

## PROFFERS

### MOORE'S HAMLET

RZ 95-Y-031

NOVEMBER 7, 1996

Pursuant to Section 15.1-491(a), Code of Virginia, 1950 as amended, William J. McMenamin, the applicant in RZ 95-Y-031, filed for property identified as Tax Map 55-3 ((3)) 25, 25A, 26, 27A and 34B (hereafter referred to as the "Application Property") agrees to the following proffers, provided that the Board of Supervisors approves the rezoning of the Application Property to the R-3 Cluster District.

1. Generalized Development Plan. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan ("GDP"), prepared by Rinker-Detwiler & Associates, P.C. dated April, 1996, and revised through October 4, 1996 consisting of two (2) sheets.
2. Minor Modifications. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the internal lot lines of the proposed subdivision at time of subdivision plan submission based on final house locations and building footprints provided such changes are in accordance with the GDP.
3. Clifton Road.
  - a. Subject to Virginia Department of Transportation (VDOT) and Department of Environmental Management (DEM) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way in accordance with Fairfax County Project No. 64151 along the Application Property's frontage of Clifton Road as shown on the GDP and will convey all slope, grading or temporary construction easements requested by either Fairfax County or VDOT provided said easements do not prevent development of the Application Property as proffered. Dedication shall be made at time of recordation of the final subdivision plat or upon demand from Fairfax County, whichever occurs first.
  - b. The Applicant shall contribute \$1,735.00 per residential unit towards the improvements to Clifton Road- Fairfax County Project No. 64151. This contribution shall not apply to the existing dwellings and shall be paid at the time of subdivision plan approval. Using the Board of Supervisors' approval date of the rezoning application as the base date, the payment amount shall be adjusted in accordance with the Construction Cost Index changes as published in the *Engineering News Record*

by McGraw-Hill at the time of payment. This contribution shall be made in lieu of actual improvements to Clifton Road.

4. Moore Road.
  - a. Dedication. Subject to VDOT and DEM approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of twenty-six (26) feet for the existing centerline along the Application Property frontage of Moore Road as shown on the GDP. Dedication shall be made at time of recordation of the final subdivision plat or upon demand from Fairfax County, whichever occurs first.
  - b. Construction. The Applicant shall construct frontage improvements to Moore Road measuring 19 feet from centerline within the dedicated right-of-way, as shown on the GDP.
5. Density Credit. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be reasonably required by Fairfax County or VDOT at time of subdivision plan approval.
6. Stormwater Management. The Applicant shall provide stormwater management (SWM) and best management practices (BMPs) in accordance with the requirements of the Public Facilities Manual and the Chesapeake Bay Preservation Ordinance unless waived by DEM. The SWM/BMP dry pond shall be constructed in the general location as shown on the GDP. In the event the SWM/BMP facility is waived by DEM, this area will be retained as open space. The Applicant shall provide landscaping consisting of evergreen trees around the stormwater management/BMP facility in order to provide a landscape buffer adjacent to the residential units and Clifton Road, subject to approval by DEM and VDOT.
7. Limits of Clearing and Grading. The Applicant shall conform to the limits of clearing and grading as shown on the GDP.
8. Landscape Plan. For the purposes of maximizing the preservation of trees on individual lots, the Applicant shall retain an arborist certified by the International Society of Arboriculture to consult on the preparation of a tree preservation/landscape plan. The tree preservation/landscape plan shall be submitted as part of the final subdivision plan and house location plans and shall be coordinated with and approved by DEM. This plan shall provide for the preservation of specific quality trees or stands of trees located on individual lots which can be preserved without precluding the development of a typical home on each of the lots as shown on the GDP. DEM may require modifications to the landscape plan to the extent said modifications do not alter the number of dwelling units as shown on the GDP, reduce the size of the units or require the installation of retaining walls greater than four feet in height.

