

RZ-1998-SU-008 - FAIR LAKES CROSSING

PROFFER STATEMENT

APRIL 29, 1998

JUNE 3, 1998

JUNE 10, 1998

JUNE 29, 1998

JUNE 30, 1998

JULY 13, 1998

Pursuant to Section 15.2-2303A of the Code of Virginia, as amended, and subject to the Board of Supervisors' approval of rezoning application RZ-1998-SU-008, as proposed for rezoning from the R-1 and WS Districts to the PDH-3 and WS Districts, Stringfellow Development L.C. (the "Applicant"), for its successors and assigns, proffers that development of Tax Map Parcel 55-1-((2))-33 and Tax Map Parcels 55-1-((3))-C,-D,-9A,-13,-15,-18A,-18B,-19, and -19A and a portion of the unimproved right-of-way of Herbert Road (the "Property") shall be developed in accordance with the following proffered conditions:

1. Substantial Conformity. The Property shall be developed in substantial conformance with the Conceptual Development Plan and Final Development Plan ("CDP/FDP") consisting of two (2) pages prepared by Dewberry and Davis, entitled Fair Lakes Crossing, dated February 5, 1998, revised through June 10, 1998 and as further modified by these proffered conditions.
2. Final Development Plan Amendment. Notwithstanding that the CDP/FDP consists of two (2) sheets and said CDP is the subject of Proffer 1 above, it shall be understood that (i) the CDP shall consist of the entire plan relative to the general layout, points of access, the maximum number and types of units, streets and open space, and (ii) the Applicant has the option to request a Final Development Plan Amendment ("FDPA") from the Planning Commission in accordance with Section 16-402 of the Zoning Ordinance with respect to the remaining elements.
3. Minor Modifications. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the approved FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the FDP provided such changes are in substantial conformance with the CDP/FDP and proffers and do not increase the total number of units or decrease the minimum amount of open space.

4. Maximum Density. A maximum of 96 single family detached dwelling units and the number of affordable dwelling units required by Section 2-800 of the Zoning Ordinance not to exceed a maximum of 14 affordable dwelling units, shall be permitted on the Property. The Applicant reserves the right to develop fewer than the maximum number of units referenced in this paragraph without a PCA or CDPA/FDPA.

5. Fairfax Center Area Roadway Contribution. The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credit for all creditable expenses, as determined by the Fairfax County Department of Transportation and Department of Public Works and Environmental Systems ("DPW&ES") for each residential lot which has 50% or more of its lot area located within the Fairfax Center Area boundary as depicted on the CDP/FDP.

6. Centreville Area Road Fund. At the time of final subdivision plat approval, the Applicant shall contribute to the Centreville Area Road Fund, ten percent (10%) of the sum of \$1,735 per unit for each lot which has more than 50% of its lot area located within Land Unit A-2 of the Centreville Area as depicted on the CDP/FDP, as adjusted annually by any increase in the Virginia State Highway Construction Bid Index from the date of rezoning approval. The balance of such sum shall be contributed at the time of building permit issuance for each such unit.

7. Right-of-Way Dedication. All right-of-way dedicated in conjunction with these proffers and as depicted on the CDP/FDP shall be conveyed to the Board of Supervisors in fee simple upon demand by the County or at the time of recordation of the final subdivision plat, whichever occurs first, and shall be subject to Proffer 23 regarding reservation of development intensity to the residue of the subject Property.

8. I-66 Right-of-Way. Subject to approval by the Virginia Department of Transportation ("VDOT"), the Applicant will dedicate and convey in fee simple to VDOT right-of-way along the I-66 frontage of the Property within 210 feet of the presently existing centerline of I-66 for planned improvements to I-66. Such dedication and conveyance will be made upon demand by VDOT or at the time of recordation of the final subdivision plat for the first section with lots adjacent to I-66, whichever occurs first. The Applicant shall reserve an additional fifteen (15) feet of right-of-way, as measured from the 210-foot dedication line, for the construction of a noise wall by VDOT in conjunction with ultimate improvements to I-66, in the event said noise wall cannot be

accommodated within the 210-foot dedication area. If needed, Applicant shall dedicate the aforesaid 15-foot wide area when final design improvements specified above have been fully funded for construction. If it is determined, upon final design of the I-66 improvements, that any required noise wall to be constructed by VDOT can be accommodated within the 210-foot dedication area, the aforesaid 15-foot wide reservation area shall automatically expire without limitation. Prior to dedication, the Applicant shall be permitted to use said area for open space uses. No structures shall be constructed in the dedication area.

