

## PROFFERS

### REORGANIZATION CREDITORS TRUST

RZ 1999-PR-002

September 9, 1999

Pursuant to Section 15.2-2303(A), Code of Virginia (1950), as amended, the undersigned (collectively referred to as "Applicant"), as the title owner and contract purchaser of the property identified as tax map 39-1-((9))-17 (the "Application Property"), which is the subject of the above-referenced rezoning application, for themselves and their respective successors and assigns, agree to the following proffers, provided that the Fairfax County Board of Supervisors approves a rezoning of the Application Property to the R-4 Cluster Zoning District for five (5) residential building lots:

#### 1. **Generalized Development Plan**

(A) Subject to Section 18-204 of the Fairfax County Zoning Ordinance (the "Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan ("GDP") prepared by Ballato & Associates, P.C., dated September 8, 1998, and revised through May 10, 1999.

(B) Pursuant to paragraph 4 of Section 18-204 of the Ordinance, minor modifications to the GDP 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 the time of subdivision plan submission based on final house locations and building footprints.

(C) Applicant reserves density credit in accordance with the provisions of §2-308 of the Ordinance for all street dedications described in these Proffers, described on the GDP, or as may reasonably be required by Fairfax County or VDOT at the time of subdivision plat approval

(D) Notwithstanding Section 1(A), in lieu of a trail along the Wolfrap Road frontage of the Application Property, as shown on the GDP, the Applicant shall provide a concrete sidewalk in accordance with PFM standards.

#### 2. **Transportation**

(A) Applicant shall dedicate and convey in fee simple to the Board right-of-way for public street purposes, as shown on the GDP. Dedication shall be made

at the time of subdivision plan approval or upon demand from Fairfax County, whichever shall first occur.

(B) Concurrent with development of the Application Property, Applicant shall construct improvements to Lord Fairfax Road and Wolf Trap Road generally as shown on the GDP. These improvements will meet current VDOT standards and will be subject to approval by DPW&ES. These improvements will be coordinated with construction of frontage improvements on Lord Fairfax Drive being made pursuant to RZ 1997-PR-026.

**3. Landscaping and Open Space**

(A) For the purposes of maximizing the preservation of trees on individual lots, the Applicant shall retain an arborist certified by the International Society of Arboriculture to consult on the preparation of a tree preservation plan/landscape plan. The tree preservation/ landscape plan shall be submitted prior to any individual house grading plans and as part of the final subdivision plan and shall be reviewed and approved by the Urban Forestry Branch. This plan shall provide for the preservation of specific quality trees or stands of trees located on individual lots which can be preserved without precluding the development of a typical home on each of the lots shown on the GDP.

Subject to the approval of the Urban Forestry Branch and/or DPW&ES, the Applicant shall perform the following measures relating to tree preservation on the Application Property.

- Perform a pre-construction evaluation of the existing vegetation to determine the condition of the trees designated to be saved. The Applicant shall have the limits of clearing flagged prior to construction. Prior to construction the Applicant shall walk the limits of clearing with an Urban Forestry Branch representative and the landscape architect to determine where minor adjustments to the line may be made to ensure the preservation of trees in the tree save area.

- The trees designated to be saved shall be marked on the ground with 36" high orange fencing or equivalent demarcation prior to clearing and grading and at all times during construction. Signage affirming restricted access shall be provided on the temporary fence highly visible to construction personnel. The Applicant shall monitor the construction of the proposed development to ensure consistency with the landscape/tree preservation plan.

- The Applicant shall conform to the limits of clearing and grading as shown on the GDP subject to the installation of necessary utilities. If it is necessary to locate the utility lines outside the limits of clearing and grading, those lines shall

be located and installed in the least disruptive manner possible, considering cost and engineering. A replanting plan shall be developed and implemented for any areas outside the limits of clearing and grading that must be disturbed.

- In addition, where it is deemed feasible, adjustments to the proposed grading and location of the proposed units on the Application Property may be modified at the time of final engineering to enhance specific tree preservation.

- As a result of final engineering in the event the areas designated as tree save areas on the GDP are modified or cannot be preserved, equivalent tree save areas or equivalent landscaped areas shall be substituted on the Application Property as determined by the Urban Forestry Branch and/or DPW&ES.

(B) All open space as shown on the GDP shall be dedicated and conveyed to a homeowners association, either to a homeowners association created for the Application Property or to Lord Fairfax Manors Homeowners Association, Inc., the homeowners association for the adjacent subdivision known as Majestic Knolls, Section 2 (Tax Map No. 39-1-((42))). Open space shall remain undisturbed before, during, and after development activity, except for necessary crossings for placement of utilities, as approved by DPW&ES, carried out in the least disruptive manner possible. Applicant shall restore areas disturbed for placement of utilities, if different from that shown on the GDP, as determined by DPW&ES.

