

PROFFERS

**RZ 1998-LE-044
Winchester Homes, Inc.**

April 2, 1999

Pursuant to Section 15-2-2303A of the 1950 Code of Virginia, as amended, the undersigned hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein. For the purpose of these proffers, the term "Applicant" or "Developer" refers to the undersigned or their successors or assigns.

1. Subject to the provisions of Section 18-204 of the Zoning Ordinance, the Subject Property shall be developed in substantial conformance with the Generalized Development Plan ("GDP") entitled, "Accotink Bluff" prepared by the Land Design Consultants, Inc., as of April 2, 1999.
2. The Developer shall conform to the limits of clearing and grading shown on the GDP subject to minor modifications for the installation of necessary trails, utility lines, stormwater management and sanitary sewer facilities as approved by DPWES.
 - a. At the time of grading plan review for the subdivision, the Developer shall designate limits of clearing and grading, in addition to those shown on the GDP, in areas where it is economically feasible to save additional trees without precluding construction of the project in accordance with the GDP, including but not limited to, the specific density and general development configuration shown thereon.
 - b. Prior to any clearing and grading on-site, the final limits of clearing shall be confirmed in the field by the Urban Forester. All wooded preservation areas shown shall be protected by silt fencing or equivalent tree protection placed at the dripline of the trees to be preserved. The fencing shall be installed prior to any work being conducted on the site, shall be made clearly visible to all construction personnel and shall remain in place during construction until the Urban Forester determines that it may be removed.

- c. If any trails, utility lines, or stormwater management facilities are required to be located within the area protected by the limits of clearing and grading, they shall be located and installed in the least disruptive manner feasible, considering cost and engineering, as determined by DPWES, and subject to County Urban Forester approval.
- d. The Applicant shall provide a tree preservation plan prepared by a certified arborist, and coordinated and reviewed by the Urban Forestry Branch, as a part of subdivision plan submittal. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees 16 inches in diameter and greater, 20 feet to either side of the limits of clearing and grading around the two tree save areas within "Parcel B", to the rear of lots 1 through 24, and for the 26" oak labeled "to be saved" on the plan. The condition analysis shall be prepared using methods outlined in the eighth edition of The Guide for Plant Appraisal. Specific tree preservation activities designed to maximize the survivability of trees chosen for preservation shall be incorporated into the tree preservation plan. Activities include, but are not limited to, crown pruning, root pruning, mulching and fertilization, as may be recommended by the Urban Forester.
- e. The Applicant shall provide a reforestation plan which shall provide supplemental plantings for the area within "Parcel B" not occupied by the proposed SWM/BMP pond, the proposed plantings along Lackawanna Drive, and the two proposed tree save areas. The reforestation plan shall be submitted as part of the tree preservation plan described in paragraph d above. The reforestation plan shall detail the methods and specifications for restoring this area with native trees, shrubs and grasses, as approved by the Urban Forestry Branch.
- f. In addition to the planting shown on the GDP, the Applicant shall meet with the Fairfax County Urban Forestry Branch to develop a landscape plan which supplements the planted buffer along Lackawanna Drive adjacent to Lot 37 and Parcel D. The Applicant

shall provide evergreen and deciduous plant material which provides effective year round buffering of the development.

3. In response to comments received from the Northern Virginia Soil and Water Conservation District and subject to the approval and acceptance of DPWES, the Applicant will do the following:
 - a. design the proposed stormwater management/BMP facility to detain the one and one-half year storm event provided the Board of Supervisors waives the 2 year storm event requirement under the Public Facilities Manual as a part of the approval of this application.
 - b. locate the outfall channel between the SWM/BMP discharge and the existing driveway on Parcel 16 (future Lot 38, as shown on the GDP) along the existing swale and line the swale with rip-rap in order to preserve the integrity of the existing wooded area;
 - c. construct a rip-rap stilling basin on the downstream side of the existing driveway on Parcel 16, if requested by DPWES; and
 - d. coordinate with the Northern Virginia Soil and Water Conservation District in the preparation of a plan for the installation of stream bank stabilizing vegetation along the lower 150 feet of the existing tributary to Accotink Creek, specifically utilizing "live stakes" of shade tolerant vegetation (e.g., "Bankers Dwarf Willow" (*Salix cotteti*), or comparable plant material), to be included in the landscape plan for the subdivision.

Prior to the first submission of the subdivision plan to Fairfax County, the Applicant will review the plans showing the items described above with the Northern Virginia Soil and Water Conservation District.

In the event that DPWES disapproves any of the actions referenced above, the Applicant shall immediately send written notification of such disapproval to the office of the Lee District Supervisor.

4. All homes on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems, as applicable.
5. Prior to any land disturbing activities, the Developer shall have a Phase I archeological survey of the property conducted which shall be submitted to the County Archeologist. The scope of work for the archeological survey shall be discussed with the County Archeologist prior to commencement. If, based on the Phase I Survey, Heritage Resources determines that further study is warranted, the Developer shall conduct a Phase II and/or Phase III Archeological Survey acceptable to Heritage Resources. The Developer's total cost shall not exceed \$10,000.
6. Concurrently with recordation of the record plat, the Developer shall dedicate Parcel A, as shown on the GDP, to the Board of Supervisors for public park purposes.
7. The Applicant shall create conservation easements, as defined below, for all open space areas to be conveyed to the Homeowners Association as generally shown on the GDP. The Conservation Areas shall be shown on the subdivision record plat. At the time of subdivision plat approval, the Applicant shall record the conservation easements among the land records of Fairfax County in a form approved by the County Attorney. These easements shall be recorded to the benefit of the Board of Supervisors of Fairfax County. These conservation easements shall also be disclosed in the Homeowners Association Documents. These easements shall prohibit the removal of trees, except for dead or dying trees, hazardous trees or for the installation of trails, utility lines, sewer lines, and storm drainage facilities, if necessary, as determined by DPWES. These easements shall also permit selected clearing of undergrowth. The determination that a given tree is dead, dying, or hazardous, and determinations as to the nature and extent of the clearing of undergrowth shall be made by the Urban Forestry Branch of DPWES. If any trails, utility lines, sewer lines or storm drainage facilities are required to be located within the Conservation Areas, they shall be located and installed in the least disruptive manner feasible, as determined by DPWES, and subject to approval by the Director of DPWES.

