

In Virginia, conditions or approval and proffers are tools used in the land use approval process, but they differ in their nature, applicability, and legal basis. Here's a breakdown:

PROFFERS	CONDITIONS OF APPROVAL
SUMMARY	
Proffers are voluntary , binding commitments made by the developers to address their proposed development's rezoning impacts on transportation, schools, utilities, public safety, etc. Proffers can include cash contributions, infrastructure improvements or property dedications.	Conditions of approval are regulatory requirements imposed by local governments to ensure compliance with zoning ordinances or mitigate development impacts. Conditions of approval often address sightlines, noise and light.
LEGAL FRAMEWORK	
<ul style="list-style-type: none"> Governed by § 15.2-2296 to § 15.2-2303.4 of the Code of Virginia The 2016 Proffer Reform Act limits the types of proffers localities can accept, particularly for residential developments. Legislation restricts local governments from accepting unreasonable or unrelated proffers. Proffers must directly address an identified impact from the proposed development and be "reasonable." 	<ul style="list-style-type: none"> Derived from local zoning ordinances and tied to the approval of a specific use or development. Imposed by the governing body or planning commission as part of the land use approval process. Not as strictly limited as proffers but must be directly related to the local ordinance and the use being approved. Conditions of approval must be reasonable, nondiscriminatory, and legally defensible.
VOLUNTARINESS	
<ul style="list-style-type: none"> The developer voluntarily proposes to gain approval for a rezoning request. Localities cannot demand or impose proffers without the developer's agreement. 	<ul style="list-style-type: none"> Not voluntary, though the developer typically has input during the negotiation phase.
APPLICABILITY	
<ul style="list-style-type: none"> Apply one to rezoning cases. Legally binding if accepted by the local governing body as part of the rezoning approval. Bind the land, meaning they run with the property and remain in effect even if ownership changes. 	<ul style="list-style-type: none"> Typically associated with special exceptions (SEs), special use permits (SUPs), conditional use permits (CUPs), and sometimes conditional rezonings. Depending on the language of the approval, it may be project-specific and not always transferable to future property owners.
ENFORCEMENT	
<ul style="list-style-type: none"> Enforced through zoning enforcement mechanisms. Violations can lead to revocation of the rezoning approval or other penalties. 	<ul style="list-style-type: none"> Enforced through the local permitting or code compliance process. Violations can lead to suspension or revocation of the permit or approval tied to the condition.
EXAMPLES	
<ul style="list-style-type: none"> A developer offers to widen a road, build a new school, or contribute funds to public safety in exchange for approval to rezone land use for residential use. Example: Cash proffer contributions for every new housing unit built. 	<ul style="list-style-type: none"> A local government requires a developer to limit hours, install noise barriers, or provide additional landscaping as part of a special use permit for a commercial project. Example: Requiring a fence or buffer zone for a CUP for a childcare facility.