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DEPARTMENT OF PLANNING AND ZONING

DEC 2 2 1998

ZONING EVALUATION DIVISION

PROFFERS
RZ-98-HM-036

December 17, 1998

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, Bridenbaker, LC, (hereinafter referred to as the "Applicant") for the owners, the Applicant, themselves, successors and assigns, in RZ-98-HM-036 (the "Application"), filed for property as Tax Map 25-4 ((1)), parcels 4, 5, 6, & 7 (hereinafter referred to as the "Application Property") agrees to the following proffers, provided the Board of Supervisors approves the Application.

1. Subject to the provisions of Section 18-204 of the Zoning Ordinance, the Application Property shall be developed in substantial conformance with the Generalized Development Plan ("GDP") prepared by Patton, Harris, Rust & Associates dated 6/98, revised to 12/16/98. Said GDP shows twenty-six (26) residential building lots. No building lot shall have an area less than 10,500 square feet.

2. In order to achieve a maximum exterior noise level of 65 dBA in the rear yards of those lots that abut Lawyers Road, Applicant shall construct a noise barrier on the lots adjoining Lawyers Road. The barrier shall be an architecturally solid wall/fence or a berm/wall combination, provided there are no gaps or openings, and shall be of sufficient height to adequately shield the impacted area from the source of noise. The Applicant shall demonstrate to the satisfaction of DPW&ES, through submission of a refined acoustical analysis prepared by an acoustical engineer, that the proposed noise attenuation wall/fence reduces exterior noise levels to a maximum of 65dBA.

3. To achieve maximum interior noise level of 45 dBA Ldn, the Applicant shall construct all residences on the eastern boundary of the Application Property along Lawyers Road to maximize the rear yard depth. In addition, the Applicant shall construct all residences impacted by highway noise levels between 70 and 75 dBA Ldn as follows:

   (a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.

   (b) Doors and windows will have a laboratory STC rating of at least 28.

   (c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for testing and Materials to minimize sound transmission.

To achieve a maximum interior noise level of 45 dBA Ldn, the Applicant shall construct all residences impacted by highway noise levels between 65 and 70 dBA Ldn as follows:

(a) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

(b) Doors and windows will have a laboratory STC rating of at least 28.

(c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for testing and Materials to minimize sound transmission.

As an alternative to the above, the Applicant may elect to conduct a refined acoustical analysis, subject to approval by DPW & ES, to determine the appropriate noise attenuation measures necessary to meet established County standards and/or to determine which residences may have sufficient shielding to permit reduction in the mitigation measures described above.

4. The Applicant shall use the Virginia Power Energy Saver Houses Package or equivalent energy conservation techniques for either electric or gas energy systems, as applicable, in the construction of houses on the Application Property.

5. Applicants shall preserve the existing easements and dedications of right-of-way (ROW) of the Virginia Department of Highways and Transportation (VDOT) of the completed Lawyers Road improvements as shown on the GDP and dedicate additional right-of-way, as shown on the GDP, to the Board of Supervisors in fee simple title at the time of subdivision plan approval or on demand, whichever occurs first.

6. At the time of record plat approval, the Applicant shall contribute Eighteen Thousand Ninety Dollars {$18,090.00} to the Fairfax County Park Authority to acquire/develop/and/or maintain park and recreation facilities in the general vicinity of the Application Property in the Hunter Mill District. From the date of rezoning approval, said contribution shall be adjusted according to the Consumer Cost Index as published in the Engineering News Record by McGraw-Hill.

7. For the purpose of maximizing the preservation of trees on individual lots of the Application Property as well as the trees located on the adjacent Fox Mill Estates, the Applicant has prepared a tree survey. The tree survey has been submitted with the GDP.

8. The Applicant shall prepare a tree preservation plan to be submitted to the Urban Forestry Branch of DPW&ES for review and approval as part of the first submission of the subdivision plan. No plans shall be approved or land-disturbing activities conducted on site until the tree preservation plan is approved. The tree preservation plan approval process shall not reduce the number of approved lots. Other plan approvals or commencement of site construction shall not be unreasonably withheld or delayed due to the tree preservation plan approval process. The tree preservation plan shall include the following:

   (a) The tree survey submitted with the GDP including a tree condition analysis prepared by a certified arborist for all trees 8 inches in diameter or larger whose trunks lay within 20 feet of the proposed limits of clearing and grading as depicted on the GDP. The certified arborist shall conduct the tree condition analysis using the method described in the "Guide for Plant Appraisal", eighth edition, published by the International Society of Arboriculture.

   (b) Recommendations for pre-construction treatment of trees shown to be preserved. All trees to be preserved shall be protected by fencing a minimum of four feet in height placed at the limits of clearing and grading. Such fencing shall be installed prior to any work being conducted on the site, including demolition of any existing houses and structures and shall be clearly visible to all construction personnel, and the fencing shall be maintained throughout construction.

   (c) The certified arborist shall verify in writing the tree preservation construction fencing has been installed prior to the demolition of existing structures. The certified arborist shall monitor the construction work to ensure the commitments made on the tree preservation plan are fulfilled.

   (d) The demolition of existing structures shall be conducted in a manner to minimize the impact on individual trees and groups of trees to be preserved.

