

140007968

PROFFERS

THESE PROFFERS are made this 13th day of MAY 201~~3~~⁴ by the COUNTY OF JAMES CITY (the "County"), a political subdivision of the Commonwealth of Virginia (together with its successors in title and assigns, the "Owner").

RECITALS

- A. The County is the owner of certain real property located in James City County, Virginia, with an address of 225 Meadowcrest Trail and further identified as Parcel No. 1330100016 on the James City County Real Estate Tax Map (the "Property") containing approximately 15.00 acres being more specifically described on Exhibit A, attached hereto.
- B. The Property is now zoned PL, Public Lands and is designated Low Density Residential on the County's 2009 Comprehensive Plan Land Use Map.
- C. The County has applied to rezone the Property from PL, Public Lands, to R-1, Limited Residential, with proffers.
- C. By resolution dated November 27, 2012, the County's Board of Supervisors initiated rezoning of the Property with any other zoning changes (including, but not limited to a special use permit) necessary to achieve a density on the Property similar to that in the adjacent Windsor Ridge neighborhood.
- D. The County has submitted a master plan entitled "Windsor Ridge, Master Plan for Rezoning and Special Use Permit," prepared by AES Consulting Engineers dated 12/21/12 (the "Master Plan") in accordance with the County Zoning Ordinance.
- E. The Owner desires to offer certain conditions on the development of the Property not generally applicable to land zoned R-1, General Residential.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the *Code of Virginia*, 1950, as amended, and the County Zoning Ordinance, the Owner together with its successors in title and assigns agrees that it shall meet and comply with the applicable following conditions in developing the Property. If the requested rezoning is not granted by the Board of Supervisors, these proffers shall be null and void.

CONDITIONS

- 1. Density. There shall be no more than twenty-eight (28) dwelling units ("dwelling units") as shown on the Master Plan.
- 2. Master Plan. The Property shall be developed generally as shown on the Master Plan. Development plans may deviate from the Master Plan as provided in Section 24-556 of the Zoning Ordinance.
- 3. Water Conservation. For all residential lots and/or developed parcels on the Property, the County or its successor in title shall be responsible for developing and implementing water conservation

standards which shall be submitted to and approved by the James City Service Authority (the "JCSA") and subsequently for enforcing these standards. The standards shall address such water conservation measures as prohibitions on the installation of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscape materials, the use of warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. These standards shall be approved by the JCSA prior to final subdivision or site plan approval.

4. Green Building. Written evidence or documentation which establishes that the development of the Property has obtained EarthCraft and/or Energy Star Single Family Certification, or an equivalent certification, shall be provided to the Planning Director within one month of issuance of a Certificate of Occupancy, or such other time as is agreed to in writing in advance by the Planning Director.
5. Housing Opportunities. Development of the Property shall be done in a manner consistent with criteria established by the Housing Opportunities Policy adopted by the Board of Supervisors on November 27, 2012 to provide affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.
6. Owners Association. The County or its successor in title shall join an existing neighborhood association (the "Association") in accordance with Virginia law or organize a separate Association for development within the Property, which all property owners by virtue of their property ownership within the Property shall be members and required to join. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer prior to the final subdivision or site plan approval. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks and all other common areas including dedicated open space within the Property under the jurisdiction of the Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall authorize the Association to develop, implement, and enforce a water conservation plan as provided herein. In the event that the Property is not subjected to the provisions of the declaration of restrictive covenants for an existing Association, and the stormwater management system serving the Property utilizes or empties into any BMP system owned, operated, or maintained by an existing Association, the property owner's association established for the Property shall contribute, pro-rata, for all of the costs of maintaining, repairing, replacing and improving such system (and if such Association fails to make such contributions, in addition to all other remedies, the Association shall have the right to specially assess the lots within the Property).

7. **Design Criteria.** The County or its successor in title shall prepare and submit architectural elevations to the Planning Director for review and approval setting forth design criteria and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on file with the Planning Division and the general intent to establish a measure of consistency between certain residential lots on the Property (the "Transition Area") with development on adjacent residential properties within the Windsor Ridge and Wellington neighborhoods. Design criteria and architectural elevations shall be approved by the Planning Director prior to final subdivision or site plan approval for any development of the Property. Once approved, the architectural elevations may not be amended without the prior approval of the Planning Director. For the Transition Area, Lots 1, 12-13, and 21-28, as shown on the Master Plan, shall meet the following design criteria:

