

# COUNTY OF POWHATAN

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November 30, 1998



Department of Planning &  
Community Development

Paul J. Grasewicz, AICP  
Director

Gray Land and Development Company, LLC  
951 East Byrd St., Suite 910  
Richmond, Va. 23219  
Att: Mr. Charles W. Ewing, II

Re: Rezoning and Conditional Use Permit  
(File 98-4-REZ and 98-9-CUP; Tax Maps 32-44E, 49B, 57 and 49A (Pt.); 44 (1)  
1-10 and 44-6)

Dear Mr. Ewing:

At the meeting held on Monday, November 16, 1998, the Powhatan County Board of Supervisors approved the above noted applications, subject to the following conditions and proffered conditions:

## CONDITIONS:

1. Except as stated herein, the Textual Statement dated July 17, 1998, revised September 24, 1998 and November 13, 1998, together with the Conceptual Development Plan, Exhibit B, shall be considered the plan of development for this project. (Planning)
2. The proposed residential densities for this development will require the use of both public water and public sewer. (Planning)
3. Approval of Case 98-9-CUP for the village cluster development dwellings, the golf course and golf related facilities is subject to the Board of Supervisor's approval of the associated Zoning Ordinance amendments to permit such uses by conditional use permit. (Planning)
4. Buffers between residential uses in this Development and those on adjacent properties on the perimeter of the development shall be no less than fifty (50) feet in width. (This supersedes Textual Statement Section III A (11)(b)). (Planning)
5. Vegetative buffers, a minimum of fifty feet in width, shall be provided along Huguenot Trail (Rt. 711) and Winterfield Road (Rt. 714). These buffers shall be exclusive of easements and shall be enhanced with landscaping as determined necessary by staff. (This requirement is in addition to Textual Statement Section III A (11)(c)). (Planning)

6. The use of Bernard Creek for irrigation purposes shall not adversely impact the downstream users as defined by applicable state and federal laws and regulations. (Planning)
7. Soil evaluations and engineering information may be required where the use of septic tanks is proposed. (Health)
8. All improvements to existing transportation facilities, as referenced in the conditions and proffers, shall be the responsibility of the developer. These said improvements should be designed and constructed per current VDOT standards and specifications. (VDOT)
9. The issuance of a Land Use Permit is a prerequisite to accessing onto and construction within State-maintained rights-of-way. (VDOT)
10. The applicant shall install left and right turn lanes on Winterfield Road (Rt. 714) at the proposed access road and construct a minimum three lane section (one outbound/two inbound) on the access road to accommodate efficient vehicular movements at the intersection with Winterfield Road. (VDOT)
11. The exact location, width of right-of-way and alignment for the dedication of right of way for the realignment of Rt. 714 and the corresponding intersection improvements along Rt. 711 shall be approved by VDOT prior to such dedication. (VDOT)
12. Best Management Practices shall be implemented on the site that will not cause degradation to water quality or shall have equal water quality protection as the required natural vegetative stream buffers. Best Management Practices may include retaining existing vegetative buffers, filter ditches, settling ponds, nutrient management plan, integrated pest management plan, or any other Best Management Practices that will achieve water quality at least equal to the existing natural vegetative buffers. (Reference Textual Statement, Section III A (8)). (MSWCD)
13. The project must adhere to all requirements of Minimum Standard 19 of the Virginia Erosion and Sediment Control Law and Regulations. (MSWCD)
14. All permits for activities in waters shall be obtained prior to any activity in such waters. If no permits are required from the Department of Environmental Quality (DEQ) or the United States Army Corps of Engineers, a letter referencing such shall be provided by the applicant at the time of the Land Disturbance Permit Application. (MSWCD)