Subject to the approval of the Urban Forester/DEM, the Applicant shall perform the following measures relating to tree preservation on the property:

- Perform a pre-construction evaluation of the existing vegetation to determine the condition of the trees designated to be saved.
- The trees designated to be saved shall be marked on the ground with a filter fabric fence or equivalent demarcation prior to clearing and grading and at all times during construction. Signage affirming "restricted access" shall be provided on the temporary fence highly visible to construction personnel. The arborist contracted by the Applicant shall monitor the construction of the proposed development to ensure consistency with the landscape/tree preservation plan.
- In addition, where it is determined feasible, adjustments to the proposed grading and location of the proposed units on the application property may be modified at time of final engineering to enhance specific tree preservation.

As a result of final engineering in the event the areas designated as tree save areas on the GDP are modified or cannot be preserved, equivalent tree save areas or equivalent landscaped areas shall be substituted on the site as determined by DEM.

The Applicant, shall identify specific existing quality trees on the Application Property that may be good candidates for transplantation if determined feasible by the certified arborist contracted by the Applicant in consultation with the Urban Forester/DEM.

9. Heritage Resources.

- a. Prior to any land disturbing activities, the Applicant shall have a Phase I archeological study of the property conducted which shall be submitted to the County Archeologist.
- b. If the Fairfax County Park Authority concludes that a Phase II and/or Phase III archaeological study is warranted, the Applicant shall retain an archeological consultant to perform such study(ies) up to a maximum total amount of \$5,000 . This time period may be extended if mutually agreed to by the Applicant and Heritage Resources.

10. Asbestos. If DEM, in coordination with the Air Pollution Control Division of the Health Department and with the Soil Science Office, determines that a potential health risk exists caused by the presence of rock containing asbestos on the Subject Property, the Applicant shall:

- a. Take appropriate measures as determined by the Health Department to alert all construction personnel to this potential health risk.

- b. Commit to appropriate construction techniques, as determined by DEM, in conjunction with the Air Pollution Control Division and with the Soil Science Office, to minimize this risk. Such techniques may include, but are not necessarily limited to, dust suppression measures during all blasting and drilling activities, covered transportation of removed materials presenting this risk and appropriate disposal of removed materials presenting this risk.
11. Noise. In order to achieve a maximum interior noise level of 45 dBA Ldn within that area impacted by highway noise from Clifton Road having levels between 65 and 70 dBA Ldn noise contours, which is within 145 feet of the existing centerline of Clifton Road, the Applicant shall construct the proposed dwelling units with the following acoustical measures to mitigate the impact of highway noise:

Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 39 for exterior walls;

Doors and windows shall have laboratory STC rating of at least 28. If windows constitute more than 20 percent of any facade, they should have the same laboratory STC rating for walls.

Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

In order to achieve a maximum interior noise level of 45 dBA Ldn within that area impacted by highway noise from Clifton Road having levels between 70 and 75 dBA Ldn noise contours, which is within 65 feet of the existing centerline of Clifton Road, the Applicant shall construct the proposed dwelling units with the following acoustical measures to mitigate the impact of highway noise:

Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 45 for exterior walls;

Doors and windows shall have laboratory STC rating of at least 37. If windows constitute more than 20 percent of any facade, they should have the same laboratory STC rating as walls.

Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

In order to achieve a maximum exterior noise level of 65 dBA Ldn in rear yards of the proposed dwelling units, noise attenuation measures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those rear yards and that are unshielded

by topography or built structures. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings (except where necessary to provide for a gate, drainage or utilities, as determined by DEM). The structures employed shall be of sufficient height to adequately shield the impacted area from the source of noise, as determined by DEM.

As an alternative, the Applicant may, at its sole discretion, have a refined acoustical analysis performed to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above, subject to approval by DEM.

Nothing herein shall be construed to restrict or otherwise limit the use of decks, balconies or patios and all other permitted accessory uses on residential units.

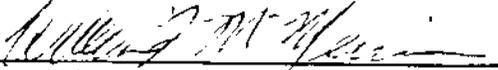
This noise proffer shall not apply to the existing dwellings which are to be retained.

