

## PROFFERS

### GBI CORPORATION

RZ 2004-MV-019

January 3, 2005

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, the owners and GBI Corporation (hereinafter referred to as the "Applicant"), for themselves, their successors and assigns in RZ 2004-MV-019, filed for property identified as Tax Map reference 89-3 ((1)) 20 and 21A (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the R-3 District in conjunction with a Generalized Development Plan (GDP) for residential development. If accepted, these proffers shall replace and supersede any previous proffers approved on the Application Property.

#### 1. GENERALIZED DEVELOPMENT PLAN –

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the GDP, entitled "Deavers Property," consisting of eight sheets prepared by Christopher Consultants, dated March 3, 2004, and revised through November 3, 2004.
- b. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications to the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plan submission based on final house locations, building footprints, and utility locations, provided that they are in substantial conformance with the GDP, and there is no decrease to the amount of open space, tree save, limits of clearing and grading, or distances to peripheral lot lines as dimensioned on the GDP. Substantial modifications to the GDP, as determined by the Zoning Administrator, shall require an amendment to these proffered conditions which may result in a reduction of the number of dwelling units shown on the GDP.

#### 2. TRANSPORTATION –

- a. Applicant shall construct a concrete sidewalk, a minimum of four (4) feet wide, within the proposed residential development as shown on the GDP, and extend said sidewalk along Paige Glen Avenue to connect with the existing sidewalk along Adrienne Glen Avenue.

- b. Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications described herein and as may be reasonably required by Fairfax County or VDOT whether such dedications occur prior to or at time of subdivision plan approval.
- c. Driveways shall have a minimum length of eighteen (18) feet measured from the property line to the face of the garage door.
- d. Applicant shall remove the existing pavement of the temporary cul-de-sac at Paige Glen Court and re-seed the area when the connection shown on the GDP is made to the Application Property.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as generally shown on the GDP, in accordance with the recommendations of the Urban Forest Management Branch. A detailed landscaping plan shall be submitted as part of the subdivision plan submission. New tree plantings shall be comprised of at least ninety percent (90%) of trees that are native or desirable species, as determined by the Urban Forest Management Branch, for which the Applicant shall receive additional tree cover credit pursuant to the Public Facilities Manual.
- b. A tree preservation plan shall be submitted as part of the subdivision plan submission. 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, reviewed and approved by the Urban Forest Management Branch. 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 greater than twelve (12) inches in diameter (DBH) and within twenty (20) feet of the limits of clearing and grading as shown on the GDP. The tree survey shall also include areas of clearing and grading not shown on the GDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. 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 maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and other as necessary, shall be included in the plan and provided as determined necessary by the Urban Forest Management Branch. Any tree preservation requirements that are proposed to occur off-site shall be subject to the receipt of permission from the affected property owner. If said permission is not granted after reasonable efforts to obtain, as demonstrated to DPWES, then the off-site tree preservation activities described herein shall not be required.

- c. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing a minimum of four (4) feet in height to be placed at the dripline of the trees to be preserved. Tree protection fencing in the form of a four (4) foot high, fourteen (14) gauge welded wire fence attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, shall be erected at the final limits of clearing and grading as shown on the demolition, and erosion and sediment control sheets. Tree protection fencing shall be extended along the limits of clearing and grading. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. A certified arborist shall monitor the installation of the tree protection fencing, except super silt fence, and verify in writing that the tree protection fence has been properly installed. Three (3) days prior to commencement of any clearing and grading, the Urban Forest Management Branch shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. Super silt fence may be substituted for tree protection fences where applicable, subject to the approval of DPWES.
- d. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forest Management Branch representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time, and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal at the edge of the limits of clearing and grading or within the tree preservation area, shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees.
- e. The demolition of existing features and structures shall be conducted in a manner that minimizes the impact on individual trees and groups of trees to be preserved as approved by the Urban Forest Management Branch.
- f. Applicant shall place Parcel E, as shown on the GDP, within a conservation easement that prohibits any clearing or grading; the installation of structures or fencing; and the removal of trees, except those that are dead, dying or diseased, or pose a hazard. Said easement shall be recorded among the land records of Fairfax County in a form approved by the County Attorney and shall run to the benefit of the Fairfax County

Board of Supervisors and the homeowners' association established for the residential community.

