

003748

BOOK 729 PAGE 586

PROFFERS

THESE PROFFERS are made as of this 15 day of September, 1994, by the Atlantic Homes Development Corporation (together with its successors and assigns, the "Owner") and William R. Bland and E. Thomas Cox, Special Commissioners to the Estate of Jeremiah Wallace, Deceased (collectively the "Special Commissioners").

RECITALS

A. Owner is the contract purchaser of a certain tract or parcel of land known as the Wallace Estate Parcel (the "Property") containing approximately 97.451 acres located in James City County, Virginia, and identified on James City County Tax Map Number (31-1) as Parcel Number (1-80,81).

B. The Special Commissioners have been appointed special commissioners in a suit brought in the Circuit Court for the County of James City to quiet title to the Property and join in this agreement to consent to the proffers being made herein.

C. Owner has applied for a rezoning of the Property from R-8, Rural Residential District, to R-2, General Residential District, with proffers.

D. Owner desires to offer to James City County (the "County") certain conditions on the development of the Property not generally applicable to land zoned R-2, General Residential District and the Special Commissioners desire to consent to said proffers.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.1-491.2:1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the County Zoning Ordinance, Owner agrees and Special Commissioners consent that the developer of the Property shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Additional On-Site Improvements. a) Prior to any final subdivision plan approval of the Property, the Owner shall hire an engineer, acceptable to the Director of Planning of the County, to conduct a traffic impact study of the proposed development of the Property and Owner shall pay all fees and costs associated with said study. The traffic impact study shall be submitted to the Director of Planning of the County for his review and approval prior to any final subdivision plan approval. Upon the approval of the traffic impact study by the Director of Planning of the County, the County shall have the right to require the Owner of the Property to construct, or have constructed, to Virginia Department of Transportation ("VDOT") required standards right and/or left turn lane(s) from Centerville Road to the Property and a right turn lane from the Property onto Centerville Road, provided such turn lane(s) is/are recommended by the approved traffic impact study and is/are determined to be necessary by VDOT. The turn lanes shall be

constructed on or before the time they are required by the approved traffic study.

b) The Owner shall provide a right-of-way 50 feet in width to the adjacent Fox Ridge subdivision, which shall be made part of the applicable subdivision associated with the Property and the Owner shall provide a paved pedestrian and bikeway path a minimum of 10 feet in width, within said right-of-way, connecting the Property and the adjacent Fox Ridge subdivision, which shall be part of the applicable subdivision plan associated with the Property. The design and construction of the path shall be approved by the Director of Planning of the County. A Maintenance Agreement for the path shall be approved by the County Attorney.

c) The Owner shall provide a right-of-way 50 feet in width to the adjacent Armistead property, which shall be made part of the applicable subdivision associated with the Property.

2. Buffers/Conservation Easement. There shall be a conservation easement ("Conservation Easement") dedicated to the homeowners' association ("Homeowners' Association"), which shall be organized by the Owner, 25 feet in width running along the boundary lines of the Property and the adjacent Fox Ridge subdivision, Forest Glen subdivision and Armistead property, except along the boundary lines of the Property and the adjacent Fox Ridge subdivision and Forrest Glen subdivision where the boundary line of the Property is at least 100 feet from the rear

boundary line of any lot within said subdivisions. The Conservation Easement shall be inclusive and/or exclusive of lots, as the case may be, and shall remain undisturbed and in its natural state except for limited clearing of trees and undergrowth necessitated by the following: diseased or dead trees, approved utilities, approved drainage easements, approved fencing by the Owner or Homeowners' Association, lot owner fencing and required entrances to adjoining property. The thirty-five foot (35') minimum rear yard requirement, as set forth in Section 20-259(b) of the James City County Zoning Ordinance, shall be measured from the inside line of the Conservation Easement if the Conservation Easement is inclusive of the applicable developed lot within the Property.

3. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning 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 Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning 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

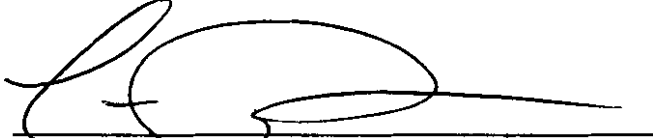
study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards 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 the clearing, grading or construction activities thereon. An acceptable treatment plan may consist of preservation of the site in the natural or original position or place, either by leaving the site completely undisturbed and/or preserving the site in a manner acceptable to the Director of Planning.

