

PROFFERED CONDITIONS
Bellapais Rezoning
RZ-2004-MV-035

June 26, 2005

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners (the "Owners") and applicant (the "Applicant") in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference 102-4-((1))-72 (hereinafter referred to as the "Property") will be in accordance with the following proffered conditions (the "Proffered Conditions") if, and only if, said Rezoning request for the Residential-Estate (RE) Zoning District is granted. In the event said application request is denied, these Proffered Conditions shall be null and void. The Owners and the Applicant, for themselves, their successors and assigns, agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Uses on the property shall be subject to the Proffered Conditions, provisions of Article 18 of the Zoning Ordinance and the Bellapais Rezoning Plat prepared by R.C. Fields, Jr. & Associates dated February 3, 2004 and revised through May 1, 2005.

2. Maximum Density and Permitted Uses. The uses permitted shall be consistent with those allowed under the RE Zoning District which may include Special Exception (SE) or Special Permit (SP) uses with Board of Supervisors or Board of Zoning Appeals approval

as well as review and approval by the Virginia Outdoors Foundation. Any such proposal for a RE Zoning District SE or SP use would be required to be harmonious with the surrounding low density residential uses and would be considered on an individual basis and evaluated against the specific details provided at that time. This proffer does not waive the Applicant's right to apply for any future SE or SP uses associated with the RE Zoning District. Such future uses could include but are not limited to: a cultural center to present cultural, scientific or academic material or lectures to the general public as a non-profit enterprise or partnership; a museum for the acquisition, preservation, study and exhibition of works or artistic, historical or scientific value; lodging for academic scholars; a sculpture park; a home office; a non-profit office or an accessory dwelling unit. Any such alternative SE or SP uses shall be in conformance with the Virginia Outdoors Foundation Easement (VOF) as described in Proffer #4. Alternative uses for the subject property, with the exception of an accessory dwelling unit, parking and garden area for a sculpture park, would be limited to be internal to the buildings allowed under these proffered conditions without alteration of the external appearance of the same.

The maximum residential density may not exceed two single family dwelling units for the entire property. There is currently one single family dwelling unit on the subject property. A second dwelling unit and associated accessory structures may be located anywhere on the subject property subject to applicable zoning regulations including setbacks. The second dwelling unit may be constructed only by either of the Applicants, Leander McCormick-Goodhart or Henrietta McCormick-Goodhart Burke. The final location, size and lot area of the second dwelling unit shall be determined at the time of site plan submission and approval by DPWES, and must satisfy all applicable ordinances and regulations.

3. Accessory Uses. Accessory uses as permitted in accordance with Article 10 of the Zoning Ordinance for the existing dwelling unit are permitted outside of the area identified as the "Protected Viewshed Area" on the Bellapais Rezoning Plat prepared by R.C. Fields, Jr. & Associates dated February 3, 2004 and revised through May 1, 2005. Such accessory uses could include servants quarters, caretakers quarters or a guest house.

4. Open Space Easement. The Applicant acknowledges that the property is encumbered by an easement with the Virginia Outdoors Foundation (the "VOF Easement") to preserve the land primarily as open space. All permitted uses on the property shall be in substantial conformance with the VOF Easement.

5. Energy Conservation. If a second single family dwelling is constructed on the Property, it shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent as determined by Department of Public Works and Environmental Services (DPWES) for either gas or electric energy systems, as may be applicable.

II. ENVIRONMENTAL

6. Tree Preservation. The Applicant shall submit a tree preservation plan if a second dwelling unit is constructed in the vicinity of the area to be disturbed. 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 for the review and approval of the Urban Forest Management.

7. Tree Survey. 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 ten (10) inches in diameter measured four and one-half (4 ½) feet from the

ground, for the area to be disturbed for the construction of a second dwelling unit. The condition analysis rating 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.

8. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or landscape architect and shall have the limits of clearing and grading for the area around the second dwelling unit 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 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 not likely to survive construction due to their species and/or proximity of disturbance will also be identified at this time and the Applicant shall also be given the option of removing them as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading or within tree preservation areas 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 adjacent trees.

9. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing consisting of four foot high, 14 gauge welded wire attached to six foot steel post driven 18

inches into the ground and placed no further than ten feet apart shall be erected at the limits of clearing and grading for the tree save and protection areas identified. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures within or adjacent to tree save areas. The installation of all tree protection fencing 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 Forest Management shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed.

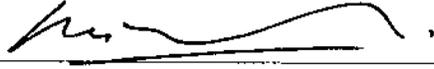
10. Heritage Resources. Prior to any land disturbing activities for the construction of a second dwelling unit on the Application Property, the Applicant shall conduct a Phase I archaeological study on those areas to be disturbed. The results of such study shall be provided to the Heritage Resources Branch of the Fairfax County Park Authority ("Heritage Resources"). The study shall be conducted by a qualified archaeological professional approved by Heritage Resources. If the Phase I study concludes that significant artifacts are present on the Application Property, Heritage Resources shall notify the Applicant, in writing within thirty (30) days of the submission of the study results to Heritage Resources, of its desire to conduct additional investigations. The Applicant shall provide access to the Application Property so that Heritage Resources may conduct additional investigations for a period of two months from the date of notification provided that said investigations shall not interfere with the proposed construction and development schedule of the Application Property. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and Heritage Resources.

11. Environmentally Sensitive Areas. A second dwelling unit shall not be located within the Resource Protection Area located on the subject property.

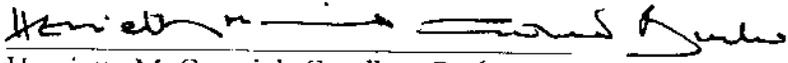
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These Proffered Conditions may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.

Leander McCormick-Goodhart
Title Owner of Tax Map No. 102-4-((1))-72

Signature By: 
Name: Leander McCormick-Goodhart

Henrietta McCormick-Goodhart Burke
Title Owner of Tax Map No. 102-4-((1))-72

Signature By: 
Name: Henrietta McCormick-Goodhart Burke