

PROFFERS

RZ 95-V-046

October 27, 1997

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OFFICE OF COMPREHENSIVE PLANNING

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ZONING EVALUATION DIVISION

Pursuant to Section 15.1-491(a), Code of Virginia, 1950 as amended, Richard H. Carter, Donald Reiser and Irma B. Reiser, (hereinafter referred to as the "Applicants"), the Applicants in RZ 95-V-046 , filed for property identified on the Fairfax County tax map as 107-1-((1))-3 and 4 (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R-1 Zoning District to the R-20 Zoning District, in conjunction with a Generalized Development Plan (GDP) for residential development.

1. GENERALIZED DEVELOPMENT PLAN (GDP) -

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the GDP, prepared by VIKA, Inc., dated August 11, 1995, and revised through September 22, 1997.
- b. Pursuant to Section 18-204, minor deviations from the GDP may be permitted as determined by the Department of Environmental Management (DEM). The Applicants shall have the flexibility to modify the building footprints shown on the GDP, and make other minor modifications without requiring approval of an amended GDP, provided such modifications are in substantial conformance with the GDP as determined by the Zoning Administrator, agents or assigns.
- c. Applicants shall construct residential dwelling units of a quality consistent with the conceptual elevation shown on Sheet 6 of the GDP as determined by DEM. Applicants reserve the right to make modifications to the proposed residential dwelling units as a result of final design and construction issues as long as the general character of the elevation is maintained.
- d. Applicants shall utilize the Virginia Energy Saver Homes Package or equivalent energy conservation technique features in the development of the proposed residential dwelling units.

2. TRANSPORTATION -

- a. Applicants shall dedicate and convey in fee simple to the Board, property owned by the Applicants of varying width from the centerline of existing Silverbrook Road

along the Application Property's frontage, as shown on Sheet 2 of the GDP. Dedication shall be made at time of site plan approval or upon demand from Fairfax County, which ever shall first occur.

- b. Applicants shall construct full frontage improvements to Silverbrook Road as shown on the GDP within the dedicated right-of-way as shown on the GDP, as approved by DEM and VDOT. Improvements shall be constructed concurrent with development of the Application Property in accordance with an approved site plan. Improvements shall consist of:
 - (i) Construction of curb and gutter along the Applicant Property's Silverbrook Road frontage in final location for a four lane divided roadway with turn lanes. Design shall include an appropriate taper to existing roadway and construction of an interim concrete median, if approved by VDOT, to maintain a single lane for north bound traffic as shown on the GDP.
 - (ii) Widening of Silverbrook Road with an ultimate curb location for four lane section and the provision of interim left and right turn lanes into northern entrance.
 - (iii) Construction of a four (4) foot concrete sidewalk within the dedicated right-of-way as shown on the GDP.
- c. Applicant reserves density credit in accordance with the provision of 2-308 of the Zoning Ordinance as it may apply to all street dedications described herein or as may be reasonably required by Fairfax County or VDOT at time of site plan approval.
- d. Applicants shall install a bus shelter along the Application Property's frontage as shown on the GDP. Final location of bus shelter shall be determined in coordination with the Office of Transportation. Installation shall be completed prior to the issuance of the final residential use permit issued for the Application Property.
- e. When and if the proposed residential dwellings are sold as condominiums, written notice shall be given to all purchasers of individual units that the Application Property's street system shall be owned and maintained by the homeowners'/ condominium association.
- f. Applicants shall contribute the sum of Four Hundred Dollars (\$400.00) per market residential dwelling unit shown on the approved site plan to Fairfax County at time of site plan approval. The contribution shall be applied to transportation

improvements in the area in accordance with the policies of the adopted Comprehensive Plan. Applicants shall be permitted to reduce the amount of the contribution in consideration of the improvements described in proffer 2.b. above which are in excess of those frontage improvements reasonably contemplated in the development of a residential community adjacent to a planned four lane undivided roadway. Costs credited to the Applicants shall include additional work to complete full frontage improvements requested by the Office of Transportation and/or VDOT and additional work to complete the roadway beyond the centerline shown on the GDP. Costs shall be based on estimates prepared by Applicants' engineer utilizing Fairfax County's bond estimate standards.

