

PROFFERS

JCE, INC.

RZ 2000-PR-007
December 7, 2000

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, JCE, Inc. (hereinafter referred to as the "Applicant"), for the owners, themselves, successors and assigns in RZ 2000-PR-007, filed for property identified as Tax Map 39-4 ((7)) 2, 3, 4, 5, 6, 6A, 8, 10, 11, 18A, 18B and 19, and a portion of Center Street to be vacated and/or abandoned (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-3 District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for residential development. These proffers shall replace and supersede any previous proffers approved on the Application Property.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN -

- a. Development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of four sheets prepared by Dewberry & Davis dated January 24, 2000 and revised through November 30, 2000. Pursuant to Paragraph 4 of Section 16-403 of the Fairfax County Zoning Ordinance (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 layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plat submission based on final house locations, building footprints, and utility locations.
- c. Notwithstanding that the CDP/FDP is presented on five 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, open space and the total number and general location of units and type of units. The Applicant has the option to request Final Development Plan Amendments ("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 the amendment is in conformance with the approved CDP and proffers.

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-two (22) feet from the centerline along the Application Property's Center Street frontage 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 Center Street measuring twenty-two (22) feet curb to curb within the existing dedicated right-of-way for approximately 200 feet from the intersection of Hurst Street and Center Street which shall transition to fourteen (14) feet from proposed centerline within the dedicated right-of-way and within the Applicant's residential development, as shown on the CDP/FDP.
- c. The Applicant shall construct a five (5) foot wide concrete sidewalk within the dedicated right-of-way within the Applicant's residential development only, as shown on the CDP/FDP and referenced in Note 22 thereon. In the event the sidewalk is to be maintained by the homeowners association established for the community, the sidewalk may be constructed of brick pavers, concrete pavers or bomanite concrete pavement at the Applicant's discretion.
- d. The Applicant shall reserve land area for future access via a private street connection or public dedicated roadway from the cul-de-sac bulb on the Application Property proximate to Lot 18 at the northeast corner of the Application Property to the property boundary as shown on the CDP/FDP. Such reservation, being approximately 44 feet wide and 120 feet in length, will permit a future connection by others in the event properties fronting Helena Drive or Worden Lane are assembled and developed, or in the event Fairfax County and/or VDOT acquires the right-of-way required and builds or funds the construction of Worden Lane and Helena Drive to include a connecting link through this reservation for access. This is a reservation only. The Applicant has no obligation to fund and/or construct any part or all of this connecting link with Helena Drive or Worden Lane. Said reservation area shall be conveyed to the homeowners association established for the community and maintained as open space until required as an ingress-egress easement, or dedicated to the Fairfax County Board of Supervisors for public street purposes upon demand. Said easement and/or dedication shall be granted at no cost to the Board of Supervisors.
- e. All of the improvements described herein shall be constructed concurrent with development of the Application Property.

- f. Applicant reserves density credit 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 whether such dedications occur prior to or at time of subdivision plat approval.
- g. Notwithstanding the submission for processing of any applications, plans, or plats in furtherance of the development of the Application Property, the Applicant acknowledges that no such application, plan or plat shall be approved by Fairfax County until or unless the vacation and/or abandonment of right-of-way proposed as part of the Application Property is approved by the Board of Supervisors and is final. In the event that such vacation and/or abandonment is not approved by the Board of Supervisors, or in the event that the Board's approval is overturned by a court of competent jurisdiction, any development of the Application Property under the PDH-3 District shall require a PCA and the Applicant acknowledges that such amendment may result in a loss of density. The Applicant hereby waives any right to claim or assert a taking or any other cause of action that otherwise may have arisen out of a Board decision to deny in whole or in part the right-of-way vacation and/or abandonment.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as shown on the CDP/FDP.
- b. At the time of subdivision plat review, the Applicant shall designate the limits of clearing and grading consistent with the CDP/FDP to be observed during construction on the subdivision plat and will designate any individual large caliper trees (a minimum of 12 inches in caliper) to be preserved within the "Tree Save" areas shown on the CDP/FDP. The Applicant shall retain a certified arborist to prepare a tree preservation plan to be reviewed by the Urban Forestry Division as part of the first subdivision plan submission. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches or greater in diameter ten (10) feet to either side of the proposed limits of clearing and grading for the tree save area adjacent to proposed Lots

2-5. The condition analysis shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be provided. Activities may include, but are not limited to, crown pruning, root pruning, mulching, and fertilization. Such measures shall not reduce the number or alter the size of proposed dwelling units.

