

**RZ-1998-SU-042 WINCHESTER HOMES, INC - WEST OX
PROFFER STATEMENT**

**NOVEMBER 2, 1998
DECEMBER 2, 1998
DECEMBER 10, 1998
DECEMBER 17, 1998
DECEMBER 22, 1998
FEBRUARY 2, 1999**

Pursuant to Section 15.2-2303(A) of The Code of Virginia, as amended, and subject to the Board of Supervisors' approval of RZ-1998-SU-042, as proposed, for rezoning from the R-1 and WS to R-3 and WS Districts, the owners and Winchester Homes, Inc. (the "Applicant"), for themselves and their successors and assigns, hereby proffer that development of Tax Map Parcels 45-2-((1)) 8, 9, 10, 10A, 11 and 20 (the "Property"), containing approximately 17.30480 acres shall be in accordance with the following proffered conditions:

1. Substantial Conformity. Subject to provisions of Section 18-204 of the Zoning Ordinance, the Property shall be developed in substantial conformance with the Generalized Development Plan prepared by Urban Engineering Associates, dated July 1998 with revisions through December 17, 1998 (the "GDP"), as further modified by these proffered conditions.
2. Minor Modifications to Design. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, the Applicant may make minor adjustments which may be required as a result of final engineering to modify the layout, if such changes are in substantial conformance with the GDP and these proffers, and if the changes do not increase the total number of units or decrease the amount of landscaping along the Property lines.
3. Maximum Density. A maximum of forty-four (44) dwelling units shall be permitted on the Property.
4. Limits of Clearing and Grading. The Applicant shall conform to the approximate limits of clearing and grading shown on the GDP, subject to the installation of utilities, trails and stormwater management facilities, if necessary, as approved by the Department of Public Works and Environmental Services ("DPW&ES"). Any necessary disturbance shall be accomplished in the least disruptive manner possible.
5. West Ox Road Frontage. The Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along subject Property's frontage as shown on VDOT Plan Number 0608-029-301,C502 and additional right-of-way as depicted on Sheet 3 of the GDP for construction of a permanent right turn lane at the site entrance as part of the future improvements to West Ox Road. At the time of recordation of the final

subdivision plan approval, the Applicant shall escrow with DPW&ES, in an amount determined by DPW&ES to be adequate, funds for the construction of a 35 foot half section along the Property's West Ox Road frontage and a permanent right turn lane, less the cost of the interim right and left turn lanes referenced in Proffer #6 so long as the Applicant continues to be responsible for providing said turn lanes. Improvements shall generally be in accordance with VDOT Plan Number 0608-029-301.C502. Right-of-way shall be conveyed in fee simple to the Board of Supervisors upon demand by the County or at the time of recordation of the final subdivision plat, whichever occurs first. At the time of recordation of the final subdivision plat approval or upon demand by Fairfax County in conjunction with a project by others to improve West Ox Road along the subject Property's frontage, the Applicant shall convey to the Board of Supervisors a temporary construction easement of up to seven (7) feet, as determined by DPW&ES, from the edge of right-of-way conveyed pursuant to the language above. Said easement shall provide that all landscaping, berms, and/or fences, if any, within the easement area, damaged as a result of said construction shall be restored by the responsible party to their pre-construction condition.

6. Turn Lanes. The Applicant shall construct interim right and left turn lanes into the Property from West Ox Road, as depicted on sheet 3 of the GDP, if, by the time subject Property develops, the proposed four-lane divided improvements to West Ox Road have not been constructed by others.
7. Lot Access to West Ox Road. There shall be no individual lot access to West Ox Road.
8. Interparcel Access. To serve Tax Map Parcels 45-2-((1)) 6 and 7 and Tax Map Parcels 45-2-((1)) 21-24 in the event of their redevelopment, the Applicant shall provide for interparcel access, within a public access easement or within dedicated right-of-way, to the property boundary of Tax Map Parcel 45-2-((1)) 7 and the property boundary of Tax Map Parcel 45-2-((1)) 21, extending from the respective cul-de-sacs adjacent to said parcels, generally as depicted on the GDP. All initial purchasers shall be advised in writing that a through connection serving the respective adjacent properties may be established in the future. This advisory shall be provided with the HOA documents provided to each such purchaser.
9. Landscaping. Landscaping shall be consistent with the quality and the locations shown on sheets 4- 7 of the GDP. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans submitted for review and approval by the County Urban Forestry Branch of DPW&ES at the time of subdivision approval. Landscaping and fence improvements located on lots abutting West Ox Road shall be located within an easement running to the benefit of the Homeowners Association for the purpose of maintaining the fence and landscaping along West Ox Road. Said easement shall be recorded in the land records in the deed for each affected lot. The HOA shall not be responsible for the restoration of landscaping, berming and/or the fence if damaged in conjunction with the West Ox Road improvements identified in Proffer #5.

