

A-1 to R-2AC
128.4 Acres

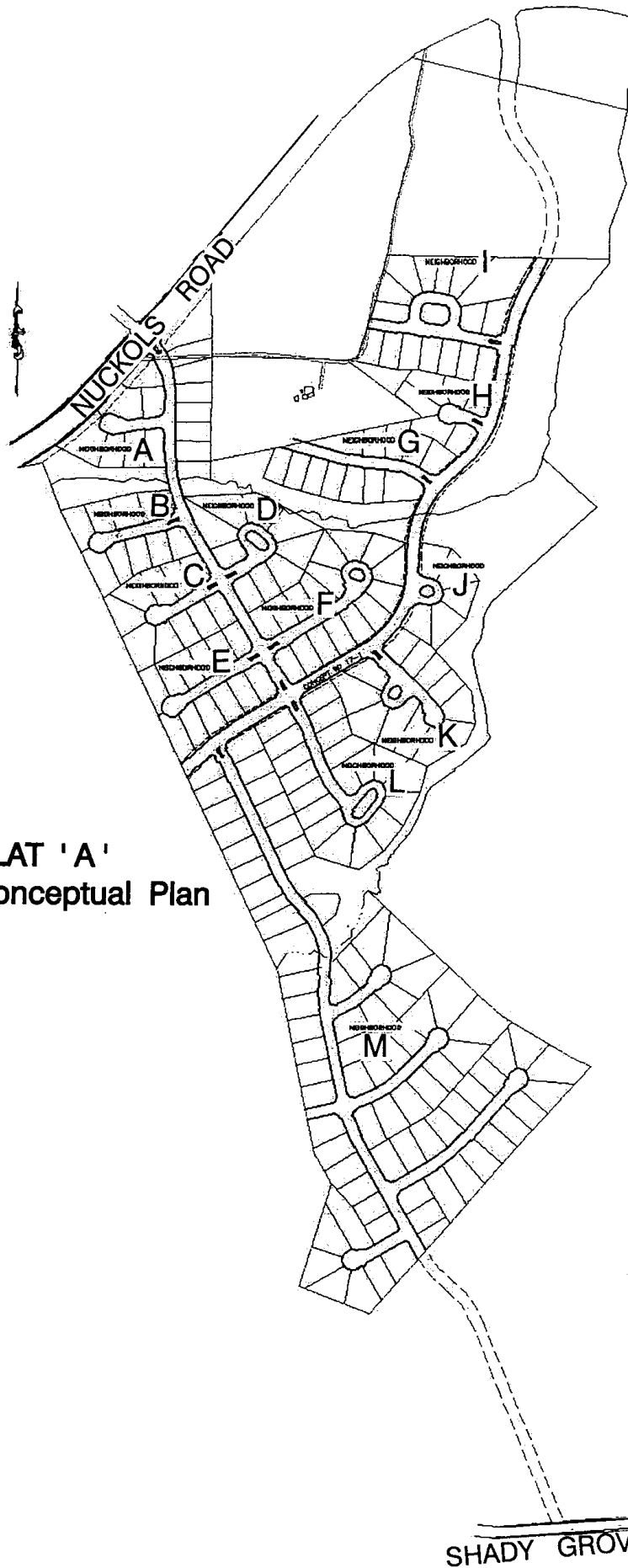


April 2003

ZONING
SINGLE - FAMILY
RESIDENTIAL
Ref. 740-775-9712

C-15C-03
Three Chopt District





PLAT 'A'
Conceptual Plan

Neighborhoods
A THRU M

C-15C-03

SHADY GROVE ROAD



COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

November 19, 2003

Virgil R. Hazelett, P.E.
County Manager

Mr. Gregory A. Windsor
Windsor Enterprises
4701 Cox Road, Suite 111
Glen Allen, VA 23060

Re: Conditional Rezoning Case C-15C-03

Dear Mr. Windsor:

The Board of Supervisors at its meeting on November 12, 2003, granted your request to conditionally rezone property from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcels 740-775-9712, 740-774-4255, 739-774-4564, 740-774-1407, 740-771-4107, 740-773-4426, 740-772-8110, 740-775-5801, and part of Parcel 740-771-4780, described as follows:

Beginning at a point, said point being the northeastern most corner of the 1.56 acre common area shown on the plat entitled "Luxford at Berkely, Section 1" dated September 9, 1999 and recorded April 3, 2001 in Plat Book 113, page 30 in the County of Henrico, Virginia; thence S 77-58-40 W 107.16' to a point located on the northern line of said common area and the southern line of the Nuckols Road right-of-way; thence along a non-tangent curve to the left, said curve having a length of 611', a radius of 1689.02', a delta angle of 20-43-36, a chord bearing of N 50-05-33 E, and a chord length of 607.67' to a point on the southern line of the Nuckols Road right-of-way; thence N 39-43-45 E, 608.61' to a point on the southern line of the Nuckols Road right-of-way; thence S 00-25-55 E, 364.45' to a point along the western line of Lots 11 and 12, Block B, Section B shown the plat entitled "Edgemoor, Section B" dated May 7, 2001 and recorded September 17, 2001 in Plat Book 113, page 98 in the County of Henrico, Virginia; thence S 00-41-51 W, 468.98' to a point; thence N 78-32-57 E, 964.01' to a point; thence N 47-48-03 W, 68.06' to a point; thence N 53-46-57 W, 362.62' to a point; thence N 83-06-23 E, 50' to a point; thence N 18-21-47 E, 229.86' along the eastern line of said Edgemoor, Section B to a point; thence N 13-41-14 E, 268.65' along the eastern line of said Edgemoor, Section B to a point; thence S 87-28-38 E, 992.59' to a point; thence along the centerline of a creek meandering in a southerly direction for a distance of approximately 547' to a point, said creek having a tie line bearing of S 25-40-32 W and a tie distance of 522.27'; thence S 54-26-52 E, 165.05' to a point; thence S 43-02-25 W, 28.64' to a point; thence S 46-57-35 E, 149.32' to a point; thence S 37-36-03 W, 335.59' to a point; thence S 56-57-35 E, 98.17' to a point; thence S 43-57-35 E, 119.52' to a point along the northern line of Lot 9, shown on the plat entitled "Bridlewood" dated August 22, 1983 and recorded September 23, 1983 in

Plat Book 75, page 85 in the County of Henrico, Virginia; thence S 48-06-15 W, 642.33' to a point located at the northwestern most corner of Lot 8, shown on said plat entitled "Bridlewood"; thence along the centerline of a creek meandering in a southerly direction for a distance of approximately 1613' to a point, located at the western most corner of Lot 6, shown on said plat entitled "Bridlewood" said creek having a tie line bearing of S 23-08-36 W and a tie distance of 1385.91'; thence S 47-03-33 E, 689.71 along the western line of Lots 4, 5 & 6, shown on said plat entitled "Bridlewood" to a point; thence S 50-05-44 E, 132 along the western line of Lot 4 shown on said plat entitled "Bridlewood" to a point; thence S 59-05-45 E, 371.58 along the western line of Lot 4 shown on said plat entitled "Bridlewood" to a point; thence S 66-19-48 E, 88.12 along the western line of Lot 3 shown on said plat entitled "Bridlewood" to a point; thence S 42-46-27 W, 550.36' to a point; thence S 41-40-26 W, 773.41' to a point; thence S 23-32-19 E, 197.10' to a point; thence N 68-20-29 W, 529.91' to a point; thence N 17-20-57 E, 476.18' to a point; thence N 30-04-19 W, 150.33' to a point; thence N 12-01-54 W, 839.11' to a point; thence N 25-38-35 W, 2250.82' to a point located along the eastern line of Lot 13, Block D shown on said plat entitled "Luxford at Berkely, Section 1"; thence N 21-03-35 W, 231.84' to the said point of beginning, containing 128.4 acres more or less.

The Board of Supervisors accepted the following proffered conditions, dated November 12, 2003, which further regulates the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

The following proffers and conditions shall apply to Parcels 740-775-9712, 740-774-4255, 739-774-4564, 740-774-1407, 740-773-4426, 740-772-8110, 740-771-4780 (part), 740-775-5801, 740-771-4107, all as more particularly described on the zoning application (the "Property"), which will be specifically divided into various roads located within and adjacent to certain neighborhoods, (each a "Neighborhood") as generally shown on the plan attached hereto as Exhibit B (the "Neighborhood Plan") (see case file). The Property is owned by various parties (each, an "Applicant") and the various Applicants will own and, unless a proffer refers specifically to the entire Property, each Applicant shall be responsible for complying with any proffer requiring the construction of a specific improvement within or adjacent to its Neighborhood, such as those to improve a planting strip or construct a road.

The following proffers shall be applicable to the Property and all Neighborhoods:

1. **Maximum Density:** The maximum number of lots on the Property shall not exceed 1.8 units per acre in the aggregate. Any residual land that is reserved and would be combined with land adjacent to this Property to form a buildable lot would not be counted toward this density restriction.
2. **Garages:** A minimum of a two-car garage shall be attached to each dwelling constructed on the Property.

