Retailers (household items, etc.)	P	P	P
a) without outside display/storage	P	P	P
b) with outside display/storage	S	S	S
Storage shed and utility building sales/display		S	S
Home Improvement Center		P	
Broadcasting Studio	P	P	P
Barber/Beauty Shop	P	P	P
Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, Etc.)	P	P	P
Funeral Home (may include cremation services)	S	P	S
Cremation Services (human or pets)		S	S
Photographic Studio	P	P	P
Film Processing Lab		S	P
Household Items Repair		P	P
Fortune Teller		S	S
Pawn Shop		S	S
Banks, Financial Institutions	P	P	P
Freestanding Automatic Teller Machines	P	P	P
Payday Loan Establishments		S	S
Offices	P	P	P
Hotel & Motel	S	P	S
Timeshare Resort		S	S
Restaurant/Sit Down	P	P	P
Restaurant/Brew-Pub		P	P
Restaurant/Fast Food	S	P	P
Restaurant/Drive In	S	P	S
Restaurant - Carryout/Delivery only	P	P	P
Catering Kitchen/Services	P	P	P
Nightclub	S	S	S
Commercial Reception Hall or Conference Center	S	P	S
Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)		P	S
Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment without outdoor storage/display			P
Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment with outdoor storage/display			S
Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users	P	P	P
Professional Pharmacy	P	P	P
Car Wash	S	S	S
Automobile Fuel Dispensing Establishment/ Service Station (May include accessory convenience store and/or car wash)	S	S	S
Auto Repair Garage		S	S
Auto Body Work & Painting		S	S
Auto or Light Truck Sales, Rental, Service (Including Motorcycles or RVs)		S	S
a) Without Auto Body Work & Painting		S	S
b) With Body Work & Painting		S	S
Heavy Truck and Equipment Sales, Rental, Service		S	S
Farm Equipment Sales, Rental, Service		S	S
Manufactured Home Sales, Rental, Service		S	S
Boat Sales, Service, Rental with no outdoor storage/display			P
Boat Sales, Service, Rental and Fuel Dispensing with outdoor storage/display		P	S
Heliport		S	S
Helipad		S	S
Bus or Rail Terminal		P	
Taxi or Limousine Service		P	P

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LAND USE	LB	GB	GB w/Prof- fers
Recreational Vehicle Storage Facility		S	S
Neighborhood Shopping Center	P	P	P
Community or Regional Shopping Center		P	P
Specialty Shopping Center	S	P	P
Office Park	P	P	P
Wholesale Auction Establishment		P	P
a) without outdoor storage or without outdoor storage/activity		P	P
b) with outdoor storage		S	S
Warehousing, Including Moving and Storage Establishment		S	S
Wholesale Trade Establishment (May Include accessory retail sales)		P	P
a) without outdoor storage		P	P
b) with outdoor storage		S	S
Mini-Storage Warehouses a) Single-story		S	S
Mini-Storage Warehouses b) multi-story		S	S
Laboratories, Research/Development Testing Facilities		S	S
Publishing, Printing, Other than general public and business/professional services		P	P
Computer and Technology Development and Assembly		P	P
Contractors' Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.)		P	P
a) With Enclosed Storage of Equipment or Materials		P	P
b) With Outdoor/Exposed Storage		S	S
Manufacture or Assembly of Electronic Instruments, Components, Devices		S	S
Machine Shops & Fabricators		S	S
Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass without outdoor storage/display			P
Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass with outdoor storage/display			S
Recycling Center	S	S	S
Soil Stockpiling	A	A	A
Reclamation of Non-Conforming Borrow Pits	P	P	P
Electric Substations, Distribution Center, Transformer Stations, Telephone Exchanges	A	A	A
Sewage Pump/Lift Stations	P	P	P
Water Storage Towers	S	S	S
Radio, Television, Microwave Facilities		S	S
Utility Transmission Facilities other than Normal Distribution Facilities (Essential Services): Including Telephone Exchanges, Pipelines, High Voltage Power Lines	S	S	S

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PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2013:

Present

Vote

Richard M. Myer, Jr., Chair
Mark B. Suiter, Vice Chair
Alexander T. Hamilton
Christopher A. Abel
Timothy D. McCulloch
Todd H. Mathes
Melissa S. Magowan

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY AN APPROXIMATELY 4.1-ACRE PARCEL OF LAND LOCATED AT 3301A HAMPTON HIGHWAY FROM LB (LIMITED BUSINESS) TO CONDITIONAL GB (GENERAL BUSINESS)

WHEREAS, Bieri Family Limited Partnership has submitted Application No. ZM-141-13 requesting to amend the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2013, that Application No. ZM-141-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner set forth in the proffer statement titled "Yorkshire Downs Proffered Conditions" and dated _____, a copy of which shall remain on file in the office of the Planning Division;

BE IT FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the Ordinance accepting the proffered conditions, together with a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.