

PROFFERS

J.A. LOVELESS HOMES, INC.

RZ 1998-PR-051

March 31, 1999

Pursuant to Section 15.2-2303(a), Code of Virginia, 1950 as amended, J.A. Loveless Homes, Inc., (hereinafter referred to as the "Applicant") for the owners, themselves, successors and assigns in RZ 1998-PR-051, filed for property identified as Tax Map 39-1 ((9)) 36, 37 and 38, (hereinafter referred to as the "Application Property"), proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-4 District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for residential development.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN -

- a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of two sheets prepared by Walter L. Phillips, Inc., dated September 10, 1998 and revised through March 30, 1999.
- b. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the internal lot lines of the proposed subdivision at time of subdivision plan submission based on final house locations and building footprints provided such changes are in accordance with the CDP/FDP. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP without requiring approval of an amended CDP/FDP provided such changes are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator, agents or assigns, and neither increase the total number of lots nor decrease the following: open space (except as described herein should a waiver or modification of stormwater management be granted), parking, tree preservation, common open space areas, and distances to peripheral lot lines. Such changes may include, but not be limited to, revising lot lines, building footprints, and access to individual lots.
- c. Notwithstanding that the CDP/FDP is presented on two sheets and said CDP/FDP is the subject of Proffer 1a. above, it shall be understood that the CDP shall be the entire plan shown on Sheet 1 relative to the points of access, the total number and general location of units and type of units, amount of open space, the general location of the passive recreational facilities, location of common open space areas (as may be modified as described herein) and buffers, and limits of clearing and grading. The Applicant has the option to request a Final Development Plan Amendment ("FDPA") for elements other than CDP elements from the Planning Commission for all of or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance, if in conformance with the approved CDP and proffers.

Proffers

'Z 1998-PR-051

Page 2

2. TRANSPORTATION -

- a. Subject to Virginia Department of Transportation (VDOT) and Department of Public Works and Environmental Services (DPWES) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of twenty-six (26) feet from the centerline along the frontage of George Washington Road as shown on the CDP/FDP. Dedication shall be made at time of recordation of the final subdivision plat or upon demand from either Fairfax County or VDOT whichever shall first occur.
- b. Subject to VDOT and DPWES approval, the Applicant shall construct frontage improvements to George Washington Road measuring nineteen (19) feet from centerline within the dedicated right-of-way, as shown on the CDP/FDP.
- c. The Applicant shall construct a four (4) foot wide concrete sidewalk along George Washington Road, as shown on the CDP/FDP. Sidewalks shall be constructed to meet ADA standards.
- d. All of the improvements described herein shall be constructed concurrent with development of the Application Property.
- e. Applicant reserves density as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications described herein or as may be reasonably required by Fairfax County or VDOT at time of subdivision plan approval.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as shown on Sheet 2 of the CDP/FDP in consultation with the Urban Forestry Branch of DPWES.
- b. The Applicant shall install street trees within the dedicated right-of-way of George Washington Road as shown on the CDP/FDP and as approved by the DPWES and VDOT. Any street trees not approved by DPWES and/or VDOT shall be installed elsewhere on the Application Property in consultation with the Urban Forestry Branch of DPWES.
- c. Should on-site stormwater management be waived by DPWES as described herein, the area shown as a proposed stormwater management pond shall remain as open space, however, its area may be decreased to allow the Applicant to increase the lot sizes of proposed Lots 10 through 14, inclusive. This

modification may be made without the necessity of an amendment to these proffers or the CDP/FDP.

- d. Applicant shall use reasonable efforts to transplant four American Hollies, a Southern Magnolia and a red oak from Lot 36 to the perimeter of the Application Property in coordination with the Urban Forester. Such efforts shall include the following:
- i. the use of a large tree spade (90" +/-),
 - ii. trimming and tying of branches,
 - iii. clearing suitable locations for the trees,
 - iv. filling voids between root ball and receiving holes,
 - v. fertilization and application of bio-stimulant,
 - vi. mulching to a depth of four inches,
 - vii. watering on a regular and recommended basis for a minimum of two inches of water per week,
 - viii. properly staking trees,
 - ix. monitoring and treating for insects and disease and,
 - x. the erection of tree save and silt fence around the transplanted trees.

- e. A tree preservation plan shall be coordinated with, and approved by the Urban Forestry Branch concurrent with subdivision plan approval. The tree preservation plan shall include a tree survey which describes the location, species, size, dripline and condition of all trees 12 inches or greater in diameter on the north, west and south property lines, or on the Application Property within 15 feet of these property lines. The condition analysis shall be prepared by a certified arborist using the eighth edition of The Guide for Plant Appraisal. Specific trees preservation activities shall be incorporated into the tree preservation plan, including but not limited to, tree pruning, root pruning, mulching, fertilization, etc.