- c. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence, silt fence or diversion dikes. Tree protection fencing four feet high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart shall be erected at the limits of clearing and grading as shown on the phase I & II erosion and sediment control sheets for all tree save areas and to protect the off-site trees located on the southwest property line. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any clearing and grading activities on the Application Property, including the demolition of any existing structures. The installation of tree protection fence shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading, or demolition activities, the project's certified arborist shall verify in writing that the tree protection fence has been properly installed.
- d. Any tree(s) damaged within the tree save area during construction shall be replaced by the Applicant with tree(s) of a species, size and number as coordinated with the Urban Forester.
- e. In order to protect the root zone of the trees on abutting Lot 12, there shall be no adjustments to the limits of clearing and grading along the western property line adjacent to proposed Lots 19, 21 and 22 except as may be agreed to by the Urban Forester in order to protect said trees.
- f. Applicant shall provide landscaping to supplement the existing vegetation within the tree save area identified south of proposed Lot 22. Landscaping shall incorporate native species and be coordinated with the Urban Forester.

4. **PARKS AND RECREATION -**

Pursuant to Paragraph 2 of Section 6-110 and Section 16-404 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 recreation facilities which may include, but not be limited to: a proposed volleyball court, or other recreation facility; a potential architectural feature, such as a gazebo; seating area; and pedestrian trails (not sidewalks) as shown on the CDP/FDP. The proposed pedestrian trails shall provide public access to the property boundary. Subject to the receipt of the necessary easements at no cost to the Applicant, prior to completion of construction (i.e., bond release by Fairfax County), Applicant shall construct an off-site trail to Virginia Lane from the Application Property's boundary. The balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority for the maintenance and/or acquisition of recreation facilities located in the vicinity of the Application Property to specifically include an off-site trail to Virginia Lane from the Application Property's boundary.

5. **STORM WATER MANAGEMENT - BEST MANAGEMENT PRACTICE**

- a. The Applicant shall provide stormwater management (SWM) and Best Management Practices (BMP) 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 or modified by DPWES, removal or modification 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.
- b. Should the proposed SWM pond be waived or modified by DPWES, that area not utilized as a SWM pond shall remain as undisturbed open space owned by the homeowners association established for the community, subject to the installation of utilities.

6. **AFFORDABLE HOUSING -**

At time of final subdivision plat approval, Applicant shall contribute the sum of one-half percent ($\frac{1}{2}\%$) of the project sales price at time of subdivision plat approval for each residential dwelling unit to be constructed on the Application Property to the Fairfax County Housing Trust Fund to assist Fairfax County's low and moderate income housing goals.

7. NOISE ATTENUATION -

- a. Applicant shall achieve an interior noise level of approximately 45 dBA Ldn in all units located within approximately 235 feet of the centerline of Interstate 66 and identified on the CDP/FDP as having levels between 65 through 70 dBA Ldn. All units within this impacted area will have the following acoustical attributes as determined by DPWES:
 - i. Exterior walls shall have a laboratory Sound Transmission Classification (STC) of at least 39.
 - ii. Doors, windows and glazing shall have an STC of at least 28. If glazing constitutes more than 20 percent of any facade impacted by noise from I-66, they shall have the same laboratory STC ratings specified for exterior walls.
 - iii. Adequate measures to seal and caulk between surfaces will be provided.
- b. In order to reduce exterior noise levels in rear/side yard recreational areas to approximately 65 dBA Ldn or less, a barrier with a maximum height of approximately 16 feet shall be provided within the VDOT right-of-way of Interstate 66 as generally shown on the CDP/FDP, subject to the receipt of the necessary permissions from the Virginia Department of Transportation to mitigate exterior noise levels emanating from traffic on Interstate 66. Minor modifications to the height and location of the barrier may be permitted consistent with an independent noise study as reviewed and approved by DPWES. The barrier material shall be brick, concrete, or a material acceptable to VDOT, or a combination of these materials, and shall be architecturally solid from the ground up and shall contain no gaps or openings.
- c. As an alternative, subject to the receipt of the necessary permissions from Virginia Power and the Washington Metropolitan Area Transit Authority, Applicant may construct the barrier adjacent to the right-of-way of Interstate 66. The barrier material shall be architecturally solid from the ground up, shall contain no gaps or openings, and approved by VDOT and DPWES. The relocation of the barrier shall be permitted without requiring an amendment to these proffers or the CDP/FDP.