15. The applicant shall use the Powhatan County Zoning Ordinance's definition of stream classifications. (MSWCD)
16. The Fire Protection Plan for this development shall include, but is not limited to, the following recommendations made by the Powhatan County Fire Department:
  - The driveways serving dwellings shall conform to the minimum driveway standards of Powhatan County, as established in the Zoning and Subdivision Ordinances. All other buildings will be reviewed separately for access, fire lanes, etc. in conjunction with site plan review.
  - The number of access points serving the development shall meet the minimum standards of the Powhatan County Subdivision Ordinance to ensure adequate ingress and egress for both citizens and emergency apparatus, should one access become blocked.
  - The addresses to all buildings, including dwellings, shall be marked with numbers a minimum of four (4) inches in height. These numbers shall be clearly visible from the road in both directions. On roads ending in permanent cul-de-sacs, posted addresses are required on the main entrance side only.
  - If a traffic signal is to be installed at the intersection of the project access road with Winterfield Road, it shall include a traffic control system to allow a safer and quicker emergency response through this intersection.
  - Building heights shall conform to the requirements of the Powhatan County Zoning Ordinance.
  - If a pond or similar water source is on site, the developer shall be responsible for the provision and installation of one or more dry hydrants subject to water source accessibility. The dry hydrant will serve as a back up water supply and a second water source for fire suppression operations.
  - The domestic water system needs to meet the minimum requirements of the Insurances Service Offices Organization, which uses the American Water Works Association manual to determine items such as water main sizes, water main locations, fire hydrant locations and fire flow requirements.
  - The Fire Department shall be provided with a copy of the water system design plan for their review and comment.
  - Each fire hydrant shall be tested to determine the flow in gallons of water per minute. The caps and dome of the hydrant shall be painted the proper color to identify the flow of the fire hydrant. The colors shall meet the standards of the National Fire Protection Association. (Fire)

Proffered Conditions:

I. PROFFERS

The Property Owners and Applicants in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and Article 24 of the Powhatan County Zoning Ordinance, for themselves and their successors or assigns, do hereby voluntarily proffer the following conditions, if, and only if, the rezoning request and Conditional Use Permit are granted. In the event, the rezoning and Conditional Use Permit request is denied or approved with conditions not agreed to by the Applicant, the proffers and conditions shall immediately be null and void and of no further force or effect.

A. General

1. The Textual Statement, together with its exhibits, last revised 13 November 1998, shall be considered the Master Plan for the Development.
2. A maximum of 200 dwelling units shall be permitted in the Development.
3. Attached dwelling units shall not be permitted.
4. The golf course and the related golf course facilities shall be developed by the Virginia State Golf Association ("VSGA"). If the VSGA decides not to develop the golf course and the related golf course facilities, the Applicant shall not permit the Development until and unless the Applicant submits the substitute developer of the golf course and any material amendments or changes to the golf course plans to the County Board of Supervisors for approval.

B. Utilities

1. Public utilities shall be utilized, except that wells and/or bodies of water may be used only for irrigation purposes for open space, park, recreation, and golf course areas subject to Health Department approval. Septic tanks may be utilized for isolated uses such as the golf club when approved by the County.
2. In conjunction with the submittal of the first Preliminary Plat or Site Plan for the Development, an overall water and sewer plan for the Development shall be submitted to the County for review and approval.
3. Costs for utility installations required by the Development shall be borne by the Applicant.

**C. Transportation**

1. Prior to or in conjunction with the first recorded residential subdivision plat or site plan approval for office and/or day care uses (exclusive of office or other uses associated with the golf facilities) and exclusive of any construction trailers or sales centers, the following rights-of-way shall be dedicated free and unrestricted to and for the benefit of Powhatan County:
  - a. forty-five (45) feet of right-of-way, on the west side of Winterfield Road (State Route #714) measured from the centerline of that part of Winterfield Road (State Route #714) immediately adjacent to the Property;
  - b. forty-five (45) feet of right-of-way, on the south side of Huguenot Trail (State Route #711) measured from the centerline of that part of Huguenot Trail (State Route #711) immediately adjacent to the Property;
  - c. that right-of-way necessary to accommodate the construction of left and right turn lanes along Winterfield Road (State Route #714) at the approved development access location; and
  - d. that right-of-way necessary to accommodate the construction of the development access roadway at Winterfield Road (State Route #714) with a cross section/lanes to meet required VDOT warrants.
  
2. Prior to or in conjunction with the first recorded residential subdivision plat or site plan approval for office and/or day care uses (exclusive of office or other uses associated with the golf facilities) and exclusive of any construction trailers or sales centers, the applicant shall be responsible for the design of and bond for the following transportation improvements:
  - a. construction of left and right turn lanes along Winterfield Road (State Route #714) at the approved development access location; and
  - b. the construction of the development access roadway with cross section/lanes to meet required VDOT warrants at Winterfield Road (State Route #714).