3. **Front Elevation:** At least sixty percent (60%) of all of the homes shall have brick, stone, an exterior insulating finish system, or concrete board on their front elevation as follows:
 - a. At least twenty-five percent (25%) of all of the homes shall have such siding on approximately twenty percent (20%) or more of each of their front elevations; and
 - b. At least thirty-five percent (35%) of all of the homes shall have such siding on approximately sixty percent (60%) or more of each of their front elevations.

Applicant shall maintain a record of the approximate amount of such siding used on the front elevation of each home and shall provide such list when and as requested by the County.

4. **Foundations:** The main body of any home shall not be constructed on a slab, provided that garages and patios may be constructed on a slab. The visible exposed portion of any foundations of all homes shall be constructed of brick, stone, or an exterior insulating finish system. A foundation constructed of an exterior insulating finish system shall be permitted only if applied to a masonry surface and the siding used on the dwelling is constructed primarily of an exterior insulating finish system.
5. **Chimneys and Flues:** The exposed portion of a chimney shall be constructed of brick, stone or an exterior insulating finish system. The exposed portion of a flue for a direct-vent gas fireplace shall be constructed of the same material used on the adjacent siding and shall be built on a foundation that is constructed of the same material that is used on the adjacent foundation.
6. **Driveways:** No driveway shall have direct access to Concept Road 17-1. All driveways shall be constructed of exposed aggregate, concrete, brick, stone, asphalt or pre-cast pavers.
7. **Entrance Feature:** The main entrance from Nuckols Road shall be complemented with landscaping and a brick, stone or stucco monument entrance feature. Landscaping at the entrance feature shall include sod and an irrigation system.
8. **Lot Clearing:** The clearing of healthy trees measuring 6 or more inches in diameter on any lot shall be limited to areas required to accommodate the dwellings, driveways, sidewalks, open yard areas, utility lines and any other areas typically required for the construction of a dwelling.

9. **Underground Utilities:** Except for junction boxes, meters and existing overhead utility lines or for technical or environmental reasons, all utility lines shall be underground.
10. **Roads and Curb and Gutter:** All roads on the Property shall be constructed with standard full-faced curb and gutter, unless otherwise approved by the County.
11. **Concept Road 17-1 Planting Strip:** A planting strip of a minimum of at least ten (10) feet in width shall be reserved on any lots adjoining each of the right-of-way lines of Concept Road 17-1. A five (5) foot wide sidewalk shall be provided along Concept Road 17-1 on the Property and shall be constructed in compliance with the County of Henrico's standards and specifications for sidewalks. This planting strip shall also contain irrigation, landscaping (including street trees and a hedge row) and natural open areas, except as required for utility and drainage easements, which, as much as practical, shall run perpendicular to this planting strip. Neighborhood and/or subdivision identification signage and fencing may be located within the planting strip. The width of this planting strip shall be in addition to the dwelling setbacks required by the Zoning Ordinance.
12. **Nuckols Road Planting Strip:** A planting strip shall be reserved on any lot adjoining the right-of-way line of Nuckols Road and shall contain irrigation, fencing and landscaping to effect a consistent transition between the landscaping, fencing and width that exists within the planting strips of the adjacent Edgemoor Subdivision and Luxford at Berkeley Subdivision. Any utility and drainage easements located within this planting strip shall, to the extent practical, run perpendicular to this planting strip. Neighborhood and/or subdivision identification signage may be located within this planting strip. Notwithstanding any of the above, landscaping adjacent to the existing guard rail along Nuckols Road shall be limited to natural ground cover or sod and irrigation.
13. **Restrictive Covenants:** Prior to or concurrent with the recordation of a subdivision plat approved by the County of Henrico, Virginia, one or more documents shall be approved by the Henrico County Attorney's Office and recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia that set forth development controls and maintenance responsibilities for all common areas and all entranceways within that portion of the Property subject to that subdivision plat, which shall include but not be limited to:
 - (a) The roof of each dwelling shall be constructed with a 25-year dimensional shingle or any shingle of greater quality as determined by the Architectural Control Committee of the Homeowner's Association.