- d. Nothing herein shall be construed to restrict or otherwise limit the use of balconies, patios or decks on residential units.

8. DESIGN -

- a. The houses shall be constructed of masonry, stone, and hardwood/composition siding, shingle or any combination of these materials, but not vinyl or aluminum siding, in general accordance with the architectural elevations as shown on sheet four of the CDP/FDP. Basement walls/foundations shall be poured concrete.
- b. The sides or rears of the houses adjacent to Helena Drive and those houses located on the perimeter of the Application Property and identified as proposed Lots 1, 2, 19, 21 and 22 shall be designed with architectural features, such as windows, bay windows, and shutters, and materials consistent with the elevations of the houses generally shown on sheet four of the CDP/FDP.
- c. A minimum distance of twelve (12) feet shall be provided between all houses shown on the CDP/FDP. A minimum distance of twenty-four (24) feet shall be provided between the houses on proposed Lots 1, 2 and 3, and between the houses on proposed Lots 16, 17, and 18. Chimneys, stoops, bay windows and similar features may encroach within the minimum distances between houses.
- d. The peripheral setbacks for the proposed houses as shown on the CDP/FDP shall not be reduced below the dimensions shown on the CDP/FDP. Chimneys, stoops, bay windows, decks and similar features may encroach within the peripheral setbacks.
- e. The houses to be constructed on proposed Lots 1, 2, 16, 17, and 18 shall not have full walkout basements at grade. The maximum height at the rear of these houses shall not exceed twenty-seven (27) feet measured from grade to the soffit line.
- f. The houses to be constructed on proposed Lots 1, 2, 16, 17, and 18 shall not include sunrooms, solariums or similar structures on the rear of the house.

9. 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 common tree save areas, and all other community owned land and improvements. Restrictions placed on the use of the open space/buffer areas, the reservation described herein, including future dedication, and maintenance responsibilities of the homeowners association, including maintenance of sidewalks that are not concrete and the noise barrier, shall be disclosed to all prospective homeowners in a disclosure memorandum at time of contract execution and included in the homeowners association documents.
- d. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Purchasers shall be advised of the use restriction prior to entering into contract of sale.
- e. If requested by DPWES during subdivision plat review, the Applicant shall have a geotechnical study of the Application Property prepared by a geotechnical engineer, shall submit the report to DPWES for review and approval and shall implement the recommendations outlined in the approved study.
- f. Prior to demolition of existing homes, Applicant shall install tree protection measures on the Application Property to ensure that demolition does not impact trees designated to be saved. Applicant shall perform sufficient investigation to determine if any lead-based paint or asbestos is present in the existing homes to

Proffers

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be demolished. Should these materials be present, Applicant shall dispose of the materials in the manner required by DPWES.

- g. Applicant reserves the right to replace the dwelling unit and related accessory structures identified on the CDP/FDP to be retained without requiring an amendment to these proffers or the CDP/FDP.
- h. All homes constructed on the Application Property shall have two car garages and a minimum driveway length of twenty (20) feet from the back of curb.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT

CONTRACT PURCHASER: TAX MAP: 39-4 ((7)) 2-6, 6A,
10, 11, 18A, 18B and 19

OWNER: Tax Map 39-4 ((7)) 8

JCE, INC.

By:

John E. Cowles

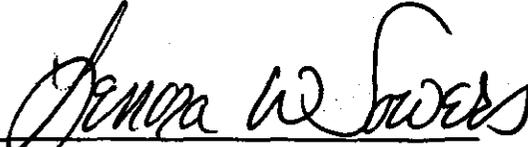
Name:

John E. Cowles

Title:

President

OWNER: Tax Map 39-4 ((7)) 2

A handwritten signature in cursive script, reading "Lenora W. Sowers". The signature is written in black ink and is positioned above a horizontal line.

