

Original Proffer _____
Amended Proffer
(Amendment # 4)

PROFFER FORM FOR FONTANA PHASE 4C

Date: March 27, 2007

ZMA # 0418

Tax Map and Parcel Number Tax Map 78E, Parcel A

16.95 Acres to be rezoned from R1, R4, RA to R4

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions, and (2) such conditions have a reasonable relation to the rezoning request.

1. **Conformity with Plans:** Fontana 4C shall be developed in general accord with the plans entitled, "Fontana 4C Rezoning, Rezoning Plan," prepared by Terra Engineering and Land Solutions, dated January 25, 2007, a copy of which is attached hereto as Exhibit A, (the "Plan"). No more than thirty four (34) dwelling units shall be developed within Fontana Phase 4C.
2. **Final grading plan:** The Owner shall submit a final grading plan meeting the requirements of this section (hereinafter, the "Final Grading Plan") with the application for each subdivision of the residential units shown on the Plan identified in Proffer 1 above. The Final Grading Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Final Grading Plan shall be approved by the County Engineer prior to the approval of the subdivision plat. The subdivision shall be graded as shown on the approved Final Grading Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot is not graded consistent with the approved grading Plan. The Plan shall satisfy the following:
 - A. The Final Grading Plan shall show all proposed streets, building sites, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
 - B. The Final Grading Plan shall be drawn to scale not greater than one (1) inch equals fifty (50) feet.
 - C. All proposed grading be shown at contour intervals not greater than two (2) feet

- D. All concentrated surface drainages over lots shall be clearly shown with the proposed grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from flooding of dwellings in the event a storm sewer fails. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.
- E. Surface drainage from one-half (1/2) acre of land or from three (3) lots or more lots, whichever is greater in area, shall be collected in a storm sewer or directed to a drainage way outside of the lots.
- F. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
- G. The Final Grading Plan shall demonstrate that driveways to lots will not be steeper than twenty (20) percent unless certified by an engineer that the driveway at the proposed steepness would be safe and convenient for vehicles (including emergency vehicles) to use the driveway, and shall include grading transitions at the street that the agent determines will allow passenger vehicles to avoid scraping the vehicle body on the driveway or the street. Additionally, the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length that will be graded no steeper than eight (8) percent.
- F. The Final Grading Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if the distance is less than ten (10) feet, from the portion of the structure facing the street has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings that will not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
- H. Any requirement of this condition may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineer's report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a

distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.

- I. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
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3. **Affordable Housing:** The owner shall contribute \$12,375 (\$2,475 x 5) cash per unit, which shall be paid prior to or at the time of issuance of a building permit. The cash contribution shall be used for the purpose of funding affordable housing programs in Albemarle County. If this contribution has not been exhausted by the County for the stated purpose within ten years of the last payment of the contribution, all unexpended funds shall be refunded to the Owner.
4. **Slope protection:** In order to protect slopes of 25% or greater, a waiver shall be requested to section 4.2.1 of the zoning ordinance.
5. **Trees:** At least one hundred-fifty (150) trees shall be planted or retained on the subdivided lots. Trees shall be distributed among all lots with a minimum of 5 trees per lot. The five trees to be counted on each lot shall be marked in the field for inspection purposes. The owner shall not request a certificate of occupancy until a final zoning inspection is performed and all required trees are in place.
- Standards for trees to be retained:** Deciduous trees to be retained shall have at least a 1 ½ inch caliper d.b.h. and non-deciduous trees shall be at least four feet in height. All trees to be retained shall be identified on erosion and sediment control plans, final grading plans and road plans. A tree conservation plan in accordance with Section 32.7.9.4 of the Zoning Ordinance shall be submitted and approved prior to approval of any erosion and sediment control permit for grading.
- Standards for trees to be planted:** All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. Deciduous trees shall be at least 1 ½ inches in caliper; non-deciduous trees shall be at least four feet in height at planting

6. **Pedestrian paths:** Pedestrian paths shall be constructed according to the standards for permanent pedestrian paths in the Albemarle County Design Standards Manual. The owner shall not request that the County issue the ninth (9th) building permit until the paths have been completed to the reasonable satisfaction of the Department of Community Development.
7. **Cash proffer:** The owner shall contribute \$102,000 (\$3,000 x 34), which shall be paid prior to or at the time of issuance of a building permit to the County's capital improvement program for the purpose of mitigating impacts from this development. The cash contribution shall be used for improvements for fire, rescue, parks and police.
8. **Cascadia Subdivision Emergency Access:** There shall be provided a fifty-foot (50') right-of-way for the purpose of emergency access only and to be used exclusively by the law enforcement, fire and rescue vehicles to the Cascadia Subdivision for a five-year period, commencing with the date the County of Albemarle Engineering Department provides a construction permit for Phase 4C. Beyond the five year period, the emergency road may be converted to a connector road.
9. **Final approval:** The owner shall not submit an application for an erosion and sediment control permit for grading until improvements have been completed for phases 1, 2, 3 and 4A of the Fontana Subdivision and all bonds held by the County in conjunction with subdivision, stormwater management, and erosion control for the prior phases have been released by the County.

Anthony Nichols
Signature of Owner

A. M. Nichols
Printed Name of Owner

3/27/09
Date