- a. 1,800 sq. ft. minimum for a ranch (1 or 1.5 story) dwelling;
- b. 2,300 sq. ft. minimum for a 2-story dwelling;
- c. Foundations shall be a crawl space or basement and the veneer of the foundation shall be brick or stone on the front elevation, and shall be brick, stone or stamped/colored concrete to match the dwelling color on side and rear elevations;
- d. Stoops and steps on the front of the home shall be brick or decorative (not cinder block) stone;
- e. Exterior facades shall be beaded vinyl, brick, stone, cementitious siding, or a combination thereof;
- f. Driveways, patios, and sidewalks shall be concrete or exposed aggregate concrete;
- g. Roofing shall be architectural grade shingles;
- h. Fences installed during new construction shall be no taller than 4.5 feet, not extend beyond the front corner of the dwelling, and of a style currently approved by the Wellington HOA. Fences after new construction shall be approved by the governing ARB;
- i. Detached structures installed during new construction shall match the main dwelling. After new construction, any additions shall be reviewed by the governing ARB;
- j. Mailboxes shall be of a style currently approved by the Wellington Estates HOA;
- k. Water conservation measures shall be adhered to as required by the municipality; and;
- l. Builder shall install street trees as shown on approved plans. Trees shall be native deciduous and have a minimum caliper of 1-inch at four feet above ground level.

For those lots that do not fall within the Transition Area lots described above, all such lots shall comply with the Architectural Guidelines of the Wellington Estates Homeowner's Association for Windsor Ridge in force as of the date of recordation hereof (the "Guidelines"), regardless of whether the Property is subjected to the declaration of restrictive covenants for Wellington Estates Homeowner's Association (and if the same is so subjected, such shall comply with the

Guidelines as they shall be amended from time to time); provided, however, that to the extent that any such lots must be developed to comply with the Housing Opportunities Policy more particularly described in Section 5 hereof, such lots may contain a smaller minimum square footage of living space solely to the extent necessary to comply with such policy, but shall in all other regards comply with the Guidelines.

8. **Sidewalks.** There shall be sidewalks installed on both sides of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design prior to final subdivision or site plan approval for any development of the Property.
9. **Street Design.** Streets within the Property shall be constructed with curb and gutter in accordance with Virginia Department of Transportation design standards.
10. **Streetscape Guidelines.** The Owner shall prepare and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines Policy or, with the permission of VDOT, the plantings (meeting County standards for tree size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and shall be approved by the Planning Director prior to final subdivision or site plan approval for any development of the Property.
11. **Severability.** In the event that any clause, sentence, paragraph, section or subsection of these proffers shall be adjudged 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 of the United States, or if the application thereof to any owner of any portion of the Property or to any governmental agency 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 or any clause, sentence, paragraph, section or subsection or provision herein.

WITNESS the following signatures:

THE COUNTY OF JAMES CITY, VIRGINIA

BY: M. Doug Powell
Doug Powell, Assistant County Administrator

COMMONWEALTH OF VIRGINIA

County of James City, to-wit:

The foregoing Proffers were acknowledged before me this 13TH day of MAY, 2014
by Doug Powell.

Anna Eckhardt
Notary Public

My Commission expires on: OCTOBER 31, 2017

Registration No. 7566372



EXHIBIT A

ALL that certain lot, piece or parcel of land situate, lying and being in James City County, Virginia, more particularly described as "Area of Parcel, 653,400 S.F. ± or 15.00 Acres ± on a plat attached hereto and made a part hereof entitled "Plat of Subdivision, Being A Portion Of Parcel "A", Containing 15.00 ± Acres, Owned By Wellington, LLC, Stonehouse District, James City County, Virginia" dated 1/7/2000 made by G.T. Wilson, Jr. of AES Consulting Engineers, a copy of which is attached hereto, made apart hereof to be recorded herewith.

BEING a portion of the same property conveyed to the Declarant by deed July 15, 1999 from Nice Properties Co. of record in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City as document no. 990015562.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 5-15-2014
at 3:12 AM (PM) The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.
STATE TAX LOCAL TAX ADDITIONAL TAX
\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK
BY: Betsy B. Woolridge Clerk



OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 05/15/14 TIME: 15:12:43 ACCOUNT: 830CLR140007968 RECEIPT: 14000014226
CASHIER: EEO REG: WD33 TYPE: DEC PAYMENT: FULL PAYMENT
INSTRUMENT : 140007968 BOOK: PAGE: RECORDED: 05/15/14 AT 15:12
GRANTOR: JAMES CITY COUNTY EX: N LOC: CO
GRANTEE: JAMES CITY COUNTY EX: N PCT: 100%
AND ADDRESS : N/A N/A, XX. 00000
RECEIVED OF : JAMES CITY COUNTY DATE OF DEED: 05/13/14
: \$.00
DESCRIPTION 1: PARCEL 15 ACRES WELLINGTON PAGES: 0 OP 0
2: NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP:
PIN:
000 ** ZERO PAYMENT ** .00
TENDERED : .00
AMOUNT PAID: .00
CHANGE AMT : .00

CLERK OF COURT: BETSY B. WOOLRIDGE

PAYOR'S COPY
RECEIPT COPY 1 OF 2