- (b) The front and side yards of each lot shall contain at least 3 healthy trees measuring 2 ½ or more inches in diameter, which shall either exist or be planted prior to the issuance of the final certificate of occupancy.
 - (c) The mailbox for each dwelling shall conform to a subdivision-wide standard.
 - (d) Clearing of healthy trees measuring 6 or more inches in diameter on the lots shall be limited to areas required to accommodate dwellings, driveways, sidewalks, open yard areas, utility lines and any other areas typically required for the construction of a dwelling.
14. **Temporary Access Road**: Applicant shall have the right to construct a temporary access road for use by emergency vehicles if Applicant is not permitted to record any lot on the Property pursuant to the County's "secondary road access" policy or ordinance, subject to approval by the County. A temporary access road shall be constructed to the standards and other requirements of the County of Henrico.
15. **C-1 Zoning**: Applicant shall file an application for C-1 zoning for the areas within the Property that are within the 100 year flood plain, unless such areas are needed for roads, access ways or other purposes approved or required by the Planning Commission or any other governmental body or official at the time of subdivision approval. Such rezoning application shall be filed as soon as reasonably practical, but in no case later than the date of the recordation of the last subdivision plat for the last lot platted on the Property. The acreage then zoned C-1 may or may not be included in any subdivision or lot on the Property, at the sole discretion of the Applicant.
16. **Luxford Place**: Luxford Place in Luxford at Berkeley Subdivision shall not be connected to the Property and shall be terminated where it currently exists. There shall be no vehicular or pedestrian ingress or egress permitted from any lot adjacent to Luxford Place. A drainage system sufficient to alleviate any standing water resulting from the termination of Luxford Place shall be installed. This restriction shall be placed in the restrictive covenants for any lot adjacent to Luxford Place.
17. **Compliance Certification**: Upon request by the Director of Planning, each Applicant shall provide the County with the necessary calculations that illustrate that the dwellings and lots constructed in its Neighborhoods are in compliance with all of the allowable and required percentages set forth in these proffers.
18. **Disclosure**. A written disclosure shall be made by each Applicant and/or by each Homeowner's Association to each buyer of a lot on the Property, which will (a) state that it is anticipated that Concept Road 17-1 will be fully constructed between

Pouncey Tract Road and Nuckols Road and that all of the other roads, which are shown on the Neighborhood Plan as being extended either through an adjacent parcel of land to a County road or to an adjacent County road, will be extended in the future, and (b) have attached thereto, a plat showing the extension of Concept Road 17-1 and the connection of such other roads (the "Subdivision Road Plan") (see case file). It is anticipated that the County shall approve the Subdivision Road Plan and the specific disclosure language as generally shown below prior to the first subdivision approval on the Property.

Such disclosure shall be made within:

- (a) The purchase contracts of the first buyer of each lot, which will be executed by each buyer.
- (b) The Disclosure Packet, which, pursuant to Virginia Code Sections 55-508 through 55-516 requires that the Homeowner's Association prepare and make available to any seller of a lot, and that the seller deliver to the buyer of its lot (and the buyer acknowledge in writing that it received) the Disclosure Packet any time prior to, but no later than, three (3) days after the date that the buyer has executed a purchase contract to purchase its lot.
- (c) The Restrictive Covenants of each Subdivision within the Property.

The disclosure language shall include at least the following:

The buyer acknowledges that it is anticipated that Concept Road 17-1 and all of the other roads within the Subdivision, which are shown as being extended either through an adjacent parcel of land to a County road or to an adjacent County road on the Subdivision Road Plan, which is attached to this document as an Exhibit (see case file), will be extended in the future to provide the owners of lots within the Subdivision with safe and sufficient access to and from such County roads and the Subdivision. It is anticipated that the County, upon the development of such adjacent parcel(s), will require the referenced road extensions through such adjacent parcel(s).

19. **Construction of Roads.** As shown on the Neighborhood Plan, (a) the entrance road to the Subdivision that originates on Nuckols Road and the portion of Concept Road 17-1 on the Property that is shown to connect to Concept Road 17-1 on Parcel 738-772-9227 (the "Connector Road") shall be fully constructed before the issuance of the twenty-sixth (26th) building permit for dwellings in Neighborhoods A, B, C, D, E, F, G, H, I and J, unless otherwise approved by the County, and (b) the remaining portion of Concept Road 17-1 on the Property shall be fully constructed to Parcel 741-775-1397 before the issuance of the sixty-third (63rd) building permit

for dwellings in Neighborhoods A, B, D, C, D, E, F, G, H, I and J, and the issuance of the sixty-third (63rd) building permit for dwellings in Neighborhoods K, L and M, unless otherwise approved by the County.

20. **Heather Brook Lane Connection:** There shall be no vehicular connection between Heather Brook Lane and Concept Road 17-1 until Concept Road 17-1 is fully constructed through Parcel 741-775-1397 and connects to Nuckols Road.

