

**PROFFER**

This PROFFER is made and entered into this 19th day of June, 2007 by and between Dominion Acres Group LLC (hereinafter "Landowner") and the COUNTY OF AMHERST, VIRGINIA, by Jeremy S. Bryant, Director of the Planning and Zoning Office (hereinafter "Director") and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ and Vernon L. Wood, the Board of Supervisors (hereinafter "Board"); and

WHEREAS, Landowner desires to Petition the Director and Board for a rezoning/conditional zoning allowance or special use permit for his Amherst County real estate described as having Tax Map Number 148-A-32, with the physical address of Highview Drive, Madison Heights VA 24572 and further known as \_\_\_\_\_

for the express purpose(s) of Rezoning 16 acres from R-2 General REsidential to R-3 Multi-Family Residential on rear portion of property to build and sell ninety-seven (97) individual townhomes.

WHEREAS, Landowner desires to proffer the following conditions as to the maintenance, repair, upkeep, and/or use of the above-described Amherst County real estate in order to obtain approval of the Director and the Board of Amherst County for such rezoning/conditional zoning approval and/or special use permit:

1. Deceleration lane to be constructed along northbound lane entering site as shown on preliminary site plan dated April 9, 2007;
2. Three (3) lane entrance 36' in width to be constructed at approved VDOT commercial entrance site instead of standard VDOT commercial entrance width of 30'; and will have proper storage capacity for traffic;
3. Will connect rezoned residential property to public water and will connect to public sewer provided proper easements providing for gravity feed system are obtained;
4. Signage to be similar to photos & illumination of such signs will comply with Section 907.04, paragraph 1 of zoning & subdivision ordinance;
5. All outdoor lighting attached to proposed buildings in residential area will be decorative & ornamental & all pole-mounted lighting in residential & commercial area will be decorative/Ornamental

6. A family area consisting of tot lot, picnic area, grill facilities & reading area will be provided in residential area; developer will be allowed to add additional recreational areas at their discretion
7. Exterior of townhomes will be of mixed material including but not limited to brick, vinyl, rock, hardy plank, etc. Mixture of materials used on each building will be at sole discretion of developer; not less than 20% of all facades in residential area
8. to be brick;
9. Developer agrees to provide good walking connectivity within residential area and between residential area & commercial area by use of sidewalks & crosswalks ;
10. Dominion Acres Group also proffers that all utilities will be underground.

WHEREAS, Landowner, by his/her signature below and Director with the consent of the Board, acknowledges the following:

1. This document does not create contractual obligations on the part of the County. This document is intended by the parties hereto as a means of negotiating agreed upon terms and conditions to any approval by the County of Amherst, by the Director and/or Board, of any conditional zoning or special use request and if those terms and conditions as set forth herein are not followed by the Landowner, his heirs, successors and/or assigns, the County of Amherst, through its Director and/or Board, is authorized to act accordingly pursuant to all police powers held by a locality in monitoring and regulating the use of the lands within its boundaries.
2. Proffers are development restrictions and identical to other provisions of a zoning ordinance applicable to a particular property and enforceable as such conditions are generally enforceable.
3. The Proffers set forth herein by the Landowner are concessions given freely and voluntarily for the express purpose of seeking from the Director and/or Board the necessary zoning changes which will meet the Landowner's plans for above described real estate. Such conditions shall be reasonable, and applicable for the protection of the community, when considered with existing zoning ordinance district regulations and should cause the requested rezoning to be compatible with existing zoning and uses in the area.
4. The Proffers shall be appropriate at the time of filing this application, or no later than the time in which the Board receives its recommendation from Amherst County planning and zoning officials.

