

PROFFERS

DENNIS O. HOGGE and KAREN M. HOGGE

RZ 2002-SU-034

July 9, 2003

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, and subject to the Board of Supervisors approving a rezoning to the C-6 District for property identified as Fairfax County Tax Map 54-4 ((1)) Parcels 65, 66, 67, and 68, (hereinafter referred to as the "Application Property"), the undersigned Applicant and Owners in RZ 2002-SU-034 proffer for themselves and their successors and assigns (hereinafter referred to as the "Applicant"), the following conditions:

1. GENERALIZED DEVELOPMENT PLAN

- a. Subject to the provisions of Section 18-404 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Ordinance"), development of the Application Property shall be in substantial conformance with the Special Exception/Generalized Development Plan (SE/GDP), prepared by Bury+Partners-VA, Inc., dated June 4, 2002, as revised through May 6, 2003.
- b. The elevations of the fast food restaurant and vehicle light service establishment buildings, as shown on Exhibit A, are provided to illustrate the design of the two buildings. The building elevations shall be consistent in terms of character and quality with the illustration and Exhibit A. The specific features such as exact location of windows, doors, and roofline and other architectural details are subject to modification with final engineering and architectural design.
- c. The facades of both buildings shall consist predominately of Brick or Quick Brick™. The brick color shall be consistent with the brick used on the adjacent Centreville Fire House, as determined by DPWES. The Applicant shall submit proposed materials and photographs to DPWES at building permit application to demonstrate consistency.
- d. The rear building wall of the vehicle light service establishment shall include faux window fenestration. The rear facade shall not contain any accent strips or building-mounted signage.
- e. Permitted uses shall consist only of fast food restaurant with drive-thru window and vehicle light service establishment.
- f. The wall which extends from both sides of the vehicle light service establishment building shall be designed with a uniform and consistent appearance with the building, utilizing similar materials and colors.

2. TRANSPORTATION

- a. At time of site plan approval, or upon demand, whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way along the Application Property's Old Centreville Road frontage as shown on the SE/GDP.
- b. Prior to the issuance of the first Non Residential Use Permit (Non-RUP) but in no event later than final bond release:
 - i. The Applicant shall construct the road improvements and sidewalk along the Application Property's Old Centreville Road frontage and the West View Drive cul-de-sac as shown on the SE/GDP.
 - ii. Applicant shall construct the necessary sections of median within Old Centreville Road as shown on attached Exhibit A unless determined undesirable by VDOT and/or DPWES. In such event, Applicant shall escrow funds for the median as determined by DPWES.
 - iii. Applicant shall construct a half section of a four lane divided roadway and a left turn lane into the Fairfax County Park Authority (FCPA) parcel Tax Map 54-4 ((8)) 6, as shown on attached Exhibit A, subject to dedication of necessary right-of-way and easements by FCPA at no cost to Applicant.
 - iv. Unless already constructed by others, Applicant shall construct a half section of a four lane divided roadway, to include sidewalk, along the frontage of Tax Map 54-4 ((1)) 64, as shown on attached Exhibit A, subject to availability of necessary right-of-way and easements. Applicant shall make all reasonable efforts to acquire the necessary additional right-of-way not already proffered to be dedicated by the owner of Tax Map 54-4 ((1)) 64. If the Applicant cannot acquire the additional right-of-way, the Applicant shall demonstrate to DPWES the efforts made and shall escrow funds for (a) the cost of the additional pavement over and above the pavement and curb and gutter previously proffered by the owner of Tax Map 54-4 ((1)) 64, as determined by DPWES; (b) the fair market value, as determined by a qualified appraiser for the additional necessary right-of-way. If the half section is constructed by the Applicant, the Applicant shall request Fairfax County's assistance to reimburse Applicant from funds collected from the owner of Tax Map 54-4 ((1)) 64, for the proffered road improvements cost along the frontage of said parcel as agreed to in RZ 1979-S-012. In the event Tax Map 57-4 ((1)) 64 is approved for a site plan, which would require the construction of a one-half section of a four lane developed roadway and dedication of right-of-way prior to the issuance of the first Non-Rup, the Applicant shall request County to return the escrowed funds to the Applicant.

- v. Applicant shall construct a half section of a four lane divided roadway along the frontages of Tax Map 54-4 ((1)) 81 and 82, subject to the availability of necessary right-of-way and easements. The Applicant shall make all reasonable efforts to acquire the necessary right-of-way and easements. If the Applicant cannot acquire the necessary right-of-way and easements, Applicant shall demonstrate to DPWES the efforts made and shall escrow funds for (a) the cost of the half section of a four lane divided roadway along the frontages of Tax Map 54-4 ((1)) 81 and 82, as determined by DPWES; and (b) the fair market value, as determined by a qualified appraiser for the necessary right-of-way. In the event Tax Map 54-4 ((1)) 81 and/or 82 are approved for a rezoning, special exception or special permit use, which would require the construction of a one-half section of a four lane divided roadway and dedication of right-of-way prior to the issuance of the first Non-Rup, the Applicant shall request County to return the escrowed funds to the Applicant.

