



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151
FAX: 703-324-3926
TTY: 703-324-3903

February 10, 1999

Robert C. Burgess, Agent
Bridenbaker, L.C.
c/o Embassy Development Corporation
3631 Embassy Lane
Fairfax, Virginia 22030

RE: Rezoning Application
Number RZ 1998-HM-036

Dear Mr. Burgess:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on January 25, 1999 granting Rezoning Application Number RZ 1998-HM-036 in the name of Bridenbaker, LC, to rezone certain property in the Hunter Mill District from the R-1 District to the R-3 District, subject to the proffers dated December 17, 1998, on subject parcel 25-4 ((1)) 4, 5, 6 and 7 consisting of approximately 10.87 acres.

The Board requested that prior to Final Subdivision Plan approval for the application property, the applicant be required to return the Subdivision Plan to the Planning Commission for its review and comment.

Sincerely,

Nancy Vehrs
Clerk to the Board of Supervisors

NV/ns

RZ 1998-HM-036

February 10, 1999

- 2 -

cc: Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Administrator
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Fred R. Beales, Supervisor Base Property, Mapping/Overlay
Robert Moore, Trnsprt'n. Planning Div., Dept. of Transportation
Ellen Gallagher, Project Planning Section, Dept. of Transportation
Michelle Brickner, Deputy Director, DPW&ES
DPW&ES - Bonds & Agreements
Frank Edwards, Department of Highways - VDOT
Land Acq. & Planning Div., Park Authority
Planning Commission (District)
Thomas Dorman, Director, Facilities Mgmt. Div., DPW&ES

Patton Harris Rust & Associates, pc

June 15, 1998

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

JUN 16 1998

ZONING EVALUATION DIVISION

**DESCRIPTION OF
THE PROPERTY OF
ALICIA E. PAYNE
MARTHA J. NAGLE AND
DANIEL L. NAGLE AND MORRIS G. SAHR, TRUSTEE
HUNTER MILL DISTRICT
FAIRFAX COUNTY, VIRGINIA
(REZONING PURPOSES ONLY)**

Corporate Office
Chantilly, Virginia
Virginia Offices
Bridgewater
Leesburg
Virginia Beach
Winchester
Woodbridge
Laboratory
Chantilly

Engineers
Surveyors
Planners &
Landscape
Architects

Beginning at the northeasternmost corner of the tract herein described, said point lying on the westerly variable width right-of-way of Lawyers Road Route 602 and being the southeast corner to Lot 1, Section 9A, Fox Mill Estates;

Thence running with Lawyers Road the following nine (9) courses and distances:

S 18° 26' 21" W 50.92 feet to a point;

222.27 feet along the arc of the curve to the left, said curve having a radius 7686.94 feet, a central angle of 01° 39' 24" and a chord which bears S 17° 39' 21" W 222.27 feet to a point;

S 16° 49' 39" W 110.85 feet to a point;

S 68° 41' 58" E 32.33 feet to a point;

S 16° 14' 28" W 150.00 feet to a point;

N 68° 41' 58" W 23.83 feet to a point;

S 16° 49' 39" W 149.87 feet to a point;

N 68° 41' 58" W 39.88 feet to a point and S 16° 14' 28" W 150.00 feet to a point lying on the northerly line of Lot 34, Section 9C1, Fox Mill Estates;

Thence departing Lawyers Road and running with Lot 34 and with the same line extended with Lot 35, N 68° 41' 58" W 291.54 feet to a point being a common corner to Lot 36 and Lot 33;

PHR&A

Thence departing Lot 35 and running with Lot 33, Lot 32 and Lot 31 the following four (4) courses and distances

N 16° 14' 28" E 150.00 feet to a point;

S 68° 41' 58" E 71.87 feet to a point;

N 11° 15' 38" E 151.74 feet to a point;

N 21° 18' 03" E 149.42 feet to a point;

Thence continuing with Lot 31 and with the same line extended with the 50 foot right-of-way line of Wendell Holmes Road Route 6385, Lot 107 and Parcel B, Section 9C Fox Mill Estates, N 68° 41' 58" W 746.34 feet to a point and N 40° 15' 12" E 383.87 feet to a point lying on southerly line to Lot 16, Section 9A, Fox Mill Estates;

Thence departing Parcel B and running with Lots 16 through 20, Lot 30, the southerly 50 foot right-of-way line to Wendell Holmes Road Route 6385 and Lot 1, S 70° 03' 27" E 849.17 feet to the point of beginning and containing 10.8661 acres of land more or less.

This description is for rezoning purposes only

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DEC 22 1998

PROFFERS
RZ-98-HM-036

December 17, 1998

ZONING EVALUATION DIVISION

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

Proffers

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.

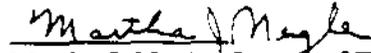
18. The Applicant reserves the right to: (a) establish a Homeowners Association; or (b) join the existing Fox Mill Estates Homeowners Association; to maintain and/or manage common areas or open space including but not limited to the following: landscape buffer(s), walkway easement(s), and storm water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

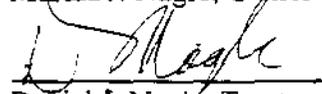
19. As depicted in "Consolidation – Alternative 'B'" of the GDP, the Applicant shall provide a 10 foot walkway easement between proposed lots numbered 1 and 20. Such easement shall be maintained by the Homeowners Association.

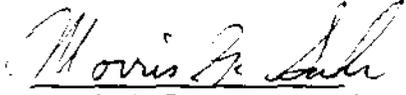
{Signatures Appear Following Page}

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Executed this 17th Day of December, 1998 by:


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

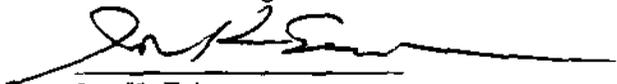

Martha J. Nagle, Owner of Tax Map: 25-4 ((1)), Parcel 5


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

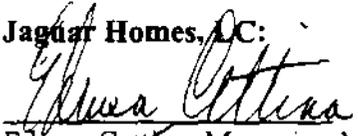

Morris G. Sahr, Trustee, Owner of Tax Map: 25-4 ((1)), Parcels 6 & 7.
The John J. Nagle Family Testamentary Trust

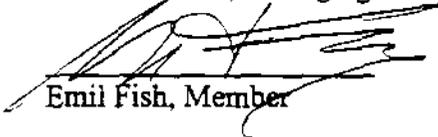
Bridenbaker, LC:


Robert C. Burgess
Member/Manager


Jon K. Ericson
Member/Manager

Jaguar Homes, LC:


Edmea Cetina, Managing Member


Emil Fish, Member

GENERALIZED DEVELOPMENT PLAN FOR ROBALEED

GENERAL NOTES

1. The property delineated by this plan is located on Fairfax County Tax Assessment Map 2004 (13) Parcels 4, 5, 6, and 7.
2. The owner of the subject property are as follows:
Parcel 4
Melia E. Payne. Deed recorded to Deed Book 1005 of Page 128.
Parcel 5
See the 2. Data by virtue of deed recorded to Deed Book 1005 of page 128 and Will Book 100 of Page 240.
Parcel 6
Daniel L. Sage and Marie E. Sage. Trustees of the John J. Sage Testamentary Family Trust. Deed recorded to Deed Book 1005 of Page 128 and Will Book 100 of Page 240.
Parcel 7
Daniel L. Sage and Marie E. Sage. Trustees of the John J. Sage Testamentary Family Trust. Deed recorded to Deed Book 1005 of Page 128 and Will Book 100 of Page 240.
3. The developer of the subject property is as follows:
St. Charles, L.P. c/o Embassy Development Corporation
2021 Embassy Lane
Falls Church, Virginia 22046
4. The subject property consists of 10.8 acres and is zoned by the local zoning ordinance as R-2. The application requests rezoning the property to R-2 in accordance with Comprehensive Plan Amendment 10.
5. The plan has been prepared with the benefit of a title report.
6. The boundary information is from survey records prepared by Patton Harris, Inc. and Associates, Inc. and is shown on the northern portion of the subject property. The southern portion of the subject property is shown on the northern portion of the subject property.
7. Existing easements and other interests in the site are:
Parcel 4: 10' Single Family Residential
Parcel 5: 10' Single Family Residential
Parcel 6: 10' Single Family Residential
Parcel 7: 10' Single Family Residential
8. The property is located in Area III, Upper Potomac Planning District (UPD), and the Community Planning Board. The proposed development conforms to the zoning ordinance of the County of Fairfax, Virginia. The rezoning application is subject to the approval of the County Board of Supervisors.
9. No floodplain exists on the subject property as delineated by the Federal Emergency Management Agency (FEMA) National Flood Insurance Program. No floodplain exists on the subject property as per the Fairfax County Department of Transportation and Public Works.
10. To the best of our knowledge, the proposed development will be in accordance with all applicable laws, regulations, and related standards listed as noted below.
11. Development of this project shall commence on or before the date of the Board's approval and shall be subject to the conditions of the order.
12. Public water and sewer are available to the subject property. A water line connection will be made to the existing water line to the north of the site. A sanitary sewer connection will be made to existing sewer lines to the north and south on the subject property.

13. An old utility vault is not required for residential development.
14. A letter of 6000-hour development and 600 will be required for the site during preparation of the site plan. Should these letters not be required.
15. Dry detention pond will be provided between lots 2 and 3 and lot 12.
16. To the best of our knowledge, there are no grants or local utility easements on this site.
17. An approved 6000-hour development and 600 will be required for the site during preparation of the site plan. Should these letters not be required.
18. Over-application reserves the right to make minor modifications and adjustments to the site plan to the extent that such adjustments are necessary to comply with the applicable laws, regulations, and related standards listed as noted below.
19. All setbacks will be made to preserve existing vegetation to the extent possible.
20. All existing structures are to be demolished.
21. There are no wetlands on the subject property.
22. Easements are shown as per the adopted Comprehensive Plan.
23. Public improvements associated with this development include: Local Road Redesign.
24. No proposed community or public facilities are provided.

PERMITS

1. Applicant requests a waiver of 600 and/or 600 with the ability to prepare a permit plan and an alternate water line for this project.
2. In the event Applicant chooses to submit Alternative 1, Applicant requests a waiver of the 6000' min. length for a single and median roadway.

VICINITY



SOILS

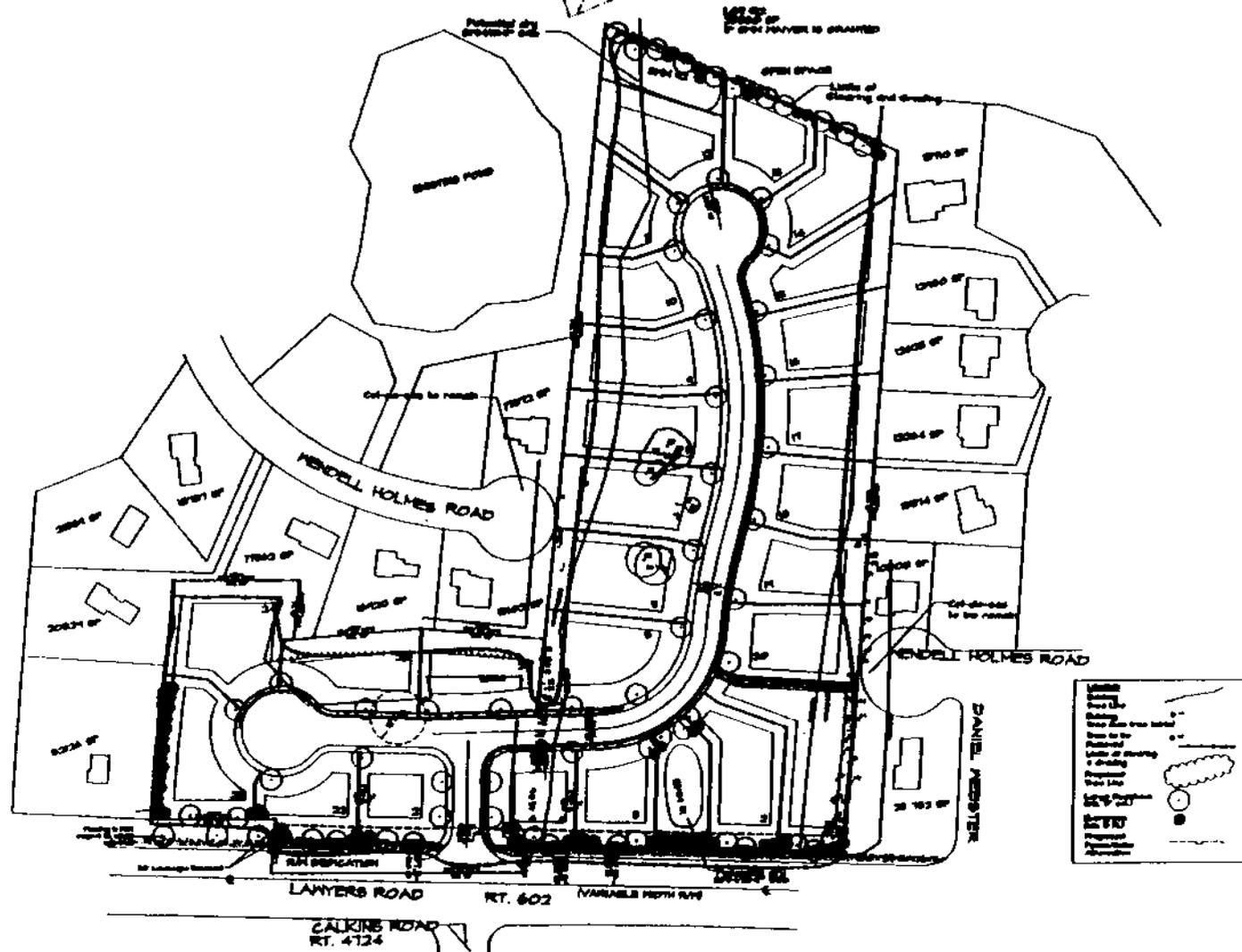


TABULATIONS

| Overall Site Area: 10.8 Acres | | |
|---------------------------------------------|-----------------------|-----------------------|
| Zoning District: (R-2) RESIDENTIAL DISTRICT | | |
| Proposed Zoning: (R-2) RESIDENTIAL DISTRICT | | |
| MINIMUM: | MINIMUM: | MINIMUM: |
| Min. Lot Area: | 10,000 SF | 10,000 SF |
| Min. Lot Width: | 100 FT | 100 FT |
| Average Lot Area: | 11,000 SF | 11,000 SF |
| MAX. REGULATIONS: | | |
| Max. Building Height: | 30 FT | 30 FT |
| Yards: | 20 FT | 20 FT |
| Front Yard: | 10 FT | 10 FT |
| Side Yard: | 10 FT | 10 FT |
| Rear Yard: | 20 FT | 20 FT |
| OPEN SPACE: | | |
| MINIMUM REGULATIONS: | 0 | 6000 SF |
| 2 Trees per unit | 10 trees | 10 trees (min) |
| SEWER: | 1 1/2" (min) (on lot) | 1 1/2" (min) (on lot) |

SHEET INDEX

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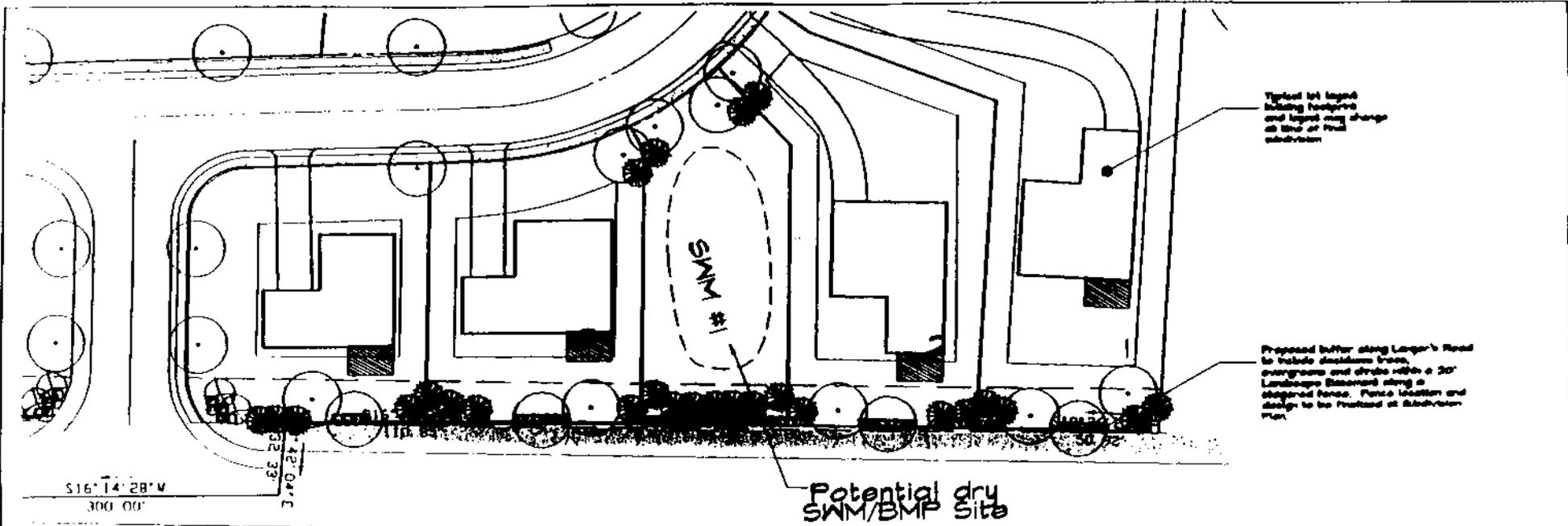
ROBALEED
FAIRFAX COUNTY, VA

**CONCEPTUAL
LANDSCAPE PLAN**
CONSOLIDATION - ALTERNATIVE "B"



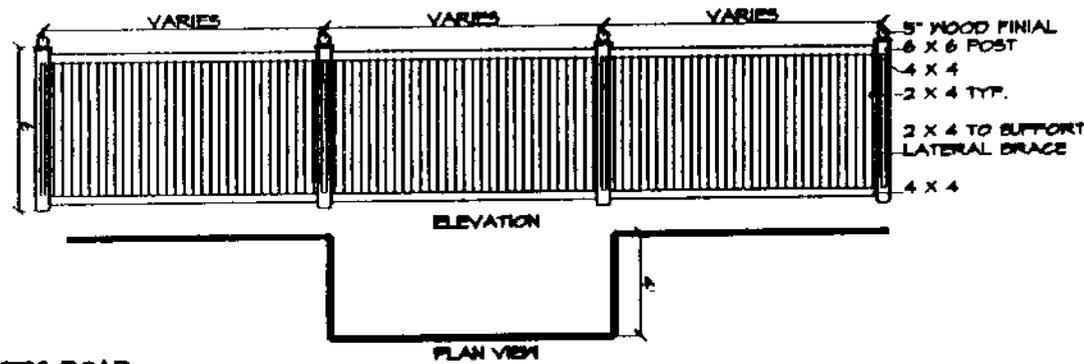
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| 03/01 | SW | 8/98 |
| 03/01 | SW | 11-80 |
| 03/01 | SSW | |
| 03/01 | SSW | |

34 OF 4
FILE NO. 10119-1-0



Typical Layout @ Lawyer's Road

scale: 1/4"=30'



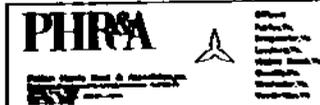
FENCE @ LAWYERS ROAD
not to scale

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ROBALEED
FAIRFAX COUNTY, VA

CONCEPTUAL
DETAILS



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F A I R F A X C O U N T Y

BOARD OF SUPERVISORS ACTION
ZONING MAP AMENDMENT
DATE OF ACTION 01/25/99

APPLICATION NUMBER: RZ 98-H-036

HUNTER MILL DISTRICT

APPLICANT: BRIDENBAKER

STAFF: JOHNSON

APPLICATION DATA

EXISTING ZONING AND ACREAGE

ZONING: R- 1

ACRES: 10.87

PROPOSED:

ACTION:

R- 3
10.87

R- 3
10.87

TOTAL ACRES

TOTAL ACRES

10.87

10.87

MAP NUMBERS

025-4- /01/ /0004- ,0005- ,0006- ,0007-

REMARKS:

ZONING MAP AMENDMENT

RZ 98-H-036

ZONING DISTRICT DATA

ZONING DISTRICT: R- 3

PROFFERED/CONDITIONED DWELLING UNIT DATA

| TYPES | UNITS | ACRES | DENSITY | RANGE | LOMOD INCL | LOMOD ADD |
|-------|-------|-------|---------|-------|------------|-----------|
| SFD | 26 | 10.87 | | | | |

| | | | | | | |
|-------|-------|-------|-------|-------|-------|-------|
| ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| TOT | 26 | 10.87 | 2.39 | | | |

PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

| USE | GFA | FAR | USE | GFA | FAR |
|-------------------|-----|-----|-------------------|-----|-----|
| COMMERICAL-GEN | | | PUBLIC/QUASI PUB | | |
| HOTEL/MOTEL | | | OFFICE | | |
| INDUSTRIAL-GEN | | | TRAN-UTIL-COMM | | |
| CULT/EDU/RELG/ENT | | | RETAIL-EATING EST | | |
| INDUST-WAREHOUSE | | | *****TOTAL***** | | |

REMARKS:

ZONING MAP AMENDMENT

RZ 98-H-036

CONDITION/CONTRIBUTION DATA

| COND CODE DESCRIPTION | COND CODE DESCRIPTION |
|------------------------------------|-----------------------------------|
| 1Z OTHER - GENERAL | 3Z OTHER - TRANSPORTATION |
| 4Z OTHER - ENVIRONMENT | 2M DEVELOPMENT PHASING |
| 2Z OTHER - LAND USE | 4E NOISE ATTENUATION |
| 4Z OTHER - ENVIRONMENT | 7A OTHER MISCELLANEOUS - SEE FILE |
| 3B RIGHT-OF-WAY: DEDICATION/RESERV | 4Z OTHER - ENVIRONMENT |
| 4Z OTHER - ENVIRONMENT | 2Z OTHER - LAND USE |
| 4Z OTHER - ENVIRONMENT | 4B TREES/COUNTY ARBORIST |
| 4H LANDSCAPING | 4I ENERGY CONSERVATION |
| 4D BUFFER | 1A GENERALIZED DEVEL PLAN |

| CONTRIB DATA: | CND CODE | AMOUNT | CONDITIONED | EXPIRES | CONTRIB CODE |
|---------------|----------|----------|-------------|----------|--------------|
| | 2Z | \$18,090 | X | 01/01/01 | |
| | | \$0 | | 00/00/00 | |
| | | \$0 | | 00/00/00 | |
| | | \$0 | | 00/00/00 | |

REMARKS:

APPLICANT SHALL RECONSTRUCT THE TEMPORARY CUL-DE-SACS AT BOTH ENDS OF WENDELL HOLMES ROAD IF ALTERNATIVE B IS PURSUED. ALT. B SHOWS NO ACCES

1/11/99

5:30 p.m. Item - RZ-1998-HM-036 - BRIDENBAKER, L.C.
Hunter Mill District

On Wednesday, December 16, 1998, the Planning Commission voted 9-2 (Commissioners Alcorn and Coan opposed; Commissioner Thomas absent from the meeting) to recommend to the Board of Supervisors approval of RZ-1998-HM-036, subject to the execution of proffers consistent with those dated December 16, 1998, revised as follows:

--amend Proffer #13, second paragraph A, by deleting the period and adding: ... "if such consolidation is achieved, alternative A will not be pursued."

The Commission also voted 10-0-1 (Commissioner Coan abstaining; Commissioner Thomas absent from the meeting) to recommend to the Board of Supervisors that the site plan for this application be returned to the Commission for review and comment prior to final County approval.

RZ-1998-HM-036 - BRIDENBAKER, L.C.