9. The Applicant shall prepare a landscape plan to be submitted for review and approval by the Urban Forester concurrent with subdivision plan submission which provides the following as shown on the typical lot detail of the GDP: plantings for screening along Lawyers Road, street trees, and other appropriate landscaping elements

10. The Applicant shall provide a twenty (20) foot wide landscape buffer within the rear yard of lots abutting Lawyers Road to include a noise attenuation fence and/or a berm-fence combination with landscaping as shown on Sheet Four (4) of the GDP. The Applicant shall record in the deeds a twenty (20) foot wide landscape easement of those lots abutting Lawyers Road. The easement shall be solely for the purpose of maintaining the plantings, landscaping, and fencing in said easement along Lawyers Road which shall be the responsibility of the individual homeowners and/or a Homeowners Association. No structures other than noise attenuate fencing shall be constructed within the easement.

11. The Applicant reserves the right to make minor adjustments to lot lines of the proposed subdivision at the time of subdivision plan submission based on final house locations, dimensions, and/or footprints in accordance with Sec.18-204 of the Zoning Ordinance.

12. The Applicant may request waivers of the on-site stormwater detention ponds labeled "SWM #1" and "SWM #2" as depicted on the GDP based on the availability of off-site detention at existing regional storm water management facilities. In the event said waivers are not granted, on-site detention of "SWM #1" labeled on the GDP shall be designed in accordance with bioretention methods, if practical, as approved by the Department of Public Works and Environmental Services. If a waiver or waivers are granted, the area of SWM #1 shall be incorporated into the residential lots 1 through 4 as depicted on the GDP and/or SWM # 2 shall be incorporated into the residential lot 12 as depicted on the GDP, without the necessity of an amendment of the GDP or these proffers as

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ects the possibility of a phased development. Phase I shall encompass property identified as Tax Map 25-4 ((1)), parcel 4, and Phase II shall encompass property identified as Tax Map 25-4 ((1)), parcels 5, 6, and 7. Development of Phase I shall be in substantial conformance with Alternative 'A' of the GDP, which provides access to Wendell Holmes Road on the north side of Parcel 4. When a subdivision plan is filed for Phase II, development shall be in substantial conformance with Alternative 'A' of the GDP that provides access to Wendell Holmes Road and Lawyers Road.

Should a single subdivision plan be filed for all parcels identified in Phase I and Phase II, the property shall be developed in substantial conformance with "Consolidation – Alternative 'B'" as depicted on the GDP. If such Consolidation is achieved, Alternative 'A' as depicted on the GDP shall not be used.

In any event, there shall be no access of approved subdivision lots provided directly onto Lawyers Road.

14. All construction vehicles and traffic shall access and exit the Application Property at an entrance to be designated directly onto Lawyers Road as approved by VDOT. No construction vehicles or traffic shall access or egress the Application Property at either end or segment of Wendell Holmes Road.

15. In response to safety concerns expressed by residents of Fox Mill Estates, the Applicant shall provide a fence along the southern boundary of Parcel 4 to discourage pedestrian access to the existing pond.

16. The Applicant shall convert and/or reconstruct the temporary cul-de-sacs at both ends of Wendell Holmes Road as permanent cul-de-sacs with the development of the Application Property as depicted under "Consolidation-Alternative 'B'. The requirement for such construction shall be subject to the grant of any necessary land dedication from the affected owners in the Fox Mill Estates subdivision identified as Tax Map 25-4 ((8)), lot 31, lot 107, lot 30, and Tax Map 26-3((15)), lot 1, at no cost to the Applicant, in a form reviewed and approved by the Fairfax County Attorney and recorded among the land records of Fairfax County, Virginia. The conversion or reconstruction of either cul-de-sac shall not reduce the number of approved lots as reflected on the GDP. In the event such dedication is withheld, this proffer shall be null and void.

    Under Alternative 'A' as depicted on the GDP, the Applicant shall convert and/or reconstruct only the temporary cul-de-sac at the southern border of the Application property at Wendell Holmes Road. The requirement for such construction shall be subject to the grant of any necessary land dedication from the affected owners in the Fox Mill Estates subdivision identified as Tax Map 25-4 ((8)), lots 107 and 31, at no cost to the Applicant, in a form reviewed and approved by the Fairfax County Attorney and recorded among the land records of Fairfax County, Virginia. The Applicant shall diligently pursue any necessary land dedication and report their progress to DPW&ES. The conversion or reconstruction of either cul-de-sac shall not reduce the number of approved lots as reflected on the GDP. In the event such dedication is withheld, this proffer shall be null and void.

17. The houses constructed on the Application Property will incorporate similar and /or compatible architectural treatments on all exterior sides.

18. The Applicant reserves the right to: (a) establish a Homeowners Association; or (b) join the existing Fox Mill Estates Homeowners Association; to maintain and/or manage common areas or open space including but not limited to the following: landscape buffer(s), walkway easement(s), and storm water management facilities.

19. As depicted in "Consolidation – Alternative 'B'" of the GDP, the Applicant shall provide a 10 foot walkway easement between proposed lots numbered 1 and 20. Such easement shall be maintained by the Homeowners Association.

{Signatures Appear Following Page}

Executed this 17th Day of [illegible], 1998 by:

Alicia E. Payne, Owner of Tax Map: 25-4 ((1)), Parcel 4

Martha J. Nagle, Owner of Tax Map: 25-4 ((1)), Parcel 5

Daniel L. Nagle, Trustee, Owner of Tax Map: 25-4 ((1)), Parcels 6 & 7.
The John J. Nagle Family Testamentary Trust

Morris G. Sahr, Trustee, Owner of Tax Map: 25-4 ((1)), Parcels 6 & 7.
The John J. Nagle Family Testamentary Trust

Bridenbaker , LC:

Robert C. Burgess
Member/Manager

Jon K. Ericson
Member/Manager

Jaguar Homes, LC:

Edmea Cettina, Managing Member

Emil Fish, Member