4. PARKS AND RECREATION -

Prior to subdivision plan approval, the Applicant shall contribute the sum of Fifteen Thousand Six Hundred and Thirty-five Dollars (\$15,635.00) to the Fairfax County Park Authority for recreational facilities located in the vicinity of the Application Property.

5. STORMWATER MANAGEMENT - BEST MANAGEMENT PRACTICES -

a. The Applicant shall provide on-site stormwater management and Best Management Practices facilities as shown on the GDP to satisfy detention and water quality requirements in accordance with the requirements of the Public Facilities Manual, DPWES, and Chapter 118 of the Fairfax County Code (the Chesapeake Bay Preservation Ordinance). Applicant may utilize alternative measures, including innovative BMPs, as supplemental designs at time of subdivision plan submission, subject to the approval of DPWES and the Urban Forest Management Branch. Any minor deviations to the location and size of the proposed facilities shall not result in any additional clearing and grading of the Application Property beyond the limits of clearing and grading shown on the GDP.

b. In order to restore, as nearly as practicable, a natural appearance to the proposed stormwater management pond, the landscape plan submitted as part of the first and all subsequent submissions of the subdivision plan shall show the restrictive planting easement for the pond and the maximum feasible amount of landscaping that reasonably will be allowed in the planting areas of the pond outside of that restrictive planting easement, in keeping with the planting policies of Fairfax County. The Applicant shall install said landscaping in accordance with said plan, subject to DPWES and Urban Forest Management Branch approval.

6. AFFORDABLE HOUSING -

At the time of first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund of 0.5% of the estimated sales price of each single family dwelling actually constructed. The amount of said contribution shall be determined by the Department of Housing and Community Development.

7. DESIGN -

a. Applicant shall design the residential dwellings on the Application Property in either a traditional brick front colonial or arts and crafts style. Front façade materials shall include brick, and/or cementitious or wood siding (not vinyl or aluminum) and/or stone. The side and rear elevations of those units visible from Sydenstricker Road (proposed Lots 2, 3, 7, 8 and 9) shall be composed of the same materials as the front

façade as required by this proffer. Additionally, window trim on the side and rear elevations of said lots shall be the same as the wood trim on the front elevation, and the roof overhang on the side and rear elevations of said lots shall be at least the same as on the front elevation. Final designs shall be selected by the Applicant upon the submission of architectural drawings for building permits. A two-car garage shall be provided for each residential dwelling.

- b. All homes constructed on the Application Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES, for either electric or gas energy systems.
- c. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Prospective purchasers shall be advised in writing by the Applicant of the use restriction prior to entering into a contract of sale; and this restriction shall be included in the homeowners' association documents.
- d. Applicant shall construct retaining wall as shown on the GDP of wood timbers.

8. NOISE ATTENUATION –

- a. In order to reduce interior noise to a level of approximately DNL 45 dBA, residential dwellings constructed on proposed Lots 2, 3, 7, 8 and 9 and impacted by highway noise having levels between 65 and 75 dBA Ldn, which shall be annotated on the subdivision plan, shall employ the following acoustical treatment measures:
  - i. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.
  - ii. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitute more than 20 percent of any façade exposed to noise levels of DNL 65 dBA or above. If doors, windows and other glazed areas constitute more than 20 percent of an exposed façade, then the glazing of such features shall have an STC rating of at least 45.
  - iii. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials to minimize sound transmission.
- b. Applicant shall install a solid wood fence no less than six (6) feet in height and flush to the ground with no gaps to reduce exterior noise within rear yards to

approximately DNL 65 dBA. The location of the fence as shown on the GDP may be subject to modification based on final engineering. Notwithstanding that shown on the GDP, the fence shall extend along the entire Sydenstricker Road frontage including that area adjacent to the proposed stormwater management pond.

