



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
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Fairfax, Virginia 22035-0072

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July 27, 1999

H. Kendrick Sanders, Esquire
H. Kendrick Sanders Law Offices
3905 Railroad Avenue - 200-N
Fairfax, Virginia 22030

RE: Rezoning Application
Number RZ 1998-BR-072

Dear Mr. Sanders:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on July 12, 1999, granting Rezoning Application Number RZ 1998-BR-072 in the name of Batal Builders, to rezone certain property in the Braddock District from the R-1 District to the R-3 District, subject to the proffers dated June 25, 1999, on subject parcel 68-4 ((1)) 36, consisting of approximately 2.74 acres.

Sincerely,

Nancy Vehrs
Clerk to the Board of Supervisors
NV/ns

RZ 1998-BR-072

July 27, 1999

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cc: Chairman Katherine K. Hanley
Supervisor-Braddock District
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 Acqu. & Planning Div., Park Authority
District Planning Commissioner
Thomas Dorman, Director, Facilities Mgmt. Div., DPW&ES

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
AUG 17 1999
ZONING EVALUATION DIVISION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 12th day of July, 1999, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NUMBER RZ 1998-BR-072

WHEREAS, Batal Builders filed in the proper form an application requesting the zoning of a certain parcel of land herein after described, from the R-1 District to the R-3 District; and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

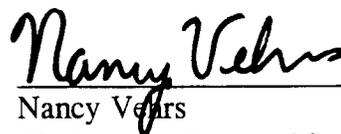
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Braddock District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the R-3 District; and said property is subject to the use regulations of said R-3 District; and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.2-2303(a), which conditions are in addition to the Zoning Ordinance regulations applicable to said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcel.

GIVEN under my hand this 12th day of July, 1999.



Nancy Vears

Clerk to the Board of Supervisors



PROFFERS
RZ 98-BR-072
BATAL BUILDERS, INCORPORATED
JUNE 25, 1999

Pursuant to Section 15.2-2303 (a) of the 1950 Code of Virginia, as amended, and Section 18-204 of the Fairfax County Zoning Ordinance, the undersigned, as the applicant in the above-referenced Rezoning Application and the owners of the Property (the "Applicant") which is the subject matter thereof, being approximately 2.742 acres identified as Tax Map 68-4 ((1)) 36, hereby proffer for themselves and their successors and assigns that the development of the Property will be subject to the following terms and conditions should the same be rezoned to R-3:

PROFFERED PLAN

1. The Property shall be developed in substantial conformance with the Generalized Development Plan (the GDP) revised to May 25, 1999, prepared by BC Consultants. The Applicant does not intend by this proffer to waive the right to make minor engineering modifications permitted and rendered necessary by the subdivision ordinance, the zoning ordinance, or by the Public Facilities Manual, as determined by the Zoning Administrator and/or Department of Public Works and Environmental Services (DPW&ES)

LIMITS OF CLEARING AND GRADING

2. (a) At the time of subdivision plan review, the applicant shall designate on the subdivision plan the limits of clearing and grading, generally consistent with that shown GDP, to be observed during construction.

(b) The GDP designates individual trees to be preserved on the lots. Prior to subdivision plat approval, a replacement value shall be assigned to said trees. At the time of subdivision plat approval, the Applicant will post, in increments, as defined below, a letter of credit payable to the County of Fairfax in such an amount assigned as replacement value by the Urban Forestry Branch to ensure replacement of the designated trees. The calculated replacement values shall be reviewed and approved by the Urban Forestry Branch prior to posting or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined according to the methods contained in the latest edition of the Valuation of Landscape Trees, Shrubs and Other Plants published by the International Society of Arboriculture. The total amount of incremental letter of credit will not exceed the sum of such assigned values or Ten Thousand Dollars (\$10,000.00), whichever is greater. If the letter of credit is called by Fairfax County for tree

replacement, then a letter of credit of equal value will be posted within thirty (30) days of request by Fairfax County. The total dollar value of the letters of credit shall not exceed the total established replacement value of the designated trees.