8. The Applicant shall locate the new sewer line to take advantage, to the extent practicable, of the existing clearing for the sewer lateral servicing the existing house located on Tax Map Reference 90-3 ((3)) Parcel 16.
9. Subject to the approval of VDOT and DPWES, the Applicant shall do the following:
 - a. Construct shoulder, ditchline and sidewalk improvements within the existing right of way along the east side of existing Lackawanna Drive from the subject property to Dudrow Road (approximately 1,000 feet). The improvements shall include re-establishment of a two (2) foot gravel shoulder and six (6) foot ditchline and construction of a four (4) foot sidewalk, consistent, to the extent possible, with the existing twenty (20) foot pavement section of Lackawanna Drive, the location of the existing ditchline and existing driveway entrances.
 - b. On the west side of Lackawanna Drive from the subject property to Dudrow Road, the Applicant shall clean up the ditchline by removing all debris and vegetation (other than grass) within the ditchline.
 - c. In the event that condemnation of easements is necessary for the construction of the improvements proffered herein, the Applicant shall fund easement acquisition expenses. The Applicant shall use best efforts to acquire easements by agreement with the respective landowners. In the event that the Applicant is unable to do so, the Applicant shall request that the County acquire the easements by means of its condemnation powers. It is understood that the County shall be under no obligation to do so. It is further understood that the Applicant's request shall not be considered until it is forwarded, in writing, to the Director of Land Acquisition, accompanied by:
 - (1) plans and profiles showing the necessary easements to be acquired;
 - (2) an independent appraisal of the value of the easements to be acquired;

- (3) a 60-year title search certificate of the property from which said easements are to be acquired; and
- (4) a letter of credit in an amount equal to the appraised value of the easements to be acquired which can be drawn upon by the County.

It is also understood that, in the event the owner of the property from which said easements are to be acquired is awarded more than such letter of credit in a condemnation suit, the amount of the award in excess of the letter of credit shall be paid to the County by the Applicant within thirty (30) days of County's notifying Applicant of said award. It is further understood that all other costs incurred by the County in acquiring the easements shall be paid by the Applicant on demand. If the Applicant is unable to acquire the necessary easements for the subject improvements and the County declines to acquire same by condemnation, the Applicant shall escrow with the County an amount equivalent to the cost of such improvements.

- d. In the event that the proposed improvements outlined above in Paragraph 9(a) are not approved by VDOT and/or DPWES, or cannot be implemented, the Applicant shall escrow with the County an amount equivalent to the cost of such improvements.
10. Any dwelling on Lot 1 shall be located so as to maintain a minimum of 16 foot side yard setback from the lot line of Parcel D.
 11. Prior to the approval of the subdivision record plat the Applicant shall make the following contributions:
 - a. Subject to Board of Supervisors approval of a waiver of the requirement for construction of the extension of Lackawanna Drive from the temporary turnaround/cul-de-sac to the permanent cul-de-sac as shown on the GDP, the Applicant shall contribute into an escrow account to be managed by Fairfax County the cost of constructing a 1/2 section of such future extension of Lackawanna Drive.

- b. In lieu of Stream Valley Trail depicted on the GDP, Applicant shall contribute the sum of \$5,000 into an escrow account to be managed by Fairfax County to be utilized for the future construction of said trail. Said sum shall be subject to inflationary adjustments from the date of rezoning approval to the date that the money is posted in escrow in accordance with the Construction Cost Index contained in the **Engineering News Record**.
13. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[Signatures on the next page]

APPLICANT:

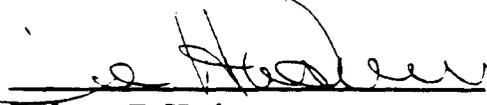
Winchester Homes Inc.

By: 

Title: VICE PRESIDENT

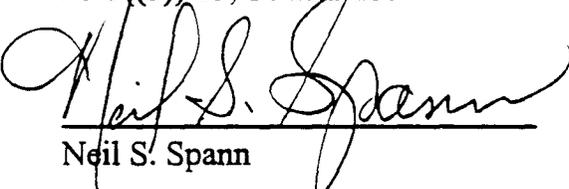
Owner of Tax Map Parcel

90-3((3)) 12:


Dolores E. Hudson

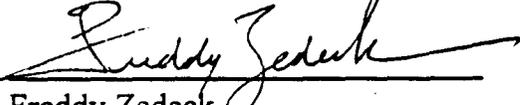
Owner of Tax Map Parcels

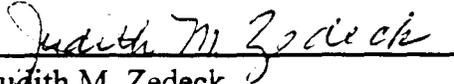
90-3((3)) 13, 14 and 15:


Neil S. Spann

Owners of Tax Map Parcel

90-3((3)) 16:


Freddy Zedeck


Judith M. Zedeck