(C) A covenant, which shall run to the benefit of the homeowners association to which open space is conveyed, shall be recorded under the homeowners regulations, as approved by the County Attorney's Office, which shall prohibit the storage of materials or any debris dumping within open space areas shown on the GDP.

#### 4. **Storm Water Management and Best Management Practices**

(A) The Applicant shall file a request for a waiver of an on-site stormwater management ("SWM") and best management practices ("BMP") for the Application Property with DPW/ES. It is expected that these waivers will be justified because the developer of the adjacent subdivision, known as Majestic Knolls (Tax Map 39-1-((42))) (the "Adjacent Subdivision"), in obtaining the approval of its subdivision plan, included the Application Property in its SWM and BMP calculations and included an on-site SWM and BMP pond on the Adjacent Subdivision that was enlarged to take the relevant portion of the Application Property's runoff into account, the intention being to treat the Adjacent Subdivision and the Application Property as one development for SWM and BMP purposes.

(B) Reference is made to the proffers in RZ 1998-PR-012 applicable to the Adjacent Subdivision. The developer of the Adjacent Subdivision proffered, in paragraph 4(c), the following:

The applicant intends to discharge stormwater runoff within a natural swale and existing easement located on downstream properties identified on the Fairfax County Tax Map as #39-1 ((1)) parcels 26 and 33B. At the time of subdivision plan submission, the applicant shall provide field surveyed cross-sections and calculations to DPW&ES as required by the current PFM to verify that the existing channel located within the easement is an adequate outfall. If any improvements are required to the existing stream to render it adequate, the applicant agrees to meet with the owners of parcels 26 and 33B to discuss such improvements. Any improvements to this drainage swale to render an adequate outfall, as defined and approved by DPW&ES, will be the responsibility of the applicant.

If at the time of final subdivision plan submission for the Application Property, the developer of the Adjacent Subdivision has not made any improvements (the "Improvements") required by DPW&ES pursuant to the quoted paragraph, then, in connection with final subdivision plans for the Application Property, Applicant shall incorporate an obligation to complete the Improvements if the developer of the Adjacent Subdivision fails to do so and such Improvements are not covered by the subdivision bond for the Adjacent Subdivision. If the Applicant is required to carry out these Improvements pursuant to this paragraph, the Applicant shall meet with the owners of Tax Map 39-1-((1)), parcels 26 and 33B to discuss the Improvements as part of preparation of final subdivision plans.

(C) If the waivers of on-site SWM and BMP are not granted, then the Applicant shall apply for a Proffer Condition Amendment in order to incorporate into the GDP such on-site stormwater and best management facilities, or other facilities or techniques, as may be required.

5. **Architecture**

In order to be compatible with the adjacent communities, the Applicant hereby agrees to provide two story single family dwellings with basements and two car garages. They shall range in size between 2,700 and 4,000 square feet, not including the basement. The house plans shall be similar in size and facade to those planned for the adjoining subdivision, known as Majestic Knolls, Section 2 (Tax Map No. 39-1-((42))).

6. **Housing Trust Fund**

At the time of final subdivision plan approval, Applicant shall contribute one percent (1%) of the estimated sales price of each dwelling unit to Fairfax County for the County's Housing Trust fund for the provision of affordable housing. The estimated sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development.

7. **Miscellaneous**

(A) The Applicant hereby agrees to contribute \$300.00 per residential building lot to the Freedom Hill Elementary School at the time of subdivision plan approval, for the purpose of acquiring playground equipment and benches.

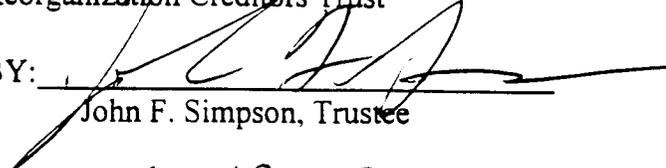
(B) These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.

(C) 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 APPEAR ON FOLLOWING PAGE]

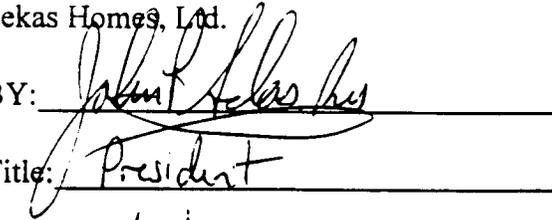
Signature Page to Proffers  
RZ 1999-PR-002

Title Owner:  
Reorganization Creditors Trust

BY:   
John F. Simpson, Trustee

Date: 9-13-99

Contract Purchaser:  
Sekas Homes, Ltd.

BY:   
Title: President

Date: 9/13/99

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