10. Trail. The Applicant shall escrow funds, in an amount determined by DPW&ES to be adequate, for construction of an 8 (eight) foot Type I asphalt trail within the right-of-way of West Ox Road along subject Property's frontage, as depicted on the GDP.
11. 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.
12. Stormwater Management. The Applicant shall implement stormwater management techniques to control the quantity and quality of stormwater runoff from the Property. The Applicant shall diligently pursue a waiver of requirements for the stormwater management pond located on the southern portion of the Property, prior to subdivision approval. In the event a stormwater management waiver is granted for this facility, this portion of the Property will be designated a tree save area and maintained as common open space. Additionally, the Applicant will diligently pursue approval of an embankment-only facility in the northwest corner of the Property if feasible and if permitted by DPW&ES. The Applicant will grant an access easement(s) to the stormwater management facility(ies) to DPW&ES at the time of recordation of the final subdivision plat, in the location(s) generally depicted on the GDP, to provide access to the facility(ies) for maintenance purposes.
13. Open Space. At the time of recordation of the subdivision plat, the Applicant shall convey the stormwater management facility parcels to the Homeowners Association for stormwater management/BMP purposes. If the Stormwater Management Facility is not developed for stormwater management purposes as noted in Proffer #12, above, said parcel will be conveyed to the Homeowners Association for use as common open space, with trees to be preserved per Proffer #15.C., below.
14. 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 residential units located within 70 feet of the centerline of West Ox Road which are impacted by highway noise levels of between 70 and 75 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 residential units located within 150 feet of the centerline of West Ox Road which are impacted by highway noise levels of between 65 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 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. In order to achieve a maximum exterior noise levels of 65dBA within rear yards of units located along West Ox Road, noise attenuation structures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those rear yard areas that are unshielded by topography or structures. If acoustical fencing or walls are used, they should be architecturally solid from ground up with no gaps or openings and of sufficient height to adequately shield the impacted area from the source of noise and generally conform with the fence details depicted on sheet 7 of the GDP. The final wall and/or fence design shall be determined in conjunction with DPW&ES subject to submission of an acoustical analysis prepared by an acoustical engineer prior to subdivision approval demonstrating that the proposed noise attenuation structure reduces rear yard noise levels to a maximum 65 dBA.
- 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 topography or structures to permit a reduction in the mitigation measures prescribed above; or to determine minimum STC ratings for exterior walls, windows, and doors.

15. Tree Preservation.

- A. For the purposes of maximizing the preservation of trees in common open space areas and on individual lots, the Applicant shall prepare a tree preservation plan for the Property in conjunction with an arborist or landscape architect certified by the International Society of Arboriculture. 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 and in common open space/tree save areas to the extent reasonably feasible without precluding the development of a typical home and yards 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:

1. A tree survey which shows the location, size, species and dripline of all trees 12" in diameter and larger whose trunks lay within 10 feet of either side of the limits of clearing and grading.
 2. All tree save areas designated to be preserved on the tree preservation plan shall be protected by temporary 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.
- B. The demolition of existing structures shall be conducted in such a manner so as to minimize the impact on individual trees and groups of trees to be preserved.
- C. 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. Old Navy School. The Applicant shall contract with a private firm to document the interior and exterior of the Old Navy School structure, located on Tax Map Parcel 45-2-((1)) 6, in accordance with standards established by the Fairfax County Historic Commission. This work shall be conducted only with the express written permission of the property owner. The Applicant shall diligently pursue permission to conduct such a survey of the property and document such efforts in writing to the County's Historic Commission through the Department of Planning and Zoning. In the event the Applicant cannot obtain permission to enter the property for documentation purposes within eighteen (18) months of the date of the rezoning, the Applicant will contribute \$5,000 to the County for the explicit purpose of documenting the Old Navy School structure which may include erection of a County historic plaque on or near the site. In the event the County is unable to conduct such a study within ten (10) years of the date of the rezoning, the County may direct the funds toward other historic preservation efforts in the Sully district as deemed appropriate by the Fairfax County History Commission.
17. Housing Trust Fund Contribution. At the time of subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half percent (1/2%) of the projected base sales price of each unit to assist Fairfax County's low and moderate income housing goals. The projected sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development and DPW&ES.

