

VOLUNTARY PROFFER STATEMENT

Applicant: ATFD, LLC
108 Carroll Circle, Fredericksburg, VA 22405

Owner: Donna L. Curtis and Carlton D. Flippo

******(For purposes of this proffer statement, Applicant & Owner are hereafter known collectively as the “Applicant”)******

Representative: Charles W. Payne, Jr., Hirschler Fleischer
725 Jackson Street, Ste 200, Fredericksburg, VA, 22401
Phone (540) 604-2108; Fax (540) 604-2101; Email:
cpayne@hirschlerlaw.com

Project Name: “Winding Creek”

Property: Spotsylvania County Tax Parcels 35-A-8 (“Parcel 8”) & 35-A-9 (“Parcel 9”), known as 10300 and 10316 Courthouse Road, consisting of approximately 18.218 acres, 16.218 acres of which are subject to this rezoning (collectively, the “Property”)

Date: March 11, 2019

GDP: Generalized Development Plan, entitled “Winding Creek Generalized Development Plan for Rezoning”, prepared by Fairbanks & Franklin, dated May 11, 2018, as last revised February 22, 2019, attached hereto as Exhibit A (the “GDP”)

Rezoning Request: From R-1 to PDH-16

Rezoning File No.: R18-0008

I. General Information

The Applicant, its successors and assigns, hereby agrees that the development of the Property, subsequent to approval of the rezoning application to which these proffers are attached, will be in conformance with the GDP and the following proffered conditions (the “Proffers”) pursuant to Sections 15.2-2303, et al. of the Code of Virginia (1950) as amended, and Section 23-4.6.3, et al. of the Zoning Ordinance of Spotsylvania County (1995) as amended. The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property, whether by prior proffer offers or through the impact statement accompanying this application, are hereby superseded by these Proffers. All previous proffers associated with the Property, whether of record or not, are hereby void and of no further force

and effect. The Proffers will be effective only upon Spotsylvania County's (the "County") full and final approval of rezoning application R18-0008 submitted by the Applicant to reclassify the Property from R-1 to PDH-16 to allow development of an age-restricted development.

II. Land Use

- A. **General Development.** The Property will be developed in conformance with the GDP. Notwithstanding the foregoing, all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travelway locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the GDP may be reasonably adjusted for purposes of the final site or subdivision plans to allow the Applicant to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the County's development regulations and design standards manual. Notwithstanding the foregoing, any said adjustments to the GDP shall be subject to the approval of the County's Zoning Administrator, and in no event shall approved adjustments to the GDP relieve the Applicant from providing any of the below Proffers.
- B. **Use.** The Property shall be developed solely for purposes of developing an age-restricted development under the County's PDH-16 zoning district to include the following (each individually, a "Unit", and collectively, the "Units"):
- (i) 22 single family detached homes, all as generally shown on the GDP;
 - (ii) 18 single family attached villas, all as generally shown on the GDP; and
 - (iii) four (4) multifamily buildings, containing a total number of residential multifamily Units up to 215, all as generally shown on the GDP.

The Property shall not be developed for any other secondary uses allowed in the PDH-16 district, except for applicable accessory uses authorized under said district.

- C. **Age-Restricted Covenants.** All Units constructed on the Property shall be age-restricted and qualify as "housing for older persons" in accordance with the criteria set forth in Code of Virginia Section 36-96.7, et al., as amended. Further, the Applicant, prior to construction of the first Unit, shall prepare and record restrictive covenants that define the qualification for initial and subsequent occupancy of any Unit associated with the Property and shall further restrict households to include at least one (1) person who is age 55 years or older. Additionally, a covenant shall be placed on the Property that further prohibits any resident 18 years or younger from residing within any Unit constructed on the Property for a period of time exceeding thirty (30) days within any six (6) month period. Notwithstanding the foregoing restrictions, any Unit

constructed on the Property may be occupied by a physically or mentally disabled individual who is 18 years of age or older and is the child of an age-restricted occupant. All such covenants described herein shall be recorded among the land records of Spotsylvania County, Virginia and encumber the Property prior to the occupancy of any Unit.

- D. **Additional Covenants.** In addition to the foregoing covenants, the Applicant, prior to the issuance of the first certificate of occupancy for any Unit constructed on the Property, shall record and encumber the Property with a declaration of conditions, covenants, restrictions, and easements for the purpose of (a) protecting the value and desirability of the Property; (b) facilitating the planning and development of the development in a unified and consistent manner; and (c) providing for the installation, maintenance, and repair for all landscaping, on-site amenities, stormwater management facilities, open space, and other common areas. For purposes of the single family detached and attached Units, the Applicant will also create a homeowner's association (the "HOA") as a non-stock corporation under the laws of Virginia that will provide and ensure oversight and structure for services provided, quality standards, intercampus relationships, and common area maintenance.