All trees shown to be preserved on the tree preservation plan shall be protected by fencing a minimum of four feet in height, placed a minimum of 12 to 15 feet from the trunk of the trees to be preserved as shown on the CDP/FDP. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed subsequent or concurrent with the transplanting of trees on the Application Property, but prior to any construction work being conducted on the Application Property, including the demolition of any existing structures or fences. The certified arborist shall monitor the installation of the tree protection fencing and verify in writing that it has been installed prior to the demolition of existing structures. In addition, the project's certified arborist shall monitor the construction work and tree preservation efforts in order to ensure that the commitments made on the tree preservation plan are fulfilled.

The demolition of existing features and structures shall be conducted in such a manner as to minimize the impact on individual trees and groups of trees to be preserved. These methods are to be included in the tree preservation plan.

The Applicant shall have the limits of clearing and grading flagged prior to construction. Prior to the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Branch representative and the Applicant's certified arborist to determine where minor adjustments to the clearing limits can be made, if necessary, and where practical, to protect save area and property line trees, without reducing the size of a house, adversely affecting surfacing drainage and/or the preclusion of the installation of site utilities on an efficient basis.

Subject to the review and approval of the Urban Forester, the Applicant may trim or remove weeds, undesirable or unsafe vegetation in the tree save areas. Such trimming and/or removal shall not include removal of small native trees in good condition and shall be carried out using methods that will not adversely affect the health of the remaining trees in the tree preservation areas.

Any substitution of nursery stock trees shown on the landscape plan with transplanted trees from other areas of the Application Property must meet the applicable standards referenced in the American Standard for Nursery Stock, American Association of Nurserymen, and be approved by the project's certified arborist.

4. **PARKS AND RECREATION -**

Pursuant to Paragraph 2 of Section 6-110 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend the sum of nine hundred fifty-five dollars (\$955.00) per approved lot for on-site passive recreation facilities consisting of a common courtyard with gazebo as shown on the CDP/FDP. Should the stormwater management pond shown on the CDP/FDP be waived by DPWES, the Applicant may elect to provide benches in the resulting open space area as additional passive recreation facilities. The balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority.

5. **STORMWATER MANAGEMENT -**

The Applicant shall provide stormwater management (SWM) in the location as generally shown on the CDP/FDP and in accordance with the requirements of the Public Facilities Manual and Chesapeake Bay Preservation Ordinance, unless waived or modified by DPWES. In the event that on-site stormwater management is waived by DPWES, that area shown as a proposed stormwater management pond shall

Proffers

'Z 1998-PR-051

Page 5

remain as open space as described in Proffer 3 above. Removal of the SWM pond shown on the CDP/FDP shall not require the approval of a proffered condition amendment or an amendment to the CDP/FDP.

6. AFFORDABLE HOUSING -

At the time of final subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one percent (1%) of the projected sales price of the house to be built on each approved lot 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 (HCD) and the DPWES.

7. DESIGN -

- a. The Applicant shall construct a forty-two (42) inch high fence with masonry piers along the Application Property's George Washington Road frontage as shown on the CDP/FDP.
- b. The Applicant shall construct the proposed residential dwelling units with masonry fronts. The sides of dwelling units abutting George Washington Road shall also have masonry facades.
- c. The Applicant shall construct a four (4) foot wide sidewalk on both sides of the internal street within the proposed residential development as shown on the CDP/FDP as approved by DPWES.
- d. Homes constructed on the Application Property shall meet thermal guidelines of the Virginia Power Energy Saver Program for the energy-efficient homes or its equivalent, as determined by DPWES, for either electrical or gas energy systems.
- e. The Applicant shall provide a five (5) foot high board-on-board fence along the north property line at the rear of proposed Lots 12-14, inclusive.

8. MISCELLANEOUS -

- a. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.
- b. 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.
- c. The Applicant shall establish a homeowners' association for the proposed development to own, manage and maintain the open space including the tree save

areas, the recreational facilities and all other community owned land and improvements. Homeowners association documents shall be in a form submitted for review and approval by the Fairfax County Attorney's Office.

- d. At time of final subdivision plan approval, the Applicant shall contribute the sum of Two Hundred Dollars (\$200.00) per approved residential lot to be equally divided between Freedom Hill Elementary School and Kilmer Intermediate School for technology programs.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

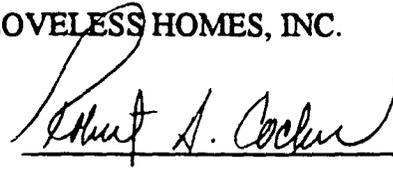
APPLICANT

OWNER: Tax Map 39-1 ((9)) 36

CONTRACT PURCHASER: Tax Map 39-1 ((9)) 37 and 38

J.A. LOVELESS HOMES, INC.

By:



Name:

ROBERT A. COCKER

Title:

EXECUTIVE VICE PRESIDENT

Proffers
Z 1998-PR-051
Page 8

OWNERS:

Tax Map 39-1 ((9)) 37 and 38

Andrew Maloney, trustee
Andrew Maloney, Trustee

Betty Jean Posner, Trustee

Proffers
VZ 1998-PR-051
Page 8

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Tax Map 39-1 ((9)) 37 and 38

Andrew Maloney, Trustee

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