18. Utility Extensions. To facilitate the ultimate extension of utilities by others to adjacent parcels, the Applicant shall extend a sanitary sewer line/manhole, as close as is feasible from an engineering standpoint without the necessity for easements from the adjacent property owners, to the property boundary of Tax Map Parcel 45-2-((1)) 7 and to the property boundary of Tax Map Parcel 45-2-((1)) 21, within the cul-de-sac adjacent to the respective parcels or as otherwise approved by DPW&ES. A water line shall be similarly extended, as approved by DPW&ES, to the property boundary of Tax Map Parcel 45-2-((1)) 7 and to the property boundary of Tax Map Parcel 45-2-((1)) 21.
19. Parks and Recreation Contribution. The Applicant shall provide a cash contribution equal to \$200 per dwelling unit to the Fairfax County Park Authority to be used 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 shall be made at issuance of the building permit for the respective dwelling unit.
20. 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.
21. 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 developer(s) of the site or any portion of the site.
22. Counterparts. To facilitate this execution, this Proffer Statement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of all the parties to the Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement shall collectively constitute a single instrument.

WINCHESTER HOMES, INC.,
Applicant

By: 
Title: Executive Vice President


Palmer P. Clark
Title Owner, Parcel 45-2-((1)) 8

Richard R. Shurtz, II
Co-Title Owner, Parcels 45-2-((1)) 9 and 11

Mary A. Shurtz
Co-Title Owner, Parcels 45-2-((1)) 9 and 11

David William Popish
Co-Title Owner, Parcel 45-2-((1)) 10

Carol A. Popish
Co-Title Owner, Parcel 45-2-((1)) 10

LHB Realty Corp.
Title Owner, Parcel 45-2-((1)) 10-A

By: Denise Blair Seal
Title: President, LHB Realty Corp.

Howard Dean Keller
Title Owner, Parcel 45-2-((1)) 20

Richard R. Shurtz, II
Co-Title Owner, Parcels 45-2-((1)) 9 and 11

Mary A. Shurtz
Co-Title Owner, Parcels 45-2-((1)) 9 and 11

David William Popish
Co-Title Owner, Parcel 45-2-((1)) 10

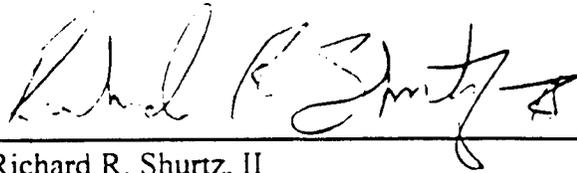
Carol A. Popish
Co-Title Owner, Parcel 45-2-((1)) 10

LHB Realty Corp.
Title Owner, Parcel 45-2-((1)) 10-A

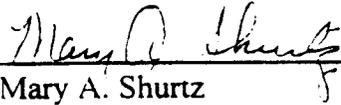
By: _____
Title: _____



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Title Owner, Parcel 45-2-((1)) 20



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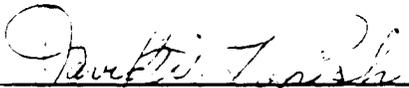
LHB Realty Corp.
Title Owner, Parcel 45-2-((1)) 10-A

By: _____
Title: _____

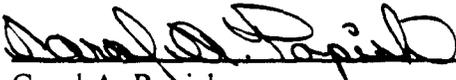
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LHB Realty Corp.
Title Owner, Parcel 45-2-((1)) 10-A

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Title: _____

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