4. Sewer Connections. The Owner shall develop no more than 85 lots within the Property prior to entering into an agreement with the James City County Service Authority. Said agreement shall establish the connections available to the property above 85 connections, the improvements to the sewer

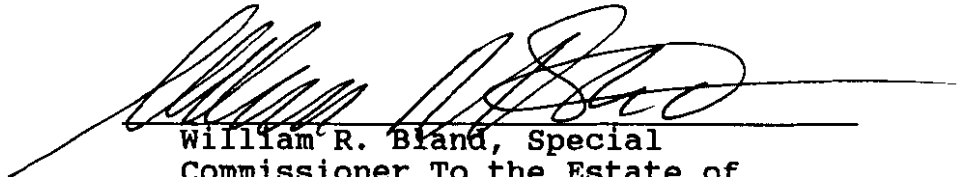
system, if any, which shall be necessary to support the additional connections, the timing of such improvements, and the allocation of the cost of such improvements. The agreement shall be approved by the Board of Supervisors.

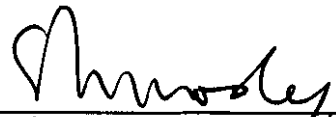
WITNESS the following signature:

ATLANTIC HOMES DEVELOPMENT CORPORATION

By:   
Henry H. Stephens, President

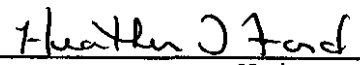
The undersigned consent to the foregoing proffers.

  
William R. Bland, Special  
Commissioner To the Estate of  
Jeremiah Wallace, Deceased

  
E. Thomas Cox, Special Commissioner  
To the Estate of Jeremiah Wallace,  
Deceased

STATE OF VIRGINIA,  
City/County of Newport News, to-wit:

The foregoing instrument was acknowledged before me on this 15<sup>th</sup> day of September, 1994, by Henry H. Stephens as President of Atlantic Homes Development Corporation.

  
Notary Public

My Commission expires: 2/28/98

STATE OF VIRGINIA,  
City/County of Newport News, to-wit:

The foregoing instrument was acknowledged before me on this 1st day of September, 1994, by William R. Bland, Special Commissioner to the Estate of Jeremiah Wallace, Deceased.

Heather Ford

Notary Public

My Commission expires: 2/28/98

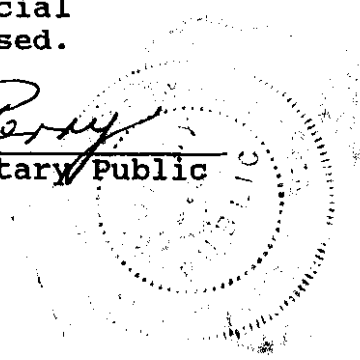
STATE OF VIRGINIA,  
City/County of Newport News, to-wit:

The foregoing instrument was acknowledged before me on this 1st day of September, 1994, by E. Thomas Cox, Special Commissioner to the Estate of Jeremiah Wallace, Deceased.

Susan L Perry

Notary Public

My Commission expires: 4/30/96



TF...AHDC\WALLPROP\PROFFER5.AHD

VIRGINIA: City of Williamsburg and County of James City, 1709:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the

8 day of March 1995. This Proffer

was presented to me, and is annexed and

admitted to record at 12:45 o'clock

Teste: Helene S. Ward, Clerk

by [Signature]  
Deputy Clerk

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT  
DEED RECEIPT

DATE: 03/08/95 TIME: 12:45:03 ACCOUNT: 095CLR750003748 RECEIPT: 95000005950  
CASHIER: CHB REG: W804 TYPE: OTHER PAYMENT: FULL PAYMENT  
INSTRUMENT : 950003748 BOOK: 0 PAGE: 0 RECORDED: 03/08/95 AT 12:45  
GRANTOR NAME : ATLANTIC HOMES DEVELOPMENT EX: N LOCALITY: CO  
GRANTEE NAME : BLAND, WILLIAM R EX: N PERCENT: 100%  
AND ADDRESS :  
RECEIVED OF : JCCO DATE OF DEED: 09/01/94  
CHECK : \$16.00

DESCRIPTION 1: PROFFERS WALLACE ESTATE PARCEL  
2:

CONSIDERATION:	.00	ASSUME/VAL:	.00	MAP:	
CODE DESCRIPTION		PAID CODE DESCRIPTION		PAID	
301 DEEDS		15.00 145 VSLF		1.00	

TENDERED :	16.00
AMOUNT PAID:	16.00
CHANGE AMT :	.00

CLERK OF COURT: HELENE S. WARD

*2 Documents*