

PROFFERS

RZ 2004-PR-007

September 15, 2004

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, Eric H. Wyant, Joyce H. Wyant and David Young for themselves, their successors, and assigns in RZ 2004-PR-007 (hereinafter referred to as the "Applicants"), filed for property identified as Tax Map 39-1 ((1)) 46 and 49 (hereinafter referred to as the "Application Property"), hereby proffers the following, provided that the Board of Supervisors ("BOS") approves a rezoning from the R-1 District to the R-3 District for residential development on approximately .91 acre.

1. GENERALIZED DEVELOPMENT PLAN ("GDP")

- a. Development of the Application Property shall be in substantial conformance with the GDP, which was prepared by Loiederman Soltesz Associates, Inc. and are dated September 26, 2003 as revised through August 17, 2004.
- b. The Applicant reserves the right to make minor adjustments to the building, orientation, off-lot parking, and lot sizes of the proposed subdivision based on final house locations, grading, building footprints, utility locations, and final engineering design, provided that such adjustments do not increase the total number of units nor decrease the amount and general location of open space, parking, or minimum distances to peripheral lot lines, that the general orientation of the dwelling units that are shown on the GDP is maintained, and are in substantial conformance with the GDP and proffers, pursuant to Section 18-204 of the zoning ordinance.

2. TREE PRESERVATION

- a. The applicant shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails outside of the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the Urban Forestry Division. A replanting plan shall be developed and implemented, subject to approval by the Urban Forestry Division, for any areas outside the limits of clearing and grading that must be disturbed. Any co-owned or off-site trees, adjacent to the limits of clearing and grading that become dead, dying, or hazardous as a result of construction activities shall be removed and replaced by the applicants.

- b. Tree Preservation: The Applicants shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division.

The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 12 inches in diameter and greater 10 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree survey shall also include areas of clearing and grading off-site, as shown on the GDP. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- c. Lot 46 shall have a minimum 40 foot front yard. Lot 49 shall have a minimum 35 foot front yard.
- d. No fences shall be permitted in the front yards of lots 46 and 49.
- e. Tree Preservation Fencing: All trees shown to be preserved on the GDP and tree preservation plan shall be protected by tree protection fence. Tree protection fencing four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart, shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets for the entire site.

All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence, except super silt fence, shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading, or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

- f. Site Monitoring: The Applicants shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers/conditions. The monitoring schedule shall be

described and detailed in the tree preservation plan, and reviewed and approved by the Urban Forestry Division.

3. MISCELLANEOUS

- a. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.
- b. Applicants shall enter into a private agreement with the owners of lots 47 and 48 for the maintenance of Rainbow Road. The agreement shall be demonstrated to DPWES before building permit approval.
- c. Homes constructed on the Application Property shall meet thermal guidelines of the CABO Program for energy-efficient homes or its equivalent, as determined by DPWES, for either electrical or gas energy systems.
- d. No temporary signs (including “popsicle” style paper or cardboard signs) that are prohibited by Article 12 of the Zoning Ordinance, and no signs that are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicants or at the Applicants’ direction to assist in the initial marketing and sales of homes on the Application Property, or for the rental of any multi-family dwelling unit. Furthermore, the Applicants shall direct their agents and employees involved in marketing, rental, and/or home sales for the Application Property to adhere to this proffer.
- e. Prior to the issuance of the first Residential Use Permit (RUP), the Applicants shall contribute the sum of \$1500 to the Fairfax County Park Authority for recreational improvements to a nearby park.
- f. Prior to the issuance of the first RUP, the Applicants shall contribute one half of one percent of the sales price of the house to be owned by the owner of Tax Map 39-1 ((1)) 46 and one half of one percent of the house construction costs for the house to be built on lot 49 to Housing and Community Development for affordable housing purposes.
- g. The Applicants recognize that a rezoning approval does not guarantee a PFM waiver of private streets. If deemed necessary by DPWES and a waiver is not granted, the applicant shall provide necessary improvements as determined by DPWES.
- h. SWM/BMP’s will be provided on-site, unless waived by DPWES.

- i. A gravel vehicular pull-off area shall be provided along the Rainbow Road frontages of both Parcels 46 and 49. The gravel area shall be approximately 8 feet wide and 20 feet long and shall be located within the limits of clearing and grading shown on the GDP as approved by DPWES at the time of building permit approval. The areas shall be subject to a public ingress egress easement recorded among the land records in a form as approved by the County Attorney.

Applicant/Title Owner of Tax Map 39-1 ((1)) 46

By: Eric H. Wyant
Eric H. Wyant

By: Joyce H. Wyant
Joyce H. Wyant

Applicant/Title Owner of Tax Map 39-1 ((1)) 49

By:  _____
David Young