21. **Cash Proffers:**

- (a) Each Applicant, or successor in interest, shall pay a cash contribution of \$10,048 (the "Base Cash Proffer") to the County for each residential building lot (a "Lot") on the Property, payable prior to the issuance of the certificate of occupancy for a dwelling on the Lot. The Base Cash Proffer shall be reduced by the amount of \$422.00 for each Lot as a credit for the cost of construction of Concept Road 17-1 on the Property by such Applicant or its successors in interest.
- (b) The amount due under subparagraph (a) is to be used by the County only for the North Gayton Road Project as described by the County's Major Thoroughfare Plan and the 2023 Long-Range Transportation Plan and as further described in the seven (7) page brochure, entitled "Northwest Henrico County – Development Potential", attached hereto as Exhibit A ("Exhibit A") (see case file) which generally consists of the extension of North Gayton Road to Pouncey Tract Road, the construction of a bridge crossing over Interstate 64, and an interchange at that bridge (the "Project").
- (c) This proffer is made with the understanding that the amount due under subparagraph (a) shall be the only cash payment that will be made by the Applicant or its successors in interest in connection with zoning and conditional and final subdivision approval for the Property and that road impact fees will not be assessed against the Lots on the Property.
- (d) The Applicant or its successors in interest shall receive a full or pro-rata reduction against the amount due under subparagraph (a) or receive a full or partial refund of the amount paid under subparagraph (a) for each Lot upon the occurrence of either of the following events:
 1. the County does not use all of the funds collected for the Project by October 1, 2018, or
 2. the County receives funds for the Project from other sources, such as the federal government or the Commonwealth of Virginia.

- (e) If after the County completes its budget study for the Project, (i) the County accepts a contribution or cash proffer for the Project from other property owners in the area delineated in Exhibit A (see case file), or (ii) the County enacts a County-wide cash proffer system which includes all or a part of the cost of the Project, and if such amounts received under (i) or (ii) are less than \$10,048 per residential building lot, then the Base Cash Proffer in subparagraph (a) shall be reduced to that lesser amount.

Any such reduction or refund in subsections (d) and (e) shall be based upon the same formula used in Exhibit A (see case file) to determine the amount of \$10,048.

22. **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 following proffers shall be applicable to Neighborhoods A, B, E, F, and L only:

23. **Lot Width**: No buildable lots within these neighborhoods shall have a lot width less than 85 feet. The term "lot width" shall be defined herein as the width of a lot measured at the front yard setback line, except for cul-de-sac lots fronting on a cul-de-sac terminus where the width shall be measured at the actual building line of the dwelling.
24. **Minimum Finished Floor Area**: All dwellings in these neighborhoods shall have a minimum finished floor area of 2500 square feet.

The following proffers shall be applicable to Neighborhoods C, D, G, H, I, J and K only:

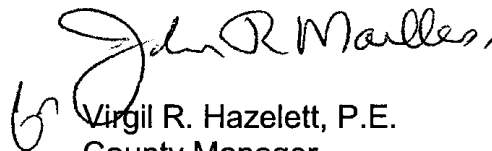
25. **Lot Width**: At least eighty percent (80%) of all buildable lots within these neighborhoods shall have a minimum lot width of 90 feet. No buildable lots within these neighborhoods shall have a lot width less than 85 feet. The term "lot width" shall be defined herein as the width of a lot measured at the front yard setback line, except for cul-de-sac lots fronting on a cul-de-sac terminus where the width shall be measured at the actual building line of the dwelling.
26. **Minimum Finished Floor Area**: All dwellings in these neighborhoods shall have a minimum finished floor area of 2800 square feet.
27. **Garage Doors**: At least fifty percent (50%) of all dwellings in these neighborhoods shall have garage doors that open towards the side or rear of the dwelling.

The following proffers shall be applicable to Neighborhood M only:

28. **Lot Width:** At least eighty percent (80%) of all buildable lots within this neighborhood shall have a minimum lot width of 100 feet. No buildable lots within this neighborhood shall have a lot width less than 90 feet. The term "lot width" shall be defined herein as the width of a lot measured at the front yard setback line, except for cul-de-sac lots fronting on a cul-de-sac terminus where the width shall be measured at the actual building line of the dwelling.
29. **Minimum Finished Floor Area:** All dwellings in this neighborhood shall have a minimum finished floor area of 3000 square feet.
30. **Garage Doors:** At least ninety percent (90%) of all dwellings in this neighborhood shall have garage doors that open towards the side or rear of the dwelling.

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,


Virgil R. Hazelett, P.E.
County Manager

pc: Mr. Robert B. Parkerson
Mr. Gibson M. Wright
Mr. Andrew M. Condlin, Esquire
Director, Real Estate Assessment
Conditional Zoning Index