



49 -A-18,19, & 20

BROOKLAND DISTRICT

SINGLE FAMILY RESIDENTIAL

C-53C-97



HENRICO COUNTY PLANNING OFFICE



COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

October 14, 1997

Virgil R. Hazelett, P.E.
County Manager

Re: Conditional Rezoning Case C-53C-97

Mr. John J. Chevalier, Vice-President
D. O. Allen Homes, Inc.
812 Moorefield Park Dr., Suite 304
Richmond, VA. 23236

Dear Mr. Chevalier:

The Board of Supervisors at its meeting on October 8, 1997 granted your request to conditionally rezone property from A-1 Agricultural District to R-5AC One Family Residence District (Conditional), Parcels 49-A-18, 19 and 20, described as follows:

Beginning at a point on the S. line of Hungary Road, 144.00' from the E. line of Lanver Lane; thence running along Hungary Road S. 85° 43' 21" E., 863.91' to a point; thence leaving Hungary Road running S. 01° 13' 00" W., 237.94' to a point; thence S. 85° 43' 21" E., 165.00' to a point; thence S. 01° 13' 00" W., 581.50' to a point; thence N. 86° 14' 50" W., 309.40' to a point; thence S. 45° 00' 10" W., 139.00' to a point; thence S. 55° 00' 10" W., 242.00' to a point; thence S. 62° 23' 15" W., 479.91' to a point; thence N. 00° 56' 19.1" E., 1335.44' to the point of beginning, containing 23.12 acres

The Board of Supervisors accepted the following proffered conditions which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. Buffer - Hungary Road. A buffer a minimum of 25 feet in width shall be provided adjacent to the right-of-way line of Hungary Road as such right-of-way is determined at the time of the Plan of Development review.

Sidewalks, utility easements, drainage easements, roads, signage, entrance gates, a security house and such other uses as may be permitted or required by the Planning Commission at the time of Plan of Development review may be placed within such buffer. Any easement or road within the buffer shall be extended generally perpendicular with the buffer area unless otherwise specifically permitted or required at the time of Plan of Development review.

2. Buffer - Eastern, Western and Southern Property Lines. A transitional buffer a minimum of 20 feet in width shall be provided adjacent to the eastern, western and southern boundary lines of the Property. The buffer shall contain landscaping and may contain berms, both as determined appropriate by the Planning Commission at the time of Plan of Development review. Utility easements, drainage easements

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and such other uses as may be permitted or required by the Planning Commission at the time of Plan of Development review may be placed within such buffer. Any easement within the buffer shall be extended generally perpendicular with the buffer area unless otherwise specifically permitted or required by the Planning Commission at the time of Plan of Development review.

3. Building Setback. No building shall be constructed on the property within 50 feet of the right-of-way line of Hungary Road as determined at the time of Plan of Development review or within 40 feet of the eastern, western or southern boundary lines of the Property.

There shall be no accessory buildings, clotheslines, fences taller than forty-two inches (42") or animal pens within the 50-foot setback along Hungary Road or the 25-foot buffer along Hungary Road.

4. Foundation. The visible portions of any foundation of a residential home constructed on the Property after this rezoning becomes effective shall be of brick, or stone.
5. Vehicular Access. There shall be no direct vehicular access to Hungary Road from lots on the Property. There shall be no direct vehicular access to or from the Property other than from or to Hungary Road.
6. Development Standards. Upon completion of construction of any new home on a lot within the Property, all yards of any such lot shall be sodded except for areas on the lot that are mulched, landscaped, treed or areas that may not be sodded by law. All such sodded areas shall be served by an underground irrigation system. Each home shall have a standard mailbox substantially similar to other mailboxes on the Property as approved by the Homeowners Association.

All homes constructed on the Property shall have an exterior architectural style in substantial conformance with those shown on the plans drawn by McAllister & Foltz, entitled "PARK WEST, A. D.O. Allen Homes Community" and attached and made a part hereof (see case file). The exposed portions of each exterior wall surface (front, rear and sides) of each home constructed on the Property shall be compatible with the exposed portions of other exterior walls of such homes in architectural treatment and materials.

All buildings constructed on the Property shall have exposed exterior walls (above finished grade) consisting of low maintenance materials comprised of vinyl, brick, wood, hardiplank or EIFS (Exterior Insulation & Finish Systems), a combination thereof. Any vinyl siding shall be a premium siding with solid color throughout with a minimum thickness of .040 MM; this siding shall have a warranty of at least 20 years.

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Any roof of any home constructed on the Property shall be Class A (fire and wind protection rated by Underwriter Labs) (UL) Fiberglass Asphalt Roof Shingle - Three Tab, 20 year, Mid-weight shingle, self-sealing adhesive tab or an equivalent material that has 20 year expected life.

All homes constructed on the Property shall have either a one or two car attached garage, which garage shall not be finished floor area.

All homes constructed on the Property shall have a minimum of 1,100 square feet of finished floor area and a garage of a minimum of 200 square feet that shall not be finished floor area, for a total of a minimum of 1,300 square feet of area per new home.

Any accessory buildings constructed on the Property shall be of the same architectural material as the home on that lot.

7. Roads; Street Lighting Fixtures; Sidewalks. All roads within the property shall be private, be asphalt and shall be designed and constructed in accordance with the County of Henrico's Public Roads Standards and Specifications with respect to the pavement design and depth and roll-face curb and gutter. Upon completion of this road system, a qualified engineer certified in the Commonwealth of Virginia shall certify to the Planning Office that the construction of this road system meets or exceeds the standards and specifications set forth above. Curb and gutter along such roads shall be constructed and maintained as part of the private roadway system within the Property as approved by the Planning Commission at the time of Plan of Development review.

