

Proffers
Rezoning Case #04-150
Greene County, Virginia
July 13, 2004

The Applicant, MountainVU LLC, a Virginia limited liability company, ("the Applicant") is the Contract Purchaser of the below referenced property, which is the subject of the rezoning application, containing approximately 204 acres, more or less, (hereinafter the "Property"). The Property includes the following properties: The Deerfield, LC property (Tax Map Reference 60- 1-B); the Reynco, LC property (Tax Map Reference 60-A-9C3B); the J&D Company property (Tax Map Reference 60-A-62A1); the S.A. Reynolds and Jewell R. Reynolds property (Tax Map References 60-A-9C1, 60-A-9C2, 60-A-9C3, and 60-A-62) and the Earl A. Reynolds, Jr. Property (Tax Map Reference 60-1-A). The Property Owners of the Property, and MountainVU LLC, on behalf of themselves and their successors and assigns, hereby voluntarily proffer the following in the event that: (1) approximately 204 acres of the Property that is the subject of this rezoning application is rezoned by the Board of Supervisors of Greene County (hereinafter the "County") to the Senior Residential ("SR") District; and (2) the Proffer Condition Amendment request submitted in May, 2004, for the Rapidan Center Rezoning Case #00-129 (Tax Map References 66-A-48; 66-A-51; 66-A-52 and 66-A-52B) is approved by the County; and (3) approximately 123.28 acres is rezoned by the County to the Senior Residential ("SR") District (Tax Map Reference 61-A-20) (hereinafter the "Collier Property"); and (4) the Applicant's requested waivers and modifications are granted to Greene County Zoning Ordinance Sections 18-5-2, 18-5-3 and 19-3-3; and (5) the Applicant will provide adequate water and sewer for the Property in a timely fashion including the prepayment (by means of letter of credit) of connection fees by the Applicant and/or Applicant's related entities, to the County; then the development of the Property shall be in substantial conformance with the following proffers, pursuant to Section 15.2-2297/15.2-2298 as applicable of the Code of Virginia (1950) as amended. These proffered conditions ("Proffers") are the only conditions offered on this rezoning, and any and all previous proffers on the Property are hereby void and have no further force and effect. The subject proffers shall become effective only upon the County's full and final approval of the rezoning request submitted by MountainVU LLC.

1. GENERAL

The Property shall be developed in general conformance with the Reynolds Property Conceptual Plan ("Plan"), consisting of one (1) sheet prepared by LandDesign, submitted with the Rezoning Application. Notwithstanding the statement of general conformance described above, the County and the Applicant agree that all building envelopes, private and public road locations, utility locations, storm water management facilities, locations of community facilities, and dimensions of undeveloped areas shown on the Plan may be changed by the Applicant to fulfill requirements of final engineering and design and/or compliance with state agency regulations including, but not limited to (except as noted hereinafter), VDOT, DEQ, U.S. Army Corps of Engineers, etc., and compliance with the requirements of the County's development regulations and Subdivision Ordinance.

2. LAND USE: DENSITY AND DESIGN

The Applicant agrees that the development shall not exceed 650 age restricted single-family units. The age-restricted units may consist of single-family detached units, duplex type units, triplex,

quadplex type units, townhouse type units, patio houses, condominiums and apartments. The Applicant reserves the right to make modifications to the approved Plan in order to address engineering and architectural issues at the time of final site plan approval.

In consideration of the Applicant's proffer to restrict the development to age restricted units, the County does hereby (a) waive the provision of Section 18-5-2 and 18-5-3 of the County Zoning Ordinance requiring the commencement of construction upon the project within one (1) year from the date of rezoning approval; and (b) waive the provisions of Section 19-3-3 requirement of construction of the project within twelve (12) months of site development plan approval.

3. HOUSING DIVERSITY: AGE RESTRICTION CONDITIONS

In accordance with the age-restricted portions of the "Federal Housing for Older Persons Act of 1995," occupancy of the age-restricted units on the Property shall be in accordance with the following parameters:

- (a) One hundred percent (100%) of the occupied residential units shall be occupied by at least one person fifty-five (55) years of age or older; and
- (b) Guests or children, 19 years of age or younger, are permitted for periods of time not to exceed twenty-one (21) days total for each such guest in any calendar year; and
- (c) If title to any age restricted lot or unit shall become vested in any person under the age of 55 by reason of descent, distribution, foreclosure or operation of law, these age restriction covenants shall not be permitted to work a forfeiture or reversion of title, but rather, such person thus taking title shall not be permitted to reside in such lot or unit until he shall have attained the age of 55. Notwithstanding anything to the contrary as may be contained herein, a surviving spouse shall be allowed to continue to occupy a dwelling unit without regard to age; and
- (d) The above described use restrictions shall be deemed to be automatically amended from time to time in accordance with any changes adopted to applicable local, or state regulations, governing age restricted housing and the "Federal Fair Housing for Older Persons Act."