(c) During construction, the Urban Forester or an independent arborist shall periodically inspect the project and determine if any of the designated individual trees are dead or dying due to acts of negligence by the Applicant. The Applicant may then draw funds from the letter of credit in order to remove and replace such dead or dying trees according the assigned value as defined in the Valuation of Landscape Trees, Shrubs and Other Plants of such dead or dying trees.

(d) Any funds received by Fairfax County pursuant to this proffer shall be utilized solely to replace trees to be saved on the application property.

(e) The letter of credit will be released simultaneously when the Conservation Deposit for the subdivision is released, or sooner at the discretion of Fairfax County.

LANDSCAPING

3. The landscaping shown on the GDP and described in the "Landscape Legend" will be installed and located generally as shown on the GDP.

SIDEWALKS

4. Sidewalks as shown on the GDP shall be provided.

OPEN SPACE/PARKLAND

5. The open space area shown on the GDP shall, if requested by Fairfax County, be conveyed to the Fairfax County Park Authority, in fee simple, for park purposes. If the Park Authority does not elect to take the parcel the open space area will be conveyed to a homeowners' association formed as approved by the County Attorney and will be permanent passive open space for the development. The HOA covenants shall require that trees in this area shall not be disturbed, except for removal of dead, diseased or dying trees, as approved by the Urban Forestry Branch of DPW&ES.

STORM WATER MANAGEMENT

6. If Applicant is not granted an on-site storm water detention waiver, the area shown on the GDP as "S.W.M. Pond" will be utilized for on-site

storm water management. If the waiver is granted, the area shown shall be developed as a lot as shown on the GDP.

EXISTING DWELLING

7. The removal of any existing dwelling shown on the GDP and the construction of a new dwelling on the lot shall be permitted and shall not require a zoning interpretation or PCA.

PUBLIC STREET DEDICATION

8. Dedication of right-of-way on Zion Drive, for improvement by others, as shown on the GDP, shall be provided to the Board of Supervisors in fee simple, together with any necessary ancillary temporary construction easements, at the time of record plat approval, or upon sooner demand, if requested by the Board.

DENSITY CREDIT

9. Advance density credit shall be reserved as may be permitted by the Fairfax County Zoning Ordinance for all eligible dedications to public use described herein or as may be lawfully required by Fairfax County and/or VDOT at time of subdivision plan review and approval.

NO DRIVEWAYS TO ZION DRIVE

10. No driveways to Zion Drive shall be permitted.

COMMON DRIVEWAY

11. The common driveway serving Lots 1, 2, 3, and 4, as shown on the GDP, shall be constructed to Fairfax County Public Facilities Manual pavement design standards for private streets [Section 7-0502.B(1)] and, in addition:

- A. Each purchaser of any of said lots shall be advised in writing prior to contract execution that the lot is served by a private (not publicly-maintained) driveway.
- B. Each lot shall be subject to a binding covenant requiring each lot owner(s) to contribute pro-rata to the maintenance and repair of the common driveway, including snow removal.
- C. If an HOA is formed, the provisions of A. and B. above shall be part of the HOA documents and disclosures.

CONSTRUCTION ENTRANCE

12. Subject to VDOT approval, the sole construction entrance for the development of the Property shall be from Zion Drive.

ZION DRIVE IMPROVEMENTS

13. Applicant shall escrow with DPW&ES the sum of \$1000 per unit for each dwelling lot approved for subdivision, for future improvements to Zion Drive by others, to be paid at the time of final subdivision plan approval.

DRY BASEMENTS

14. If requested by DPW&ES, Applicant shall perform a geotechnical soils study, and follow the recommendations thereof as approved by DPW&ES in order to assure dry basements for dwellings in affected areas.

BINDING EFFECT

15. These proffers will be binding upon the Applicant and their successors and assigns.

SIGNATURE PAGE FOLLOWS

Applicant

BATAL BUILDERS, INCORPORATED

Robert J. Batal

Owners:

J. Michael Connor
J. MICHAEL CONNOR

Michele H. Connor
MICHELE H. CONNOR

batsheadsprofs