- g. The Applicants shall make reasonable efforts to acquire off-site property not encumbered by a prescriptive easement of approximately 374 square feet and identified among the Fairfax County tax map records as 107-2 ((1)) Part 36 (the "Property") for the construction of improvements to Silverbrook Road as shown on the GDP. The Office of Transportation has determined that acquisition of the Property is preferable to designing around the Property. In the event the Applicants are not able to reasonably acquire the Property, Applicants shall submit a written request to the Fairfax County to acquire the Property by means of its condemnation powers. In conjunction with such request, the Applicants shall forward to the appropriate County agency: (1) plats, plans and profiles showing the necessary right-of-way and/or easements to be acquired; (2) an appraisal, prepared by an independent appraiser approved by the County, of the value of the Property to be acquired and of all damages, if any, to the residue of the Property; (3) a sixty (60) year title search certificate of the Property to be acquired; and (4) cash in an amount equal to the appraised value of the Property and of all damages to the residue. In the event the owner of the Property is awarded more than the appraised value of the Property and of the damages to the residue in a condemnation suit, the amount of the award in excess of cash amount shall be paid to the County by the Applicant within fifteen (15) calendar days of said award. It is understood that all other costs incurred by the County in acquiring the Property shall be paid to the County by the Applicants upon demand. In the event that the County does not formally initiate, by Board of County Supervisors' resolution authorizing such action, acquisition of the aforesaid Property by means of its condemnation powers within three hundred sixty five (365) days following the date of Applicants' submission of its condemnation request to the County, and thereafter diligently pursue such condemnation to completion, the cash shall be returned to the Applicants, and the Applicants shall have no further obligations to obtain the Property under this paragraph g. The Applicants shall be responsible only for the construction of Silverbrook Road improvements that can be accommodated within the existing and dedicated right-of-way, including a redesign

of the proffered improvements to Silverbrook Road to exclude the Property. Prior to and during the contemplated condemnation proceedings described above, the Applicants, their successors and assigns, shall be permitted to submit and process a site plan(s) to approval. Applicants shall be permitted to submit a separate public improvement plan(s) for the Application Property to construct the improvements to Silverbrook Road as shown on the GDP.

3. PARKS AND RECREATION -

- a. Applicants shall construct a community room and wading pool as shown on the GDP to provide on-site recreation facilities. Improvements shall be constructed concurrent with the development of the Application Property.
- b. Applicants shall contribute the sum of Ten Thousand Dollars (\$10,000.00), as adjusted yearly in accordance with the Consumer Price Index for inflation from the date of rezoning approval, to the Fairfax County Park Authority to acquire/develop/maintain park and recreation facilities in a nearby park to serve the residents of the proposed development. Said contribution shall be made at time of site plan approval.

4. LANDSCAPING AND OPEN SPACE -

- a. Applicants shall provide landscaping on the Application Property using a combination of existing and proposed landscaping as shown on the GDP. Landscaping along the Application Property's Silverbrook Road frontage shall include installation of a berm from six (6) to eight (8) feet in height as shown on Sheet 6 of the GDP. Said berm may vary in height given constraints of final grading and building placement. Applicants shall install landscaped berm concurrent with development of Application Property.
- b. Applicants shall install a six (6) foot high solid wood fence on the Application Property along the southern property line as shown on the GDP. Applicants shall install said fence subsequent to clearing and grading of the Application Property, but prior to construction of proposed residential dwelling units. Said fence shall be owned and maintained by the homeowners'/condominium association established for the Application Property.
- c. Applicants shall provide supplemental landscaping, including a landscaped berm, on the Application Property and on the adjacent property to the south in the existing

transitional yard as shown on Sheet 6 of the GDP if appropriate permission and easements are granted by the adjacent property owner. Applicants shall install said landscaped berm subsequent to clearing and grading of the Application Property, but prior to construction of proposed residential dwelling units. Any diseased, dying, or dead landscaping shall be replaced by the Applicants for a period of one (1) year from installation and up until bond release.

5. AFFORDABLE HOUSING -

- a. Applicants shall designate affordable dwelling units at time of site plan approval as required by Article 2 of the Zoning Ordinance. The number of affordable dwelling units to be provided may be reduced based on the adoption of future amendments to Article 2 of the Zoning Ordinance. Applicants reserve the right to submit a site plan revision if such an amendment is adopted subsequent to the site plan approval for the Application Property.
- b. Affordable dwelling units shall be distributed, as feasible in consideration of building design, throughout the Application Property. In no event shall all affordable dwelling units be located within a single building.

6. STORM WATER MANAGEMENT -

- a. Applicants shall provide storm water management in accordance with the requirements of Fairfax County at time of site plan approval in the locations as generally shown on the GDP. Storm water detention may be satisfied with the construction of a dry pond as generally shown on the GDP as determined by DEM. Storm water quality measures may be satisfied with the installation of two underground standard Fairfax County sand filters as generally shown on the GDP subject to the approval of DEM as referenced in the September 4, 1997 letter from DEM. Said facilities shall be constructed by the Applicants concurrent with the development of the Application Property and in accordance with the requirements of DEM and the Department of Public Works (DPW). Safety measures shall be provided for the location of said facilities in a residential area, as may be reasonably requested by DEM, at time of site plan approval.
- b. The proposed storm water management facilities, including the proposed sand filters, shall be maintained by the Applicants, their successors and assigns, in accordance with the regulations of DEM and DPW. Said maintenance responsibility shall be

incorporated in an agreement to be reviewed and approved by the Fairfax County Attorney's Office and recorded among the Fairfax County land records. Said agreement shall address the following issues:

- (i) Future replacement of facilities when warranted.
- (ii) County inspection and all other issues as may be necessary to ensure that the facilities are maintained in good working order.
- (iii) Liability insurance in an amount acceptable to Applicants and Fairfax County.
- (iv) Establishment of an initial fund by Applicants in the amount of \$2,000.00 for future maintenance/replacement.
- (v) Notice to purchasers of individual units that the facilities shall not be maintained by Fairfax County.
- (vi) Any requirements outlined in the DEM letter dated September 4, 1997 or which may result from negotiations in the agreement.
- (vii) The standards of maintenance.