III. **Transportation**

The Applicant, subject to necessary County and VDOT approvals for the development of the project, agrees to provide the following transportation Proffers, all as generally shown on the GDP:

- A. **Dedications:** The Applicant agrees to dedicate 0.194 acres of right of way area along Courthouse Road, all in the areas generally designated on the GDP. The aforesaid right of way dedications shall be conveyed to the County upon the final subdivision and site plan approvals for the project, in accordance with applicable County requirements and procedures.
- B. **Access East Along Courthouse Road.** In order to travel East on Courthouse Road (Rt. 208), two access options are proposed for this project and as shown on the GDP as follows:
- (i) Option #1: This option is the Applicant's preferred access which entails traveling East through TM 35-10-2 (known as the "Giant Parcel") as shown on the GDP, and then to the light at the intersection of Millgarden Drive and Courthouse Road; and
- (ii) Option #2: This option is the Applicant's alternative option if Option # 1 is not available, which entails initial access from Courthouse Road (Route 208) heading initially West to the light at Breckenridge Drive, and then making a u-turn at the light to head East along Courthouse Road, all as shown on Sheet 4 of the GDP.

(iii) If access for Option #1 cannot be obtained prior to development of the project, then the Applicant may exercise Option #2 for access East along Courthouse Road.

(iv) Notwithstanding anything to the contrary under these Proffers, in the event Option #1, as provided above, becomes available to the Applicant after Option #2 has been exercised, the Applicant may exercise its right to access to and from the Property in accordance with Option #1.

III. Open Space

As shown on the GDP, approximately 7.56 acres of the Property will be retained as open space for stormwater management facilities and preservation of certain natural areas. The open space area shown on the GDP will be owned and maintained by the HOA and multifamily property owner(s).

IV. Cash Proffers

- A. The Applicant will provide the following reasonable cash Proffers to mitigate the project's direct impacts on certain County public facilities. For the purpose of calculating these cash Proffers, the number of Units has been reduced from 255 to 246 to reflect the 9 by-right Units that could be developed under the existing R-1 zoning. Cash Proffers are applicable to all Units and will be paid on a per Unit basis of \$99.31 (\$25,323.00 divided by 255 Units = \$99.31 per Unit) ("Cash Contributions") after the final inspection and before the County's approval of any certificate of occupancy for each Unit.

| CASH AND IN-KIND PROFFERS | | | | | |
|------------------------------------|--|-------------|--------------|----------------|-------------|
| | SF Detached | SF Attached | Multi-Family | Age-Restricted | TOTAL |
| Per Unit Cash Proffer | \$0 x 0 | \$0 x 0 | \$0 x 0 | \$102.94 x 246 | |
| TOTAL | \$0 | \$0 | \$0 | \$25,323.00 | \$25,323.00 |
| LUMP SUM AND IN-KIND CONTRIBUTIONS | | | | | |
| PUBLIC FACILITY CATEGORY | | | | | TOTAL VALUE |
| Schools | \$0.00 cash per Unit to Schools | | | | \$0.00 |
| Public Safety | \$48.29 cash per Unit to Public Safety | | | | \$11,880.00 |
| Transportation | \$0.00 cash per Unit to Transportation | | | | \$0.00 |
| Parks & Rec. | \$54.65 cash per Unit to Parks & Rec. | | | | \$13,443.00 |

| | |
|---|--------------------|
| TOTAL CASH & IN KIND PROFFER VALUE | \$25,323.00 |
|---|--------------------|

| PROFFERED PHASING AND TIMING | |
|---|---|
| Phase or Contribution/Dedication | Timing |
| <i>Cash Contributions to Public Safety</i> | After the final inspection and before the County's approval of any certificate of occupancy for each Unit |
| <i>Cash Contributions to Parks & Rec.</i> | After the final inspection and before the County's approval of any certificate of occupancy for each Unit |

- B. Escalation/De-Escalation Clause. Commencing five (5) years after the approval of this rezoning application, the cash Proffers for each age-restricted Unit shall be adjusted annually on January 1 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (the "CPI-U") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be made by multiplying the Cash Contributions for the preceding year by the CPI-U as of December 1st in the preceding year. If the CPI-U is discontinued by the United States Department of Labor, the Marshall and Swift Building Cost Index formula shall be used as defined by Section 15.2.2303.3b of the Code of Virginia.

[AUTHORIZED SIGNATURES TO FOLLOW]

The Applicant makes these Proffers voluntarily, in support of their rezoning application.

WITNESS the following signatures:

APPLICANT:

ATFD, LLC, a Virginia limited liability company

By: 
Douglas G. Janney, Jr., Manager

Date: 3 26 2019

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Fredericksburg

The foregoing was subscribed, sworn to and acknowledged before me this 26th day of March, 2019, by Douglas G. Janney, Jr., Manager of ATFD, LLC, a Virginia limited liability company, on behalf of said company.


Notary Public

Print Name: Sterling Elizabeth DeRusso
My Commission Expires: 10/31/2022
Registration No. 7777719
[SEAL]




OWNER:

Donna L. Curtis
Donna L. Curtis

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Spotsylvania

The foregoing was subscribed, sworn to and acknowledged before me this 22nd day of March, 2019, by Donna L. Curtis.


Notary Public

Print Name: Lindsey Neish
My Commission Expires: 12-31-2019
Registration No. 7096762
[SEAL]



OWNER:

Carlton D. Flippo
Carlton D. Flippo

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Fredericksburg

The foregoing was subscribed, sworn to and acknowledged before me this 20th day of March, 2019, by Carlton D. Flippo.

Sterling Elizabeth DeRusso
Notary Public

Print Name: Sterling Elizabeth DeRusso

My Commission Expires: 10/31/2022

Registration No. 7777719

[SEAL]