- c. Applicant reserves the right to pursue other methods of mitigating highway noise impacts that can be demonstrated prior to the filing of a building permit, through an independent noise study as reviewed and approved by DPWES, provided that these methods will be effective in reducing interior noise levels to approximately DNL 45 dBA, and exterior noise within rear yards to approximately DNL 65dBA for proposed Lots 2, 3, 7, 8 and 9.

9. HERITAGE RESOURCES –

Prior to any land disturbing activities on that property identified among the Fairfax County tax records as 89-3 ((1)) 21A (“Lot 21A”), Applicant shall conduct a Phase I archaeological study of the Application Property, and provide the results of such studies to the Heritage Resources Branch of the Fairfax County Park Authority (“Heritage Resources”). If deemed necessary by Heritage Resources, the Applicant shall conduct a Phase II and/or Phase III archaeological study on only those areas of the Application Property identified for further study by Heritage Resources. The studies shall be conducted by a qualified archaeological professional approved by Heritage Resources, and shall be reviewed and approved by Heritage Resources. The studies shall be completed prior to subdivision plat recordation.

10. MISCELLANEOUS -

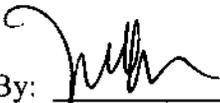
- a. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.
- b. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.
- c. The Applicant shall establish a homeowners’ association for the proposed development to own, manage and maintain Parcels A, B and E as shown on the GDP. Maintenance obligations associated with Parcels A, B and E, and common driveway maintenance that is specific and limited to the owners of proposed Lots 2 and 3, shall be disclosed to contract purchasers of residential units within the proposed development prior to entering into a contract of sale, and shall be disclosed in the homeowners’ association documents prepared for the Application Property. Maintenance obligations specific to the owners of proposed Lots 2 and 3 shall include the requirement that the common driveway is kept in good and reasonable repair.

- d. Applicant shall convey Parcels C and D, as shown on the GDP, to adjacent property owners (property identified among the Fairfax County tax map records as 89-3 ((17)) 14 and 13, respectively) or to the homeowners' association, as determined by the Applicant, subsequent to subdivision plat approval. No density associated with Parcels C and D shall be applied to the density calculations shown on the GDP. Minor modifications to the boundaries of Parcels C and D shown on the GDP may be permitted prior to final approval of the subdivision plat so long as the area allocated to each parcel is not changed, and the minimum setback of fifteen (15) feet between the house located on proposed Lot 14 and Parcel C, and between the house located on proposed Lot 15 and Parcel D, is not decreased.
- e. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which 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 to assist in the initial sale of homes on the Application Property. Furthermore, the agents and employees involved in the marketing and sale of the residential units on the Application Property shall be directed to adhere to this proffer.
- f. All lighting shall be in conformance with Part 9, Article 14 of the Zoning Ordinance.
- g. Applicant shall contribute the sum of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) to the Fairfax County Board of Supervisors for capital improvements to schools located in the vicinity of the Application Property. Said contribution shall be payable prior to subdivision plan approval for the Application Property.
- h. All of the improvements described herein shall be constructed concurrent with development of the Application Property.

***[SIGNATURES BEGIN ON THE FOLLOWING PAGE]***

APPLICANT/CONTRACT PURCHASER:

GBI CORPORATION

By:   
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Frank S. Gordon, President

***[SIGNATURES CONTINUED ON NEXT PAGE]***

RZ 2004-MV-019

TITLE OWNER:  
TAX MAP 89-3 ((1)) 20 AND 21A

A handwritten signature in cursive script, appearing to read "Cheryl M. Lamneck". The signature is written in black ink and is positioned above a horizontal line.

CHERYL M. LAMNECK

*[SIGNATURES CONTINUE ON NEXT PAGE]*

RZ 2004-MV-019

TITLE OWNER:

TAX MAP 89-3 ((1)) 20 AND 21A

ESTATE OF DANNY M. DEAVERS

*Denell Deavers Administratrix*  
DENELL DEAVERS, ADMINISTRATRIX

**[SIGNATURES END]**