

AGREEMENT

12987

Whereas, Joseph H. Carlton, et als (hereinafter called "the Owner") own certain real property in James City County, Virginia (hereinafter called "the Property") and more particularly described as follows:

All that certain tract of land now or formerly situate in Jamestown District, James City County, Virginia, called "Halls", being a part thereof, containing fifty (50) acres, more or less, and bounded by the road leading from Kelton to Centerville, and by the lands of F.R. Savage, the War Hill Tract, and the land of J.M. Jones, being the same property conveyed to the Owner by Deed dated May 1, 1951 from V.M. Geddy, Administrator and Trustee of the Estate of F.W. Hammond, deceased.

Whereas, the Owner has entered into a Contract Of Purchase to sell the Property to Ferrell General Construction Company ("the Buyer"); and

Whereas, the Contract of Purchase provides in pertinent part:

"Rezoning. Seller acknowledges Buyer intends to apply for rezoning of the Property to classification R-3. Seller expressly authorizes Buyer to pursue said rezoning application and agrees to cooperate in any manner required to obtain this rezoning; provided that Buyer shall pay all of the expense associated with said application"; and

Whereas, the Buyer has applied for rezoning of the Property from General Agricultural (A-1) ("the Existing Zoning") to General Residential (R-3) all pursuant to Section 20-190 through 20-200 of the Zoning Ordinance of James City County, Virginia, ("the Proposed Zoning"); and

Whereas, James City County, Virginia, may be unwilling to rezone the Property because the Proposed Zoning regulations may be deemed inadequate for the orderly development of the Property because competing and incompatible uses may conflict; and

Whereas, more flexible and adaptable zoning methods are deemed

advisable to permit the use of the Property; and

Whereas, the Buyer is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning regulations.

NOW, THEREFOEE, THIS AGREEMENT WITNESSETH that for and in consideration of James City County, Virginia, rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Buyer agrees that in addition to the regulations provided in the Proposed Zoning, it shall meet and comply with all of the following conditions for the development of the Property:

Conditions

- (1) The Property shall not be subdivided into more than one hundred (100) lots plus associated recreational and common area lots.
- (2) The use of the Property shall be limited to single family dwellings plus associated recreational uses.
- (3) The Property shall be developed in accordance with Section 20-499, et seq., of the Zoning Ordinance of James City County, Virginia (Residential Cluster Development).
- (4) All single family dwellings shall be connected to public water and public sewer.
- (5) The Property shall not have any private driveways entering State Route 614 (Centerville Road).
- (6) The Property shall have no more than two public entrances from State Route 614 (Centerville Road).

(7) A scenic easement shall be reserved across the Property 50 feet deep, adjacent to and parallel with the centerline of State Route 614 (Centerville Road). No portion of the scenic easement shall be included within any lot for single family dwelling(s). Existing trees, shrubbery and vegetation within said scenic easement shall remain "as is" provided, however, the Owner shall have the right to install and construct over, under, across and through the scenic easement such new roads, public utilities and entrance signs, as may be necessary and as are in accordance with the terms of this agreement and approved by the Subdivision Review Committee of the County's Planning Commission.

(8) The Buyer shall dedicate that portion of the scenic easement described in condition numbered seven (7) as is required by the Virginia Department of Transportation for the widening of State Route 614 (Centerville Road).

(9) The subdivision plan of the Property shall provide for common open space not less than twenty five (25) feet in width along the northerly and southerly boundary lines of the Property.

(10) Prior to the submittal of a subdivision plan for the Property, the Buyer, at his expense, shall cause to be prepared for review and approval by James City County, Virginia, a Phase I archaeological study for the Property. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.

(11) References in this agreement to "lots", "single family dwellings" and "open space" shall have the same meaning as that set forth in Article I, Section 20-2 of the Zoning Ordinance of James City County, Virginia.

(12) The Buyer joins in the execution of this Agreement to evidence its consent to its terms.

Joseph H. Carlton (SEAL)
JOSEPH H. CARLTON, individually
and as Agent for the Owner

FERRELL GENERAL CONSTRUCTION
COMPANY

By: Jesse B. Ferrell

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 22nd
day of September, 1988, by Joseph H. Carlton,
individually and as Agent for the Owner..

Margaret W. Swanenburg
NOTARY PUBLIC

My commission expires: 9/1/90

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 29th
day of September, 1988, by Jesse B. Ferrell,
of Ferrell General Construction Company.

Allison
NOTARY PUBLIC

My commission expires: 2/7/99
VIRGINIA: City of Williamsburg and County of
James City, to wit:

In the Clerk's office of the Circuit Court of the
City of Williamsburg and County of James City the
31 Oct, 1988. This Agreement
was presented with certificate annexed and
admitted to record at 1:27 o'clock
Teste: Helene S. Ward, Clerk
by [Signature]
Deputy Clerk