4. RESIDENTIAL DEVELOPMENT

The Applicant shall prepare and place on the Property, as a component of its development of the 650 age restricted single family units, a Declaration of Covenants, Conditions and Restrictions (the "Declaration"). The Declaration's purpose shall be to facilitate the planning and development of the Property in a unified and consistent manner. The Declaration shall set forth covenants, conditions and restrictions for private enforcement by homeowners with the Property. The clear intent of the Declaration shall be that the County shall have no obligation to enforce such covenants, conditions and restrictions. The Declaration shall not be interpreted as authorizing any relaxation of state or County regulatory or minimum code standards, except as allowed by the regulations of the Ordinance.

Design Standards. The Declaration shall impose design and architectural guidelines for each residential unit or building within the Property; the architectural and design standards for the respective development areas (the "Design Guidelines") shall ensure high quality architectural and landscape design and a harmonious residential community.

Fixed Standards. The following elements of the Design Guidelines shall be referenced in the Declaration:

- (1) Types of materials to be used in construction of dwellings;
- (2) Types of materials to be used and standards for landscaping.

Design Guidelines. The Design Guidelines also shall:

- (1) Provide the standards for development within the Property and explain how such standards are implemented;
- (2) Provide for creation of a Design Review Committee. (The County shall not participate on such Design Review Committee);
- (3) Provide an outline for the procedures and contacts for approvals by the Design Review Committee in connection with design and construction within the Property.

Maintenance of Landscaping, Open Space and Common Areas. The Declaration shall provide a mechanism for establishing and maintaining landscaping, open space, and common areas within the Property, including the following:

- (1) The Applicant shall organize said Homeowners Association(s) (the "Associations") as a non-stock corporation under the laws of Virginia for the care and maintenance of all such lands and improvements owned or entrusted to the Association (the "Common Areas"). Once the Association(s) has been approved by the County as to form, and the Declaration recorded among the Land Records of Greene County, the Association(s) shall be solely responsible for enforcement of the Declaration in perpetuity.
- (2) The Association(s) shall be bound by the Declaration as it runs with the land in perpetuity. The Applicant or Association(s) shall be responsible for the perpetuation, maintenance and function of all Common Areas.
- (3) The Applicant or Association(s) shall provide a means for identifying Common Areas as to location, size, use and control in one or more restrictive covenants, and such covenants shall set forth the method of assessment for the maintenance of such Common Areas.
- (4) The Declaration shall be in full force and effect for a period of not less than twenty-five (25) years and shall be automatically extended for successive periods of twenty-five (25) years unless terminated in a manner set forth in the Declaration.
- (5) The Association(s) shall continue in effect so as to control the availability of the facilities and land thereby provided and to maintain the Common Areas for their intended function. Such Association(s) shall not be dissolved nor shall the Association(s) dispose of any Common Area space, by sale or otherwise, except to successor organizations conceived and organized under the same standards and principles set forth herein for the Association(s) to own and maintain the Common Areas.

The Declaration shall further provide for a method of enforcement of the age restricted provisions contained in proffer #3 hereinabove, including but not limited to affidavits executed at closing upon purchase of a unit and annual audits with respect to the persons residing within the age restricted units.

5. EXHIBITS AND ILLUSTRATIONS

Conceptual Plan Exhibit. These Proffers refer to the Plan which is being used to illustrate the conceptual plan for the development and entrances into the Property from public roads. Residential Unit locations and street configurations shown on the Plan are for illustrative purposes only. Any plan submitted as part of Applicant's rezoning application, or as part of the rezoning process shall be deemed illustrative only, and such plan shall not be deemed to be proffered, except as herein specifically provided.

6. Notwithstanding anything to the contrary herein contained, the owners of the Property subject to this rezoning request shall not be required to incur any liability or expense in connection with the Proffers herein set forth and no Proffer herein set forth shall require an affirmative financial obligation or monetary payment of or upon the owners prior to the submission of a site plan for development of the Property, or application for a construction permit or building permit thereon.

PROPERTY OWNERS/ APPLICANTS

MountainVU, LLC
a Virginia limited liability company