After Close of Public Hearing

Commissioner Palatiello: Mr. Chairman, this particular property has an interesting history. It did go through a very extensive review in the Annual Plan Review process some three years ago. The language that is in the Comprehensive Plan presently was worked on very carefully by a number of the citizens in this area. In my judgment, the application that is before us is indeed consistent with the agreement that was reached when the Plan language was developed. I do appreciate all the citizens coming out this evening. I will try to address the major issues that were raised. I think before I do that though, it's significant that Mr. Conroy was very much, for one that I remember, was very much involved in the drafting of that Comprehensive Plan language and he appeared this evening to indicate his support for the application and his view that it is consistent with what was agreed to when that Plan language was developed. At that time the major issue was the question of whether there would be a connection through of Wendell Holmes Drive and the sentiment of the community was loud and clear at the time that that was not desirable, and therefore Plan language was written to address that. I have to say that I have come to a different conclusion than Mr. Horsfield with regard to his comments on the staff analysis as well as his interpretation of the Comprehensive Plan. First of all, it's very clear that the lower density properties are indeed where he lives, on the east side of Lawyers Road, and the Plan does call for, in fact, the current development pattern is for a greater density on the west side of Lawyers Road. Secondly, it is both required in the Plan language and required very strongly by VDOT that the access point to this particular application align with Calkins Road. That is done in the interest of safety, not in the interest of diminishing the vehicular and pedestrian safety in the area. Thirdly, I would point out that with regard to the Chinese wall, there are a number of other existing subdivisions, those that have been built recently on both sides of Lawyers Road in this area that do have sound walls built by the various homebuilders and there are other homes with reverse frontage on the west side of Lawyers Road. The applicant is providing on-site stormwater management. The post construction runoff by County code and policy cannot be greater than the current runoff and therefore, I think the impact on the lake at Moneys Corner is not in jeopardy as a result of this application. I think that that issue is adequately addressed in the Plan. The -- as was pointed out with regard to the safety of the farm pond, this applicant is proposing a fence along its boundary to enhance the safety. That's something to my knowledge that is not universally provided by the very homeowners in Fox Mill Estates at the present time. And I think it's a bit unfair for there to be a request that the applicant do something that the citizens are not willing to do themselves, and in fact, the applicant is volunteering to do just that with the fence in its proffers. This is, in my judgment, consistent with the Comprehensive Plan. This is consistent with what was envisioned by the neighbors when the Comprehensive Plan language was drafted. It is certainly my hope that Alternative B indeed is what is built. I have every expectation that it will be, but as Ms. Downer very ably explained, I do not think it would be fair to the parties concerned to have an

eventuality where you had kind of unwilling partners locked into a rezoning that locked their land and gave them virtually no option. And that is why the two alternatives are provided here. I think the way these proffers are structured, there is every incentive whatsoever to build Alternative B which is clearly the preferable alternative to all parties concerned. With that, Mr. Chairman, I would MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-1998-HM-036, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED DECEMBER 16, 1998, WITH PROFFER NO. 13 AMENDED BY ADDING AT THE END OF THE SECOND PARAGRAPH A STRIKING OF THE PERIOD AND ADDING "IF SUCH CONSOLIDATION IS ACHIEVED, ALTERNATIVE A WILL NOT BE PURSUED."

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of the motion?

Commissioner Coan: Yes, Mr. Chairman. I am very disturbed by the fact that this applicant is getting full credit for consolidation and yet we are incorporating within this approval the contemplation that full consolidation may not occur, and accordingly, I'm going to vote against this application.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-1998-HM-036, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Coan and Alcorn: No.

Chairman Murphy: Motion carries. Mr. Coan votes no. Mr. Alcorn votes no.

Commissioner Palatiello: Mr. Chairman?

Chairman Murphy: Mr. Palatiello.

Commissioner Palatiello: Mr. Chairman, I'm going to make an additional motion that the PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE SITE PLAN FOR THIS APPLICATION BE SUBMITTED TO THE PLANNING COMMISSION FOR REVIEW AND COMMENT PRIOR TO ITS APPROVAL. The reason for that is so that the Planning Commission and the citizens can look at what is finally filed in terms of a site plan to evaluate that so that we know whether it is Alternative A and B and there is at least an opportunity for a continuing dialogue.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Coan: Abstain.

Chairman Murphy: Motion carries. Mr. Coan abstains.

Commissioner Palatiello: Thank you, Mr. Chairman. I want to thank Ms. Johnson for her very able assistance. I want to thank all the citizens for coming out, especially thank Mr. Conroy and his neighbors who really approached this in a very constructive manner. As Mr. Conroy indicated, they did come forward with a list of concerns and I want to thank the applicant for their willingness and cooperation in addressing each of those concerns. Thank you all.

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(The first motion carried by a vote of 9-2 with Commissioners Alcorn and Coan opposed; Commissioner Thomas absent from the meeting.)

(The second motion carried by a vote of 10-0-1 with Commissioner Coan abstaining; Commissioner Thomas absent from the meeting.)

LBG