9. I-66 Reservation For Potential HOV Flyover. Additionally, the Applicant shall reserve right-of-way for a future HOV flyover ramp at I-66 as depicted on the CDP/FDP. Said reservation shall be held until such time as construction of the HOV project is funded. Applicant shall, upon request from VDOT and/or Fairfax County, dedicate the aforesaid area when the HOV Ramp design has been funded for construction. If said HOV Ramp is deleted from the County's Comprehensive Plan and/or the Virginia Commonwealth Transportation Board Improvement Plan, the aforesaid reservation shall automatically expire without limitation. Prior to dedication/provision, the Applicant shall be permitted to use said area for open space uses. No structures shall be constructed in the reservation area. All initial purchasers of lots located south of Veronica Road shall be provided a disclosure in the contract of sale that the reservation area designated on the CDP/FDP for future dedication in conjunction with improvements to I-66 may be used for a future HOV ramp. Such disclosure shall also be included in all HOA documents provided to initial purchasers and future purchasers of lots located south of Veronica Road.

10. Veronica Road Improvements. In accordance with the CDP/FDP, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors up to twenty-six (26) feet of right-of way along the Property's Veronica Road frontage as measured from the presently existing centerline. In addition, the Applicant shall construct frontage improvements along the Property's Veronica Road frontage, including curb, gutter and sidewalk, with curb face set at up to nineteen (19) feet from the presently existing centerline pursuant to the standards of the Public Facilities Manual ("PFM"), as determined by the Director of DPW&ES.

11. Herbert Road Improvements. In accordance with the CDP/FDP, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors up to fifty-two (52) feet of right-of-way for the relocation of Herbert Road. Further, the Applicant shall construct a standard two lane, thirty-eight (38) foot section within said fifty-two (52) feet of right-of-way, with curb, gutter and sidewalk as depicted on the CDP/FDP.

12. Herbert Road Right-of-Way. The Applicant shall diligently pursue vacation or abandonment of that portion of the unimproved right-of-way of Herbert Road located on the southeastern portion of the site, adjacent to lots 59-65 and the proposed ADU townhouse lots, to provide a landscaped buffer of a minimum of 35' between the proposed park and ride facility and the subject property, as depicted on the CDP/FDP. Upon vacation or abandonment, the buffer area property shall be conveyed to the homeowners' association ("HOA") and maintained as common open space. In the event that the vacation or abandonment cannot be successfully accomplished, the Applicant will file a PCA/FDPA for the affected portion of the site.

13. Interparcel Access. The Applicant shall provide for interparcel access for the benefit of Tax Map Parcel 55-1-((3))-16 as generally depicted on the CDP/FDP, subject to final approval by DPW&ES. The Applicant shall escrow funds with DPW&ES to provide restoration of the temporary cul-de-sac at such time as the stub street is connected as a through street for future development to the west (parcel 55-1-((3))-16). The initial purchasers of the residential units bordering this street shall be advised in writing that the temporary cul-de-sac may be developed as a through connection in the future. This advisory shall be provided with the HOA documents provided to each such purchaser. The Applicant shall provide for interparcel access to Tax Map Parcel 55-1-((3))-41, through the open space parcel located in the northeast corner of the Subject Property at a location deemed appropriate by DPW&ES, in the event the Tax Map Parcel 55-1-((3))-41 is not consolidated for development purposes with Tax Map Parcel 55-1-((3))-42 or is not otherwise provided interparcel access through Tax Map Parcel 55-1-((3))-42.

14. Limits of Clearing and Grading. The Applicant shall conform to the limits of clearing and grading shown on the CDP/FDP, subject to installation of utility lines and stormwater management facilities, if necessary, as approved by DPW&ES. The trails, utility lines and the stormwater management facilities shall be installed as generally located on the CDP/FDP subject to final engineering and in the least disruptive manner possible as determined by the DEM.

15. Tree Preservation. For the purposes of maximizing the preservation of trees in common open space areas and on individual lots adjacent to the EQC, the Applicant shall prepare a tree preservation plan for such portions of the property. The tree preservation plan shall be submitted to the County Urban Forestry Branch of DPW&ES for review and approval as part of the subdivision submission. The plan shall be coordinated with and approved by the County Urban Forester and shall provide for the preservation of specific quality trees or stands of trees on individual lots at the perimeter of the EQC and in common

open space/tree save areas to the extent reasonably feasible without precluding the development of a typical home and yard on each of the lots shown on the GDP. The County Urban Forester may require modifications of such plans to the extent that these modifications do not alter the number of dwelling units shown on the GDP, reduce the size of the proposed units, or significantly move their location on the lot. The tree preservation plan shall include the following elements:

- A. A tree survey which shows the location, size, species and dripline of all trees 12" in diameter and larger whose trunks lay within 20 feet of either side of the limits of clearing and grading at the perimeter of the EQC.
- B. All tree save areas designated to be preserved on the tree preservation plan shall be protected by fencing, a minimum of four feet in height, placed at the dripline of trees to be preserved. The fencing shall be installed prior to any work being conducted on the site and signage affirming "Tree Save Area - Do Not Disturb" shall be provided on the temporary fence and made clearly visible to all construction personnel.

Additionally, the HOA covenants shall require that trees in open space areas and tree save areas will not be disturbed except for the removal of dead and dying trees and selective maintenance to remove noxious and poisonous weeds.

- 16. Open Space. At the time of recordation of the final subdivision plat, the Applicant shall convey common open space parcels, as depicted on the CDP/FDP, to a private HOA for use as common open space and stormwater management/BMP purposes. All common open space areas shall be maintained by the HOA.
- 17. Stormwater Management Facilities. Stormwater management facilities shall be provided as generally depicted on the CPD/FDP, however, the Applicant is willing to coordinate with DPW&ES and the owners of Tax Map Parcel 55-1-((3))-41 to provide a shared stormwater management facility to serve if development of the adjacent property is concurrent with development of this adjacent property or if such shared facility can be planned and provided in a manner that does not impede approval of the Applicant's subdivision plans or interfere or delay the Applicant's construction schedule. If the "possible" stormwater management facility is constructed as depicted on the CDP/FDP, the Applicant will grant an easement to Fairfax County, in a location approved by DPW&ES at the time of final plat approval, to provide access to the facility for maintenance purposes.

18. Landscaping. Landscaping, a seating area and an entry feature will be provided as generally as shown on the CDP/FDP and shall be in substantial conformance with the "Entry Feature" and "Amenity Area Concept" illustrations depicted on Sheet 2 of the CDP/FDP. In addition to street trees depicted on CDP/FDP, the Applicant shall provide one flowering tree, a large evergreen shrub or tree and foundation plantings for each single family detached lot. Final location of trees and shrubs will be dependent on house siting, driveway and utility location.
19. Environmental Quality Corridor. The Environmental Quality Corridor ("EQC") as depicted on the CDP/FDP shall be conveyed to the HOA at the time of recordation of the final subdivision plat. The EQC area shall not be disturbed except for the removal of dead, dying or diseased vegetation and except for the installation of utilities if deemed necessary. Any necessary disturbance shall be accomplished in the least disruptive manner possible and a replanting plan will be developed and implemented, as approved by the County Urban Forester, for all areas located within the EQC and outside the utility easements that must be disturbed due to the installation of utility lines.
20. Recreational Facilities. The Applicant shall comply with Paragraph 2 of Section 6-110 and with Section 16-404 of the Zoning Ordinance by providing a mix of on-site improvements and cash contributions equivalent to a total of \$1,030 per unit. A children's play area, to include a variety of equipment appropriate for pre-school and school-age children, shall be provided in the location shown on the CDP/FDP and shall be in substantial conformance with the "Tot-Lot" illustrative depicted on Sheet 2, with the balance of the funds to be contributed to the Fairfax County Park Authority for the maintenance, acquisition, or development of park and recreational facilities serving residents of the Sully district and this development. The per unit cash contribution for the respective unit shall be made prior to issuance of the building permit for such dwelling unit.
21. Energy Conservation. All homes constructed on the property shall meet the thermal standards of the Virginia Power Energy Saver Program for energy efficient homes, or its equivalent, as determined by DPW&ES, for either electric or gas energy systems.
22. Park and Ride Disclosure. If the park and ride facility is not under construction at the time of execution of sales contracts for the initial sale of residential units, the Applicant shall disclose in its sales contract to purchasers of residential units that a VDOT park and ride facility is planned adjacent to the southeastern boundary of this property.

23. Residential Noise Attenuation. The Applicant shall use building materials with characteristics pursuant to commonly accepted industry standards to achieve a maximum interior noise level of 45 dBA Ldn as follows:
- A. All units located within 150-400 feet of the centerline of I-66 which are impacted by highway noise levels of between 75 and 70 dBA Ldn and not otherwise shielded by structures or topography shall have the following acoustical attributes: Exterior walls shall have a laboratory STC rating of at least 45; Doors and windows shall have a laboratory STC rating of at least 37. If windows constitute more than twenty percent (20%) of any facade, they should have the same laboratory STC as walls. 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.
 - B. All units located within 350-850 feet of the centerline of I-66 which are impacted by highway noise levels of between 70 and 65 dBA Ldn and not otherwise shielded by structures or topography shall have the following acoustical attributes: Exterior walls shall have a laboratory STC rating of at least 39; 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. 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.
 - C. To achieve a maximum exterior noise level of 67 dBA Leq or 65 dBA, the Applicant shall:
 - (i) construct noise attenuation structures within the VDOT Right-of-Way of I-66, approximately 90 feet from the existing centerline of Route I-66. Said noise attenuation structure shall include acoustical walls, earthen berms or combinations thereof, which will meet VDOT noise barrier standards. The height of the noise barrier will gradually increase from a height of sixteen (16) feet behind Lot 1 to a maximum height of twenty-four (24) feet behind Townhouse Lot 8. Said noise barrier shall extend west of the western boundary of Subject Property at a height of twenty-four (24) feet for a distance of 350' as measured from the western corner of Lot 1 and shall also extend beyond the eastern property boundary at a height of sixteen (16) feet for a distance 200' as measured from the eastern boundary of Townhouse Lot

8. The acoustical fencing or wall shall be flush to the ground level, and architecturally solid from ground up with no gaps or openings and shall be constructed with materials which have a minimum surface weight of 5lb/ft². The Applicant or the HOA shall not be responsible for restoration, removal, relocation or reconstruction of said noise barriers if such noise barriers are removed or otherwise altered in conjunction with future improvements to I-66.

(ii) In addition to the noise barrier located within the VDOT right-of-way, the applicant shall construct a noise barrier six (6) feet in height along the eastern boundary of the property behind Townhouse Lots 1 through 8 and Lots 59 through 62. The 6' high noise barrier shall be flush to the ground level, and architecturally solid from ground up with no gaps or openings and shall be constructed with materials which have a minimum surface weight of 5lb/ft².

D. As an alternative to "A", "B", or "C" above, the Applicant may elect to have a refined acoustical analysis performed, subject to approval of DPW&ES, to verify or amend the noise levels and impact areas set forth above and/or to determine which units may have sufficient shielding from vegetation and other structures to permit a reduction in the mitigation measures prescribed above; to determine minimum STC ratings for exterior walls, windows, and doors; or to determine design requirements of noise attenuation structures.

24. Density Credit. All intensity of use attributable to land areas dedicated and conveyed to the Board of Supervisors pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and is hereby reserved to the residue of the subject Property.

25. Successors and Assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon, Applicant's successor(s) in interest and/or in developer(s) of the site or any portion of the site.

26. Severability. Any of the sections may be subject to a Proffered Condition Amendment ("PCA") without joinder and/or consent of the other sections, if such PCA does not affect any other sections. Previously approved proffered

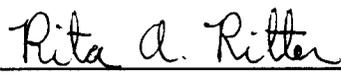
conditions applicable to the section(s) which is not the subject of such a PCA shall otherwise remain in full force and effect.

27. Northbourne Drive. The Applicant shall construct frontage improvements along the Property's Northbourne Drive frontage to include curb and gutter with curb face set at nineteen (19) feet from the existing centerline pursuant to the standards of the Public Facilities Manual as determined by the Director of DPW&ES.

28. Park and Ride Lot Access. The applicant shall coordinate with VDOT and the Fairfax County Department of Transportation (DOT) to provide for a pedestrian connection to the adjacent Park and Ride Facility to be located on Tax Map 55-1 ((3)) 46, 46A and 45. The Applicant will provide a temporary public access easement in the open space area located between Townhouse Lot 1 and Single Family Lot 59 to provide a pedestrian connection to Tax Map Parcel 55-1 ((3))-46. The Applicant will construct a four (4) foot wide asphalt trail within said public access easement. The public access easement will terminate at such time as Veronica Drive is extended with sidewalk improvements to Stringfellow Road or to another location which provides pedestrian access within a public right-of-way to the Park and Ride Lot. Once a permanent pedestrian connection to the Park and Ride lot is available, the HOA shall have the option of eliminating the pedestrian trail to the Park and Ride lot or maintaining said trail as a private trail.

STRINGFELLOW DEVELOPMENT L.C.,
Applicant and Title Owner of Parcels
55-1-((2))-33; 55-1-((3))-C, D, 9A, 13, 15, 18B,
19, 19A

By: 
Title: James W. Todd - Manager


Rita A. Ritter
Title Owner of Parcel 55-1-((3))-18A