Street lighting fixtures shall be constructed and maintained along the private roadway system within the Property. Street lighting fixtures shall not exceed 15 feet in height at grade level and shall be positioned in such a manner as to minimize the impact of such lighting on any adjacent property. All lighting from such street lighting fixtures shall be produced from concealed sources of light.

All roads within the Property shall have a sidewalk adjacent to such road. All such sidewalks shall be constructed to the County of Henrico's Standards and Specifications for sidewalks.

All such private roadways, curb, gutter and lighting shall be phased so that construction is in advance of the first occupancy permit being issued for that phase of development.

8. Recreational Facility. A recreational facility for the benefit of the landowners within the Property and their guests shall be constructed. Such recreational facility will be at least 150 feet from the southern, eastern and western boundary line of the Property, with the exception of the property lines in common with the Bradshaw

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property. The recreational facility shall be in substantial conformance with the facility shown on the attached sketch prepared by McAllister & Foltz, entitled "PARK WEST, Clubhouse & Pool" ("Recreational Facility") and attached and made a part hereof (See case file). The Recreational Facility shall be constructed prior to a building permit being issued for the 25th dwelling unit on the Property or within two years of the issuance of the first occupancy permit on the Property, whichever shall occur first. ** See Addendum following this proffer list*

9. Uses. Only the following uses shall be permitted on the Property: single family detached dwellings and accessory uses; also, a private recreational facility.

Except as otherwise prohibited by the Virginia Fair Housing Law, the federal Fair Housing Law and such other applicable federal, state or local legal requirements, the homes sold on the Property shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law.

10. Lots. All lots on the Property shall be a minimum of 6,000 square feet.

The number of lots on the Property shall not exceed 4.5 units per acre.

11. Homeowners Association; Professional Management. There shall be a Homeowners Association of the owners of the lots on the Property that shall have responsibility for the maintenance of the lots, common areas, the Recreational Facility, mailboxes, roads, curbs, gutter, street lighting and the exteriors of the homes on the Property as set forth in the restrictive covenants and bylaws of the Homeowners Association. The Homeowners Association shall be required to employ at all times following recordation of the Restrictive Covenants a firm or outside consultant to provide professional management services to assist the Homeowners Association with its responsibilities for the maintenance of the lots, common areas, the Recreational Facility, mailboxes, roads, curbs, gutter, street lighting and the exteriors of the homes as set forth above, as well as monitor the enforcement and application of these proffers and of sales on the property.

12. Restrictive Covenants. Prior to or concurrent with the recordation of a subdivision plat approved by the County of Henrico, there shall be recorded in the Clerk's Office of the Circuit Court of the County of Henrico a document setting forth controls on the development and maintenance of lots within the Property and such covenants shall include, but not be limited to, provisions (i) prohibiting storage of recreational vehicles and boats on the Property (ii) requiring all homes constructed on the Property shall be accessed by a concrete driveway and (iii) providing that all construction on the Property shall be subject to approval by an architectural review committee of the Homeowners Association, including the right of approval for the design, material and colors of the homes on the Property, such approval by the architectural review committee of the Homeowners Association shall be in compliance with these proffers.

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- (iv) The Restrictive Covenants shall require that, prior to the sale of the first lot on the Property and at all times thereafter, there shall be in existence a program whereby funds from the owners of the Property are committed in adequate amounts to assure the maintenance of the lots, common areas, the Recreational Facility, mailboxes, roads, curbs, gutter, street lighting and the exterior of the homes on the Property. This program whereby funds from the owners of the Property are committed in adequate amounts to assure the maintenance as set forth above shall be developed based upon the advice of the firm or outside consultant providing professional management services to assist the Homeowners Association with such responsibilities, shall be approved by the Homeowners Association and shall be disclosed to the purchasers of any lots on the Property prior to recordation of the deed of purchase of such lot.

13. Severance. The unenforceability, 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.

The Planning Office has been advised of the action of the Board of Supervisors and will revise its records and place a copy of the accepted proffered conditions in the Conditional Zoning Index.

Sincerely,



for Virgil R. Hazelett, P.E.,
County Manager

cc: Director, Real Estate Assessment
Conditional Zoning Index
Mr. Len Phillips
Mr. Ralph L. Axselle, Jr., Esquire
Mr. & Mrs. Stuart Bradshaw
Messrs. Henry F. & Frank Buehren

**COUNTY OF HENRICO,
VIRGINIA
MEMORANDUM**

To: File - C-53C-97. D.O. Allen Homes, Inc.
Planning Front Counter

From: Mark Bittner, County Planner II *mjb*

Subject: Proffer #8 – Recreational Facility.

Date: November 22, 1999

Proffer #8 of C-53C-97 states that, "The Recreational Facility shall be constructed prior to a building permit being issued for the 25th dwelling unit on the Property or within two years of the issuance of the first occupancy permit on the Property, whichever shall occur first."

A proffered exhibit shows that the Recreational Facility includes an outdoor pool. Because of upcoming winter weather, the applicant is concerned that pool construction may not be completed in the timeframe required by Proffer #8. Construction of the rest of the Recreational Facility will comply with Proffer #8.

Staff has reviewed this matter and feels that the applicant's concern is valid. Therefore, pool construction does not need to be completed within the timeframe outlined by Proffer #8. However, to meet the summer recreational needs of future residents in this community and to comply with the intent of Proffer #8, pool construction must be completed prior to May 29 (Memorial Day), 2000.