- c. At time of site plan approval, the Applicant shall contribute a sum equivalent to that required by the Centreville Road Fund Policy, as escalated from the date of Board of Supervisors approval of the rezoning to the date of site plan approval as calculated by adjustments to the Consumer Price Index set forth in the Engineering News Record, based upon the cumulative gross square footage of the fast food restaurant and vehicle light service establishment buildings to the Centreville Road Fund, subject to credit for the off site road improvements and land acquisition escrows as set forth in sub paragraph b. above and e. below.

- d. Adequate sight distance shall be provided at the corners of the Subject Property at both the site entrances onto West View Drive and at the intersection of West View Drive and Old Centreville Road.

- e. Applicant shall modify the existing median on Old Centreville Road, as determined necessary by DPWES in coordination with Fire and Rescue, to allow emergency vehicles to continue south on Old Centreville Road. This improvement shall occur prior to the improvements outlined in paragraph 2.b. unless already constructed by others.

- f. Prior to final bond release, the Applicant shall either install or contribute funds to the Deerfield Ridge HOA to install up to 8 speed bumps on the Deerfield Ridge private street system.

3. LANDSCAPING

- a. Landscaping in substantial conformance with that shown on the SE/GDP shall be installed by the Applicant prior to the issuance of the first Non-RUP, subject to

Urban Forestry Branch approval, except that equivalent plant materials may be substituted as determined appropriate by Urban Forestry Branch.

- b. A decorative retaining wall railing consisting of cast aluminum shall be constructed along the Application Property's Route 28 frontage.
- c. Fast growing, native species trees as depicted on the SE Plat/GDP shall be planted adjacent to Route 28 both at the bottom and top of the retaining wall, as determined by Urban Forestry Branch.

4. LIGHTING

- a. All parking lot and building mounted lighting fixtures shall be in conformance with Part 9 of Article 14.
- b. Light poles shall not exceed 18 feet in height.

5. SIGNAGE

- a. Both the fast food restaurant and vehicle light service establishment uses shall utilize one freestanding monument sign with a maximum square footage of 40 square feet, and not to exceed 10-feet in height.
- b. Directional signage in conformance with Article 12 of the Ordinance shall be provided in the locations as shown on the SE/GDP.
- c. No pole-mounted signs shall be permitted.
- d. Banners, pennants, inflatable signs and neon signs shall be prohibited.

6. STORMWATER MANAGEMENT

Unless waived or modified by DPWES, the Applicant shall provide on-site stormwater management (SWM) design with Best Management Practices (BMP) in the facilities shown on the SE/GDP within an underground structure and within open space. The maintenance of the underground facilities shall be the responsibility of the Applicant and its successors. The Applicant shall enter into a private maintenance agreement for the perpetual maintenance of the SWM facility.

7. MISCELLANEOUS

- a. There shall be no exterior loudspeakers used by either use on the Application Property.
- b. Any intercom used by the fast food restaurant drive thru lane shall be set to limit decibel level to 20 at all property lines.

- c. The hours of operation shall be limited to:

Fast Food Restaurant:

Sunday through Thursday: 6:00 a.m. to 1:00 a.m.
Friday and Saturday: 6:00 a.m. to 2:00 a.m.

Vehicle Light Service Establishment:

Monday through Friday 7:00 a.m. to 7:00 p.m.
Saturday 7:00 a.m. to 5:00 p.m.
Sunday 9:00 a.m. to 2:00 p.m.

8. ARCHAEOLOGY

Prior to Site Plan approval, the Applicant shall conduct a Phase I Archaeological Survey of the Application Property. If deemed necessary by the Heritage Resources Branch based upon the results of the Phase I Survey, Applicant shall perform a Phase II Archaeological Survey and remove any significant artifacts and convey them to the Heritage Resources Branch, prior to any site disturbing activities, at a cost not to exceed \$10,000.00.

9. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and his or her successors and assigns.

10. COUNTERPARTS

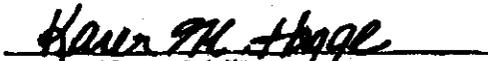
These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

PROFFERS
RZ 2002-SU-034

APPLICANT/TITLE OWNER
of Tax Map 54-4 ((1)) Parcels 65, 66, 67, and 68


Dennis O. Hogge

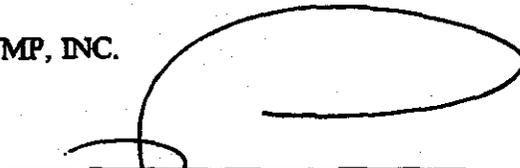

Karen M. Hogge

(SIGNATURES CONTINUE NEXT PAGE)

PROFFERS
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CONTRACT PURCHASER of
Tax Map 54-4 ((1)) Parcels 65, 66, 67, and 68

TRUMP, INC.

BY: 

Kevin Trump

(SIGNATURES CONTINUE NEXT PAGE)

PROFFERS
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LESSEE of
Tax Map 54-4 ((1)) Parcels 65, 66, 67, and 68

DAVCO RESTAURANTS, INC.

BY: Harvey Rothstein
Harvey Rothstein
Senior Executive Vice President

(END OF SIGNATURES)