

PROFFER AGREEMENT

RE: TOANO TRACE

WHEREAS, James City County ("the Owner"), plans to develop certain real property in James City County, Virginia, more particularly described as follows:

All that certain parcel of land in Stonehouse District, James City County, Virginia containing 28.33 acres more or less being that same property shown as parcel "B" on that certain plat entitled "SUBDIVISION OF 62.39 ACRES STANDING IN THE NAME OF THE COUNTY OF JAMES CITY, JAMES CITY COUNTY, VIRGINIA", prepared by Lynn D. Evans, Certified Land Surveyor of The DeYoung-Johnson Group, Inc., dated December 18, 1991, which plat is recorded in the Clerks Office of the Circuit Court for the City of Williamsburg and the County of James City Plat Book 55, Page 47.

WHEREAS, the Owner has applied for a rezoning of the above described property ("Property") from the Agricultural District, A-1 ("Existing Zoning") to the General Residential District, R-3, of the James City County Code, ("Proposed Zoning"); and

WHEREAS, James City County, Virginia ("County") may be unwilling to rezone the Property, because the Proposed Zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning regulations.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulations provided in the Proposed Zoning, it shall meet and comply with all of the following conditions in the development of the Property:

1. The Property shall be developed as a cluster subdivision in accordance with James City County Code Chapter 20, Zoning Article IX, Residential Cluster Development, as amended and in effect on the date the master plan is submitted to the County.
2. The use of the Property shall be limited to:
 - a. Single-family dwellings, two-family dwellings. The total number of individual dwelling units shall not exceed 60.
 - b. Community recreation facilities.
 - c. Garages and other storage structures that are attached to dwellings. No detached accessory structures shall be permitted.

3. The subdivision plan shall be in general conformance with the conceptual plan submitted as part of the rezoning application as determined by the Director of Planning.
4. All individual dwelling units shall be sold at or below the Virginia Housing Development Authority's Home Mortgage Loan Program price limit, as adjusted (\$81,500 as of October, 1991). Fifty percent of the individual dwelling units will be sold at or below 80 percent of the VHDA price limit, as adjusted (\$65,200 as of October, 1991).
5. The footprint of single-family or two-family structures shall not exceed 1,700 square feet. Decks shall not be included in the footprint area of two-family structures. Clearing, in addition to building footprints, shall be limited to 3,000 square feet for each single-family or two-family structure. Clearing for driveways shall be minimized and not included in the 3,000-square foot limit.
6. The subdivision plan shall provide for a single entrance to the Property along State Route 631. The Property shall not have any private driveways entering State Route 631 (Chickahominy Road).
7. Except for walking trails and drainage facilities approved by the Planning Commission, areas shown as "Designated Open Space" on the conceptual plan submitted as part of this application shall be left in their natural vegetated state or landscaped in accordance with plans approved by the Development Review Committee. If grading, as approved by the Development Review Committee, of any part of such areas requires the removal of natural vegetation, such vegetation shall be replaced with appropriate screen planting approved by the Development Review Committee. Such designated open space areas shall be conveyed to the homeowners' association subject to a conservation easement to James City County. The homeowners' association shall be responsible for all maintenance and trash removal in such areas. Until conveyance of such areas to the association, the owner shall be responsible for such maintenance.
8. The subdivision plan shall provide a variable width (minimum 50-foot) scenic buffer adjacent to the right-of-way line of State Route 631. This buffer area shall be included as part of the designated open space referred to in Proffer 7.
9. All streets and roads shall be built to specifications of the Virginia Department of Transportation (VDOT) and shall be dedicated to the County.
10. A VDOT standard sidewalk shall be installed on the north side of the entrance road and northward along Chickahominy Road connecting to the middle school sidewalk as shown on the conceptual plan submitted as part of this application.

- 11. An unpaved walking trail 6 feet wide shall be installed to improve pedestrian access to the recreation area and also along Chickahominy Road south of the entrance road as shown on the conceptual plan submitted as part of this application.
- 12. The Owner shall provide appropriate documentation acceptable to the County Attorney demonstrating that a Homeowners' Association ("Association") has been legally established with authority to impose, raise and collect assessments against the owners of lots according to law. The Association shall have the ability to place a lien on every lot within the Property for unpaid assessments levied against that lot.
- 13. The owner shall install all road improvements to Chickahominy Road that may be required by VDOT to serve this development.

IN WITNESS WHEREOF, the Proffers were executed on the date first above-written.

County of James City, Virginia

By: David B. Norman
David B. Norman, Administrator

COMMONWEALTH OF VIRGINIA AT LARGE, TO-WIT:

The foregoing proffers were acknowledged before me this 29 day of January, 1992, by David B. Norman County Administrator of James City County.

Nicki Ann King
NOTARY PUBLIC

My commission expires: March 23, 1992

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