3. Prior to or in conjunction with the recordation of more than 100 residential lots and/or site plan approval for more than 20,000 square feet of office and/or day care uses (exclusive of office or other uses associated with the golf facilities) and exclusive of any construction trailers or sales centers, but no later than the opening of the golf course for play, the applicant shall be responsible for construction of the following transportation improvements:
  - a. construction of left and right turn lanes along Winterfield Road (State Route #714) at the approved development access location; and
  - b. construction of the development access roadway at Winterfield Road (State Route #714) with cross section/lanes to meet required VDOT warrants.
  
4. It is the intent of the Applicant to assist the County with future traffic impacts in the area. Realignment of Winterfield Road (State Route #714) (including turn lanes at State Route #711) has been recommended as a less expensive alternative to upgrading the existing Winterfield Road (State Route #714) and Huguenot Trail (State Route #711) intersection. Consequently, prior to or in conjunction with the recordation of more than 100 residential lots and/or site plan approval for more than 20,000 square feet of floor area of office and/or day care center uses (exclusive of office or other uses associated with the golf facilities) and exclusive of any construction trailers or sales centers, the Applicant shall be responsible for the design of and right-of-way dedication for the following transportation improvements:
  - a. an eastern relocation of Winterfield Road (State Route #714) from the development access roadway to Huguenot Trail (State Route #711); the exact location, width, and alignment of the right-of-way shall be subject to approval by Powhatan County and VDOT;
  - b. right and left turn lanes on Winterfield Road (relocated) at the intersection with Huguenot Trail (State Route #711); and
  - c. right and left turn lanes on Huguenot Trail (State Route #711) at the intersection with Winterfield Road (relocated).
  
5. No individual residential lot access shall be permitted to Winterfield Road (State Route #714) or Huguenot Trail (State Route #711).
  
6. Commercial access from Winterfield Road (State Route #714) or Huguenot Trail (State Route #711) is permitted provided that the plans, locations, and configurations shall be approved by Powhatan County and VDOT at the time of site plan approval.

**D. Fire Safety**

1. In conjunction with the first Preliminary Plat review, a Fire Protection Plan shall be submitted and approved by the Powhatan County Fire Department.

**E. Cash Proffers**

1. The Applicant desires to voluntarily provide to the County a cash proffer to defray the costs of certain capital facilities. Therefore, except as provided in subsections (a), (b), (c), (d) and (e) below, at the time of each individual building permit application, the Applicant shall pay to the County a cash proffer of \$4,696 (the "Cash Proffer") for each dwelling unit. Each Cash Proffer shall be paid to defray the costs of certain capital facilities, with each payment being allocated to the following facilities in the amounts stipulated in the parenthetical references: (i) education facilities (\$1,943.00); (ii) park facilities (\$92.00); (iii) fire station facilities (\$558.00); (iv) rescue squad facilities (\$59.00); (v) library facilities (\$44.00); and (vi) the construction of improvements for the realignment of Winterfield Road (State Route #714), as more particularly described in subsection (d) below (\$2000.00).
  - a. The Applicant shall only pay a cash proffer of \$2,000.00 per dwelling unit for the first twenty (20) dwelling units, which \$2,000.00 represents the portion of the Cash Proffer designated for the construction of improvements for the realignment of Winterfield Road. The first twenty (20) units represent the number of units that the Applicant can reasonably expect to develop without further zoning approval for the portion of the Development currently zoned for R-2 uses.
  - b. On any parcel or group of contiguous lots developed for five or more residential units designed for Elderly/Retirement Housing (as defined in the following sentence) for which a Cash Proffer would be otherwise due, the Applicant, its successors or assigns, at the time of building permit application, shall pay to the County the Cash Proffer minus that portion of the Cash Proffer applicable to educational facilities (that portion being \$1,943.00 per dwelling unit). Units that qualify as Elderly/Retirement Housing shall be residential units which meet the occupancy requirements for "age 55 or over" housing as set forth in S3607 of the Fair Housing Act, 42 USC SS3601 et. seq., as amended, and 100.304 of Subtitle B – Regulations relating to Housing

and Urban Development, Part 100, Subpart E – Housing for Older Persons, 24 CFR 100.300 et. seq., in effect as of the date of the rezoning; and further, the foregoing notwithstanding, no person under 19 shall reside in any Elderly/Retirement Housing units. Only units which qualify as Elderly/Retirement Housing shall be entitled to this exception to the education portion of the Cash Proffers.