12. Buffer. The Applicant shall provide a buffer along the southern, western and portion of the northern property lines as shown on the GDP. This buffer area shall consist of existing vegetation to remain undisturbed. A conservation easement in a form approved by the County Attorney shall be recorded on the buffer, to run for the benefit of the homeowners association which shall provide for this buffer to remain in undisturbed open space as it currently exists upon recordation of the record plat. The easement will allow for the removal of dead, dying or diseased vegetation as determined by DEM.
13. Existing Dwellings. The Applicant reserves the flexibility to replace the existing dwellings with new dwellings if determined necessary by the Applicant in the future. The location of the new dwelling(s) may vary from the location of the existing dwellings.
14. Lot 9. The Applicant has applied for a variance from the Board of Zoning Appeals (BZA) to permit a reduction in the rear yard requirement for the existing dwelling located on Lot 9. In the event the variance application is not approved by the BZA, the Applicant shall modify the existing dwelling or construct a new dwelling to satisfy the required rear yard setback.
15. Affordable Housing. At the time of final subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one percent (1%) of the projected sales price of the house to be built on each lot to assist Fairfax County's low and moderate income housing goals. The projected sales price shall be determined by the applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development (HCD) and the Department of Environmental Management (DEM). This contribution shall not apply to the existing dwellings. The timing and amount of this contribution may be modified at the Applicant's sole option based on the adoption of a future amendment to the formula adopted by the Board of Supervisors.

16. Architecture. The architecture of the proposed dwelling units shall be generally compatible with the existing homes in the surrounding area, which are generally traditional-style with materials such as, but not limited to, brick and/or siding.
17. Fairfax County Park Authority. At the time of subdivision plan approval, the Applicant shall contribute \$200.00 per dwelling unit towards offsite recreational facilities in the vicinity of the application property. This contribution shall not apply to the existing dwellings. Using the Board of Supervisors' approval date of the rezoning application as the base date, the payment amount shall be adjusted in accordance with the Construction Cost Index changes as published in the *Engineering News Record* by McGraw-Hill at the time of payment.
18. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.
19. Counterparts. 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.

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APPLICANT/TITLE OWNER OF TAX MAP  
55-3 ((3)) 26, 27A

By:   
William J. McMenamin

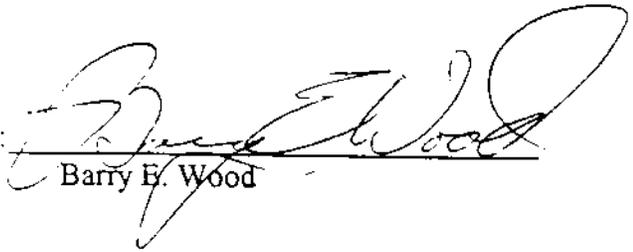
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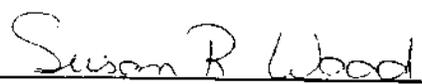
TITLE OWNER OF TAX MAP 55-3 ((3))  
27A:

By: Jack W. Carney  
Jack W. Carney

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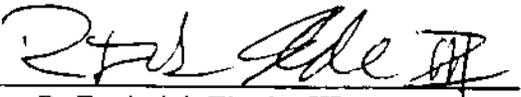
TITLE OWNER OF TAX MAP 55-3 ((3))  
34B:

By:   
Barry E. Wood

By:   
Susan R. Wood

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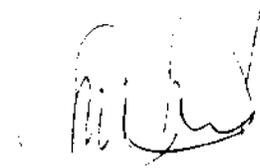
TITLE OWNER OF TAX MAP 55-3 ((3))  
25A:

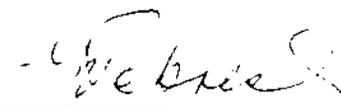
By:   
R. Frederick Eberle, III

By:   
Valerie K. Eberle

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TITLE OWNER OF TAX MAP 55-3 ((3)) 25:

By:   
Omar B. Febres

By:   
Adela J. Febres

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