

PROFFER AGREEMENT

These Proffers are made as of the 10th day of August, 1994, by COLONIAL CAPITOL DEVELOPMENT CO., a Virginia general partnership ("the Owner"), together with its successors and assigns, which owns certain real property described on the James City County Tax Map as parcels (47-2)(1-18) and (47-2)(1-17) more particularly hereinafter described.

RECITALS

A. The Owner is the owner of certain real property in James City County, Virginia, hereinafter referred to as "the Property" and more particularly described as follows:

PARCEL 1

All that certain tract of land now or formerly situated in Berkeley District, James City County, Virginia, containing 3.75 acres, more or less, and bounded by the Westray Downs subdivision on the south and west, and Mill Creek on the east, being the same property conveyed to the Owner by Deed from the Sarah Ann Bailey Estate, recorded in James City County Deed Book 421, page 128, et. seq.

PARCEL 2

All that certain tract of land now or formerly situated in Berkeley District, James City County, Virginia, containing 0.75 acres, more or less, and bounded by the Westray Downs subdivision on the west, and the Sarah Anne Bailey Estate on the north, east and west, being the same property conveyed to the Owner by Deed from Curtis Pernell Pressey and Mary Jane Pressey, recorded in James City County Deed Book 688, page 756, et. seq.

B. The Owner has applied to James City County ("the County") for a rezoning of the Property from the R-8, Rural Residential Zoning District ("the Existing Zoning") to the R-1, Limited Residential District ("the Proposed Zoning").

C. The County's Comprehensive Plan Land Use Map specifically designates the Property as "Low Density Residential" expressly providing for conventional residential development patterns at densities of two dwelling units per acre or less.

D. The provisions of the County's Zoning Ordinance may be deemed inadequate for the orderly development of the Property.

E. The Owner desires to offer to the County certain proffers on the development of the Property not generally applicable to land similarly zoned for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the County of the proffers hereinafter set forth and pursuant to § 15.1-491.1, et. seq., of the Code of Virginia, 1950, as amended, and § 20-16 et. seq. of the County Code, the Owner agrees that in developing the Property, it will meet and comply with such of the following proffers accepted by the County in developing the Property. In the event the zoning of the Property is not changed from the Existing Zoning to the Proposed Zoning, these proffers shall be withdrawn and shall become null and void.

PROFFERS

1. No buildings, structures or land disturbing activity shall be permitted within the 100 year flood plain of Mill Creek except for utility lines and structures and drainage structures, as approved by the Director of Code Compliance.
2. The Owner shall erect a permanent fence, 8' in height and similar in construction to the existing fence located along the eastern property line of the Westray Downs subdivision along the shared property line of the properties and adjacent lands owned by David E. Hooker and denoted on James City County Tax Map as Parcel (47-2)(1-15).
3. The Owner shall remove and properly dispose of any trash, rubbish, junk or abandoned motor vehicles and yard debris accumulated on any portion of the Property as a condition precedent to final subdivision approval of the Property.
4. The Owner agrees to contribute to the County \$5,000 towards the financing and construction of alternate Route 5 and/or Route 5 improvements prior to final subdivision approval.

GENERAL PROFFERS

1. Headings:

All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.

2. Severability of Provisions:

If any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, 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, section or subsection hereof, or affect the validity of the application thereof to the Owner or to any other government agency, person or circumstance.

WITNESS the following signature and seal:

COLONIAL CAPITOL DEVELOPMENT CO.
a Virginia general partnership

By: [Signature]
General Partner

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 30th day of August, 1994 by Clifford E. Henderson, General Partner of COLONIAL CAPITOL DEVELOPMENT CO. a Virginia general partnership, its officer in its behalf first duly authorized.

[Signature]
NOTARY PUBLIC
VIRGINIA, City of Williamsburg and County of James City, to-wit:

My commission expires: 9-30-97

In the County of James City of the Circuit Court of the City of Williamsburg and County of James City this 8 day of March 1995. This Proffer was read with certificate annexed and admitted to record at 12:51 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: 12:51:12 ACCOUNT: 095CLR950003749 RECEIPT: 95000005951
CASHIER: CHB REG: WB04 TYPE: AG PAYMENT: FULL PAYMENT
INSTRUMENT : 950003749 BOOK: 0 PAGE: 0 RECORDED: 03/08/95 AT 12:51
GRANTOR NAME : COLONIAL CAPITOL DEVELOPMENT EX: N LOCALITY: CD
GRANTEE NAME : JAMES CITY COUNTY EX: N PERCENT: 100%
AND ADDRESS :
RECEIVED OF : JCCO DATE OF DEED: 08/10/94

CHECK : \$13.00
DESCRIPTION 1: PROFFER AGREEMENT 3.75 AC & 0.75 AC
2:

CONSIDERATION:	.00	ASSUME/VAL:	.00	MAP:	
CODE DESCRIPTION	PAID	CODE	DESCRIPTION		PAID
301 DEEDS	12.00	145	VSLF		1.00

TENDERED : 13.00
AMOUNT PAID: 13.00
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD