

PROFFERS

RZ 1998-PR-011

January 29, 1999

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, Madison Homes/Gallows Road L.L.C., their successors and assigns (hereinafter referred to as the "Homebuilder"), and owners for themselves, their successors and assigns, (hereinafter referred to as the "Applicant"), the Applicant in RZ 1998-PR-011, filed for property identified on Fairfax County tax map as 39-2 ((1)) 39, 40; 39-4 ((1)) 76, 79, 79A and 182B (hereinafter referred to as the "Application Property"), agrees 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 PDH-5 Zoning District, in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for 42 residential single family attached dwelling units.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN (CDP/FDP) -

- 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 CDP/FDP, prepared by Walter L. Phillips dated May 22, 1998 as revised through January 11, 1999.
- b. Pursuant to Section 18-204 minor deviations from the CDP/FDP may be permitted as determined by DPWES.
- c. The illustrative architectural renderings attached hereto as Exhibit A are provided to illustrate the design intent of the proposed single-family attached houses. The front elevations shall be generally consistent in terms of character and quality with the illustration, and the materials on the exterior of the homes will consist of a mix of masonry (brick or stone) and siding (vinyl, aluminum or cementitious/hardie board). The specific features such as the exact location of windows, doors, shutters and roof line and other architectural details are subject to modification with final engineering and architectural design.
- d. The Applicant reserves the option, without the requirement for either an Amendment to the Proffers or the CDP/FDP, to modify the vehicular access to the garages for some or all of the homes shown on the CDP/FDP by substituting front entry directly into the garages from the private street in place of the courtyard entries shown on the CDP/FDP, if such modification is determined to be in substantial conformance with the CDP/FDP by DPZ.
- e. A soil survey and geotechnical study shall be provided by the Applicant at the time of site plan submission, for review, approval and implementation, as may be required by the Director, DPWES, in order to ensure that possible soil constraints are addressed in the early stages of the development.

2. **TRANSPORTATION -**

- a. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Homebuilder of the maintenance responsibility of the private streets, open space strip (which is Parcel 182B pt.) and open space area which is adjacent to I-495 by the Homeowners' Association and shall acknowledge receipt of this information in writing. The Homebuilder shall record a covenant setting forth the maintenance responsibility of the private streets and open space by the Homeowner's Association among the land records of Fairfax County. Each deed of conveyance shall expressly contain these disclosures.
- b. All of the private streets shall be constructed by the Homebuilder to pavement thickness standards of public streets as set forth in the Public Facilities Manual, subject to DPWES approval.
- c. At the time of Site Plan approval or upon demand from VDOT or DPWES, whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way along the property's Gallows Road frontage and the internal street system, consistent with that as shown on the CDP/FDP. Applicant shall reserve additional right-of-way measured to 68 feet from the center line of Gallows Road and dedicate and convey in fee the additional right-of-way and ancillary easements upon demand from VDOT or DPWES, whichever occurs first. All purchasers of lots shall be notified of this reservation in writing by the Homebuilder and such notification shall also be recorded among the land records of Fairfax County in the HOA documents in a form as approved by the County attorney.
- d. Prior to the issuance of the first residential use permit (RUP), the Homebuilder shall construct a right turn lane into the public street entrance along the Gallows Road frontage of the property subject to RZ 1997-PR-016 which shall be used on an interim basis for a right turn lane and ultimately as part of the third lane shown on the Comprehensive Plan.
- e. Prior to bond release, the Homebuilder shall provide necessary repairs to the asphalt trail along the Application Property's Gallows Road frontage, as determined necessary by DPWES.
- f. A covenant shall be recorded by the Homebuilder which provides the garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This covenant 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. Purchasers shall be advised of the use restriction prior to entering into contract of sale.
- g. No building permits shall be issued prior to dedication and bonding of public street access to Gallows Road, as shown on the FDP. This restriction is necessary because access to the site is via adjacent private property to the south (see file for associated application RZ/FDP 1997-PR-016).

3. RECREATION -

- a. Prior to the issuance of the 1st RUP, the Homebuilder shall construct trails as shown on the CDP/FDP. There shall be no requirement to reconstruct or relocate the existing asphalt trail along Gallows Road.
- b. Prior to the issuance of the 1st RUP, the Homebuilder shall contribute funds which equal the difference, if any, between \$955.00 per unit and the costs of the improvements outlined in Paragraph 3.a. to the Fairfax County Park Authority for recreational improvements in a nearby park.

4. LANDSCAPING AND OPEN SPACE -

- a. Street trees and peripheral landscaping shall be provided by the Homebuilder as shown on the CDP/FDP. The exact location of the proposed plantings may be modified as determined necessary by the Urban Forester, DPWES for the installation of utilities. Supplemental plantings shall be installed by the Homebuilder, as determined appropriate by the Urban Forester, DPWES, in order to provide a continuous and multi-dimensional strip of vegetation along Gallows Road, prior to release of bond. A landscape plan shall be provided by the Homebuilder which depicts these plantings at the time of site plan review and shall be approved by the Urban Forester, DPWES, prior to site plan approval.
- b. The Homebuilder shall generally adhere to the limits of clearing and grading and the tree save areas as shown on the CDP/FDP. Limited clearing, to the minimum extent feasible, will be permitted for the installation of utilities, stormwater management and trails, as determined necessary by the Urban Forester, DPWES.
- c. For the purposes of maximizing the preservation of trees throughout the site, the Homebuilder shall prepare a tree preservation plan. The tree preservation plan shall be submitted to the Urban Forestry Branch, DPWES for review and approval prior to any approval of site or subdivision plans for development and construction, and prior to the demolition of any existing site features or structures. Prior to clearing and grading activity, the proposed tree save areas will be flagged in the field. A qualified representative of the Homebuilder and the Urban Forester will walk the perimeter of these areas and adjustments shall be made accordingly. This new information shall be provided on the tree preservation plan and shall be submitted with each site or subdivision plan.
- d. The Homebuilder shall mark all trees shown to be preserved on the tree preservation plan with 36" high orange fencing or equivalent demarcation at the dripline together with signage affirming restricted access, placed on the fence and visible to construction personnel. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any work being conducted onsite, including the demolition of any site features and structures.
- e. The Homebuilder shall construct a decorative fence with masonry piers which substantially conforms to the design and style as the entry feature wall and fence as shown

on the CDP/FDP along the Property's Gallows Road frontage as shown on the CDP/FDP, prior to the issuance of the 1st RUP.

- f. Prior to issuance of the first RUP, the Homebuilder shall make the following improvements to Parcel 182B:
- (1) Clear away debris in the road bed.
 - (2) Add soil to the road bed.
 - (3) Hydroseed the road bed.
 - (4) Replace the existing driveway aprons at the intersection with Arden Street with curb, gutter, and sidewalk sections pursuant to PFM Standards.
 - (5) Dedicate and convey in fee simple to the Board the segment of Parcel 182 which is surrounded on all sides by Arden Street right-of-way.
- g. At time of site plan approval, the Applicant shall record among the land records of Fairfax County in a form approved by the County attorney, a conservation easement on the portion of Parcel 182B located east of proposed Lot 10 and running to the edge of the Interstate 495 right-of-way line. The easement shall run to the benefit of the Board and shall prohibit any use of the easement area. There shall be no clearing or grading of vegetation on that approximately one (1) acre portion of Parcel 182B which is located adjacent to Interstate I-495 with the exception of dead, dying or diseased trees, as determined necessary by the Urban Forester, DPWES.
- h. Minimum privacy yards of two-hundred (200) square feet shall be provided for each dwelling unit. These yards shall be enclosed within a board-on-board fence which is a minimum of six (6) feet in height, or equivalent enclosure as determined appropriate by the Director, DPWES. These privacy yard fences shall be used to satisfy the barrier requirements on the eastern and southern peripheries of the site.
- i. There shall be no clearing or grading of vegetation, with the exception of dead, dying or diseased trees, as determined necessary by the Urban Forester, DPWES, within those limits of tree save and limits of clearing and grading as shown on Sheets 1 and 2 of the CDP/FDP with the following exceptions:
- The playground area which is proposed directly to the east of Lots 10-11 and south of Lots 13-15 may be cleared of all understory growth and mulched as described in Note #2 on those sheets. Any clearing and grading of this area shall be performed only after the Urban Forester, DPWES, has reviewed and approved the Applicant's proposed playground location, method of equipment placement, and measures to ensure survival of existing trees located within this area.
 - The tree save area located south of Lot 22 and north of Lot 23 may be cleared of all understory growth and mulched as described in Note #1 on those sheets. Any

clearing and grading of this area shall be performed only after the Urban Forester, DPWES, has reviewed and approved the Applicant's proposed table and bench locations, method of equipment placement, and measures to ensure survival of existing trees located within this area.

5. NOISE -

- a. In order to achieve a maximum interior noise level of 45 dBA Ldn, the Homebuilder proffers:
- I. All units located between the 65-70 dBA Ldn highway noise impact contours within 390 feet of the center line of Gallows 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 the 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.
- b. In order to achieve a maximum exterior noise level of 65 dBA Ldn, the Homebuilder shall construct acoustical fencing consisting of wooden boards and masonry posts in that general location as shown on the CDP/FDP. The proposed fence shall be architecturally solid from the ground up with no gaps or openings and will be 6 feet in height to adequately shield the impacted area from the source of the noise.
- c. As an alternative, the Homebuilder may submit to DPZ and DPWES 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 for all of those residential units delineated on the CDP/FDP within the above referenced areas. The study methodology shall be acceptable to DPZ.
- d. All purchasers of the single-family attached units shall receive written disclosure from the Homebuilder of the potential for noise generated by the Dunn-Loring Fire Station Emergency Vehicles. This disclosure shall also be recorded with the homeowner's association documents and in a form as approved by the County Attorney.

6. STORMWATER MANAGEMENT-

- a. The Homebuilder shall provide stormwater management in accordance with the requirements of DPWES at time of subdivision plan approval. Stormwater management may be satisfied with:

- I If required by DPWES upon final site plan approval, the construction of a shared SWM pond with the development which is the subject of RZ 1997-PR-016; or

7. **AFFORDABLE HOUSING -**

At the time of final site plan approval, the Homebuilder 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 Homebuilder in consultation with the staff of the Fairfax County Department of Housing and Community Development ("HCD").

[SIGNATURES BEGIN ON FOLLOWING PAGE]

APPLICANT:

MADISON HOMES/GALLOWS ROAD L.L.C.

BY: Madison Homes, Inc., Its Manager

By: *Russell S. Rosenzweig, Jr.*

Name: *Russell S. Rosenzweig, Jr.*

Title: *President, Madison Homes, Inc., Manager*

OWNERS:

Kenneth P. Warren
Kenneth P. Warren

Sandra Warren
Sandra Warren

Inelda Bendigo
Inelda Bendigo

FRT Limited Partnership

By: _____

Name: _____

Title: _____

Jaleelah Al-Harithy

Nayil Al-Harithy

By: _____
Muwaffak Al-Harithy
Attorney-in-fact

By: _____
Muwaffak Al-Harithy
Attorney-in-fact

Marion Lear

APPLICANT:

MADISON HOMES/GALLOW'S ROAD L.L.C.

BY: Madison Homes, Inc., Its Manager

By: *[Signature]*

Name: Russell S. Rosenzweig, Jr.

Title: President of MADISON Homes, Inc.

OWNERS:

Kenneth P. Warren

Sandra Warren

Inelda Bendigo

FRT Limited Partnership

By: _____

Name: _____

Title: _____

Jaleelah Al-Harithy

*Jaleelah Al-Harithy by
muwaffak Al-Harithy
her attorney in-fact*

By: Muwaffak Al-Harithy
Attorney-in-fact

Nayil Al-Harithy

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