- c. At the option of the County and as a credit against the Cash Proffer, the Applicant, its successors or assigns, may make such land dedications and/or in-kind improvements for schools, parks, libraries, fire stations, and/or rescue squads, subject to the following conditions and limitations;
- i. Unless otherwise mutually agreed, the aggregate value of such land dedications and/or in-kind improvements shall not exceed the cash value of the Cash Proffers that would otherwise be attributable to the Development.
  - ii. The value of any land dedicated to the County shall be the fair market value (unless otherwise mutually agreed) of such property conveyed as of the date of such conveyance.
- d. As stated in proffer C.4. of the transportation proffers, the Applicant proffers to dedicate right-of-way to the County for the realignment of Winterfield Road (State Route #714) east of its current location. To provide for the construction of the improvements on that newly dedicated right-of-way, the two thousand dollar (\$2,000.00) portion of the Cash Proffer (as described above) shall be set aside by the County to be used for the construction of the improvements necessary to realign Winterfield Road (the “Winterfield Road Realignment”). Nothing contained herein shall relieve the Applicant of its obligation to provide for the design of the Winterfield Road Realignment as required by proffer C.4. Notwithstanding the foregoing, if all or a portion of the Winterfield Road Realignment is completed through the use of funds (not including “County Funds” as hereinafter defined) or “in-kind” physical improvements provided by persons or entities other than the County as part of development plans for other parcels to be served by or benefitted by such improvements, the Cash Proffer shall be reduced, reimbursed and/or credited, as the case may be, in accordance with the following provisions: (i) the portion of the Cash Proffer designated for the Winterfield Road Realignment shall be eliminated for each building permit application submitted after the date that those funds or in-kind improvements are provided for the Winterfield Road Realignment; and (ii) the County shall provide to the Applicant a proportionate or full reimbursement (or, at the County’s option, provide a credit to the Applicant, or its successors or assigns, against Cash Proffers to be paid in the future) for the portion of

each Cash Proffer previously paid that was designated for the construction of improvements for the Winterfield Road Realignment. For purposes of this subsection d, the term "County Funds" shall mean (x) any funds that are derived directly from the County' budget (not including funds or revenue sources, including in-kind contributions, provided to the County from other developers pursuant to proffers, conditions or other requirements agreed upon or imposed as part of the development of other properties that will benefit from the Winterfield Road Realignment); and (y) the County's allocation of Virginia Department of Transportation funds for secondary road projects under the County's six-year transportation plan (including funds received through the Metropolitan Planning Organization ("MPO")).

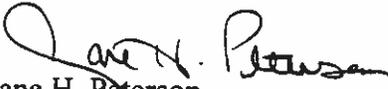
- e. Should Powhatan County impose impact fees or other similar substitute for the individual portions of the Cash Proffer designated for schools, parks, libraries, fire stations, rescue squads and/or roads at any time during the life of the Development, the amount paid in cash proffers shall be, at the County's option, in lieu of or credited toward any such substitute fees.
- f. If a Cash Proffer, or the designated portions thereof, are not expended for the purposes designated within fifteen (15) years from the date of payment, those monies shall be returned in full to the Applicant, its successors, or assigns, in accordance with the requirements of the Code of Virginia in effect as of the date of this rezoning.

## II. SEVERANCE

The unenforceability, illegality, elimination, revision, or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

Should you have any questions with the foregoing, please contact me at 598-5692.

Sincerely,

  
Jane H. Peterson  
Senior Planner

Cc: Mr. John Cogbill, McGuire Woods Battle and Boothe  
Mr. J. Clarke Plaxco, The Planning and Design Collaborative, Inc.  
Mr. Thomas Balzer, Balzer and Associates, Inc.