5. Additions or modifications may be made to Proffers by the Landowner, in writing, no less than twenty-one (21) days prior to time in which the planning and zoning commission makes recommendations to the Board, unless the commission waives such time or establishes an alternative reasonable deadline. The Board may consider such amendments proffered in writing by the Landowner prior to advertising the public hearing on the conditional zoning request.
6. Pursuant to Va. Code §15.2-2297 and Amherst County Code, Appendix A Zoning and Subdivisions, §1005.03, in addition to the regulations provided for in the zoning district, (i) the rezoning itself must give rise to the need for these conditions; (ii) the conditions must have a reasonable relationship to the rezoning; (iii) the conditions shall not include a cash contribution to the locality; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in Va. Code §15.2-2241; (v) the conditions shall not include payment for or construction of off-site improvements except those provided for in Va. Code Section 15.2-2241; (vi) no condition shall be proffered which is not related to the physical development or physical operation of the property; (vii) all such conditions shall be in conformity with the comprehensive plan as defined in Va. Code §15.2-2223; and (viii) the provisions of this article shall not be used for the purpose of discrimination in housing.
7. Nothing in this Proffer shall be construed to limit or restrict, affect or impair the authority of the County of Amherst to act pursuant to Va. Code §15.2-2283, §15.2-2286, §§15.2-2296 through 15.2-2300, and any other provision of federal, state or local law.
8. This written, voluntary proffer of conditions for obtaining approval of the Board for rezoning of the real estate described herein does not relieve the landowner of the responsibility of recognizing and accommodating the existing conditions applicable to the specific zone.
9. The Landowner, if given approval for conditional zoning or a special use by the Director and Board, shall undertake his purpose for his land, as set forth herein, with a great degree of concern

for and responsibility toward the surrounding lands and community residents who may live and/or work in this specific area now or in the future.

10. Final approval of any conditional zoning or special use shall be solely with the Board at a public hearing on the same and only after this written and signed Proffer document has been filed with the Director in a timely fashion.
11. Upon approval of a conditional zoning or special use request of the Landowner, any use or other unapproved and/or inappropriate action with regard to the real estate described above, for purposes other than those listed herein, shall be grounds for the County of Amherst to seek all appropriate remedies available against the Landowner for the violation(s) of proffered conditions and/or purposes pursuant to the police powers granted to a locality by the Virginia Constitution and state law, in order to regulate land use for the protection of its residents and communities at large.
12. Upon the approval of any conditional zoning or special use request, the Proffers cited herein shall be noted by the Director on the zoning maps for the above-described real estate using appropriate symbols with an index as to the conditions imposed. The Director shall also maintain a conditional zoning index outlining the action taken by the Board creating such conditions. Before any permits may be issued for construction or for occupancy of an existing structure, the Landowner shall file and record in the office of the Circuit Court Clerk of Amherst County the conditions approved by the Board. The conditions are to be indexed under the names of the Landowner of the property being conditionally zoned. Thereafter, the applicant shall submit a notarized letter to the Director that the conditions have been recorded.
13. To ensure the intent and purpose of the conditions is carried out, the Director shall be vested with the necessary authority on behalf of the Board to administer and enforce the conditions.

Submitted this 6th day of February, 2008.

J. Wayne Middleton Jr. owner  
Landowner/Applicant:

J. Wayne Middleton Jr owner

Landowner/Applicant:

Received by the Director for Amherst County Planning and Zoning on Feb. 6, 2008.

[Signature]  
Director: Amherst County Planning & Zoning

STATE OF VIRGINIA

TO-WIT

CITY/COUNTY OF AMHERST

I, SHEILA TAYLOR AUSTIN Notary Public in and for the State and City or County aforesaid, do hereby certify that Landowner/Applicant, J. WAYNE MIDDLETON JR., did personally appear before me and did execute and acknowledge his/her signature to the foregoing document bearing date on the 6<sup>TH</sup> day of FEBRUARY, 2008.

Given under my hand this 6<sup>th</sup> day of February, 2008.

My commission expires: 10-31-2010

Sheila Taylor Austin  
Notary Public # 270847

STATE OF VIRGINIA

TO-WIT

CITY/COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the State and City or County aforesaid, do hereby certify that **Landowner/Applicant**, \_\_\_\_\_, did personally appear before me and did execute and acknowledge his/her signature to the foregoing document bearing date on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

My commission expires: \_\_\_\_\_

Q.W.T

\_\_\_\_\_  
Notary Public

STATE OF VIRGINIA

TO-WIT :

CITY/COUNTY OF AMHERST

I, SHEILA TAYLOR AUSTIN, a Notary Public in and for the State and City or County aforesaid, do hereby certify that **Director for Amherst County Planning & Zoning**, JEREMY S. BRYANT, did personally appear before me and did execute and acknowledge his/her signature to the foregoing document bearing date on the 6<sup>th</sup> day of FEBRUARY, 2008.

Given under my hand this 6<sup>th</sup> day of February, 2008.

My commission expires: 10-31-2010

Sheila Taylor Austin  
Notary Public #270847

Received by the Board of Supervisors for the County of Amherst, Virginia this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Chairman: Amherst County Board of Supervisors

**Amended: May 13, 2004**