7. ENVIRONMENTAL -

- a. The area designated as a proposed conservation easement on the GDP shall not be disturbed except for installation of a storm drainage outlet within an easement as shown on the GDP, as approved by DEM. Clearing and grading necessary for the easement shall be minimized, as determined by DEM, and the area shall be restored. The area of the proposed conservation easement shall be placed within a conservation easement at time of site plan approval or upon demand from Fairfax County, whichever shall first occur.
- b. Improvements and grading within the Resource Protection Area (RPA) buffer as shown on the GDP, and in accordance with an exception granted by DEM identified as waiver #O18025A shall be permitted subject to the provisions of that waiver. Applicants shall reforest disturbed areas in accordance with a landscape plan to be submitted to DEM concurrent with site plan submission. Indigenous vegetation shall be preserved to the maximum extent feasible and Applicants' landscape plan shall

incorporate a variety of native trees, shrubs and herbaceous plant materials to create a naturalistic and varied landscape as required by waiver #O18025A.

- c. Development of the Application Property shall conform with the limits of clearing and grading shown on the GDP, subject to modification for the installation of utilities lines, if necessary, as approved by DEM. If utility lines are located within the limits of clearing and grading, clearing and grading shall be minimized, as determined by DEM, and the area shall be restored.
- d. If required by DEM, a geotechnical report shall be submitted to DEM at time of site plan submission, and the recommendations of that report, as approved by DEM, implemented.

8. **NOISE ATTENUATION -**

- a. Applicants shall utilize building materials with characteristics to achieve a maximum interior noise level of 45 dBA Ldn. All residential units located between the 65-70 dBA Ldn highway noise impact contours which are within 140 feet from the centerline of Silverbrook Road should have the following acoustical attributes:
 - (1) Exterior walls shall have a laboratory STC rating of at least 39.
 - (2) Doors and windows shall have a laboratory STC rating of at least 28. If windows constitute more than twenty percent (20%) of any facade, they should have the same laboratory STC as walls.
 - (3) Measures to seal and caulk between exterior wall surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

As an alternative, the Applicants may submit to the Office of Comprehensive Planning (OCP) and DEM an acoustical engineering study which will specify those building materials to be used to ensure that building interior sound levels will not be in excess of 45 dBA Ldn within the above referenced areas. The study methodology shall be acceptable to OCP and implementation of the study shall be approved by OCP and DEM.

- b. In order to mitigate potential noise impacts for exterior recreation use of the Application Property, Applicants shall construct a landscaped berm along the

Application Property's Silverbrook Road frontage as shown on the GDP and as described herein.

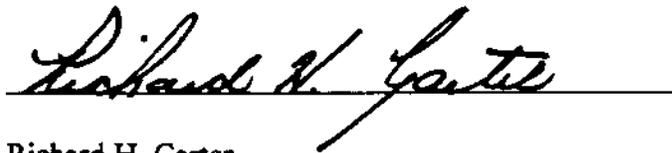
9. **HERITAGE RESOURCES -**

Prior to any land disturbing activities on the Application Property, Applicants shall conduct a Phase I archaeological study and, if necessary, Phase II and Phase III archaeological studies on the Application Property. The cost of said archaeological studies shall not exceed the sum of \$10,000.00. The studies shall be performed by a qualified archaeological professional approved by the Heritage Resources Branch of the Fairfax County Park Authority ("Heritage Resources"). The results shall be reviewed and approved by Heritage Resources.

10. **MISCELLANEOUS -**

Prior to executing any sales contracts for individual units, all prospective purchasers shall be informed in writing of the existence of the D.C. Correctional Facility and the location of available information on plans for the facility.

OWNER:

A handwritten signature in cursive script, reading "Richard H. Carter", is written over a solid horizontal line.

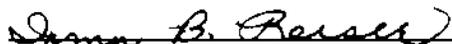
Richard H. Carter

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

OWNERS:



Donald Reiser



Irma B. Reiser

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3/14/96;7/2/97, 7/7/97, 7/31/97
8/6/97, 9/8/97, 9/23/97, 10/3/97, 10/8/97
10/13/97, 10/24/97, 10/27/97