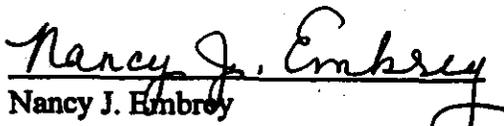
Lenora W. Sowers

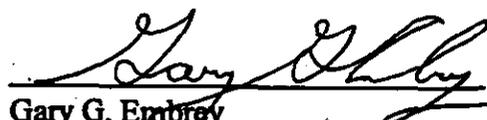
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OWNER: Tax Map 39-4 ((7)) 3

Carol E. Waldron
Carol E. Waldron

OWNERS: Tax Map 39-4 ((7)) 4


Nancy J. Embrey


Gary G. Embrey

OWNERS: Tax Map 39-4 ((7)) 5

THE FRANK PHILLIPS REVOCABLE TRUST

Frank Phillips, Jr., Trustee
By: Frank Phillips, Jr., Trustee

RAWLS (ARP)

THE FRANCES RAWLES PHILLIPS REVOCABLE TRUST

Frances Rawles Phillips, Trustee
By: Frances Rawles Phillips, Trustee
RAWLS
(ARP)

OWNER: Tax Map 39-4 ((7)) 6

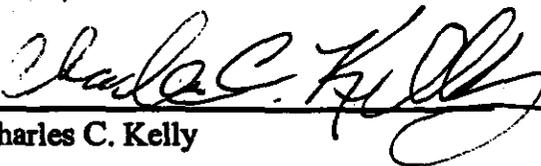

Patricia L. Kabrich
Patricia L. Kabrich

Proffers

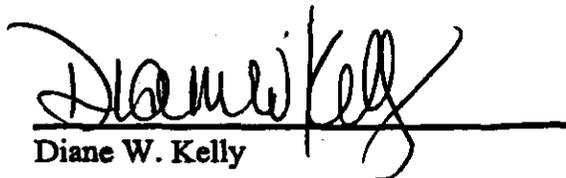
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OWNERS: Tax Map 39-4 ((7)) 6A

A handwritten signature in cursive script, appearing to read "Charles C. Kelly", written over a horizontal line.

Charles C. Kelly

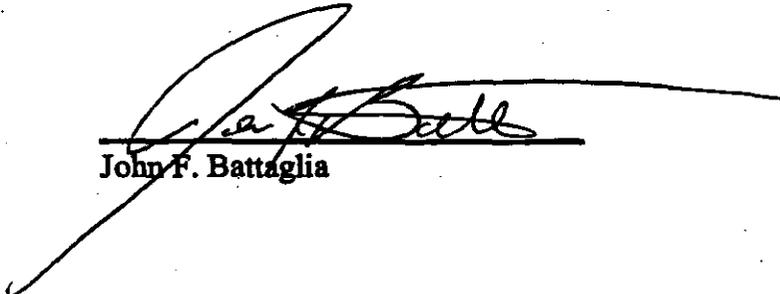
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Diane W. Kelly

OWNER: Tax Map 39-4 ((7)) 11, 18B

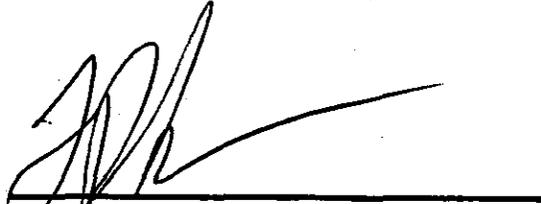
Margaret J. DuBois
Margaret J. DuBois

OWNER: Tax Map 39-4 ((7)) 18A



John F. Battaglia

OWNER: Tax Map 39-4 ((7)) 10 and 19

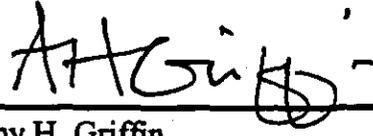
A handwritten signature in black ink, appearing to be 'F. Phillis', written over a solid horizontal line.

Frank Everett Phillis

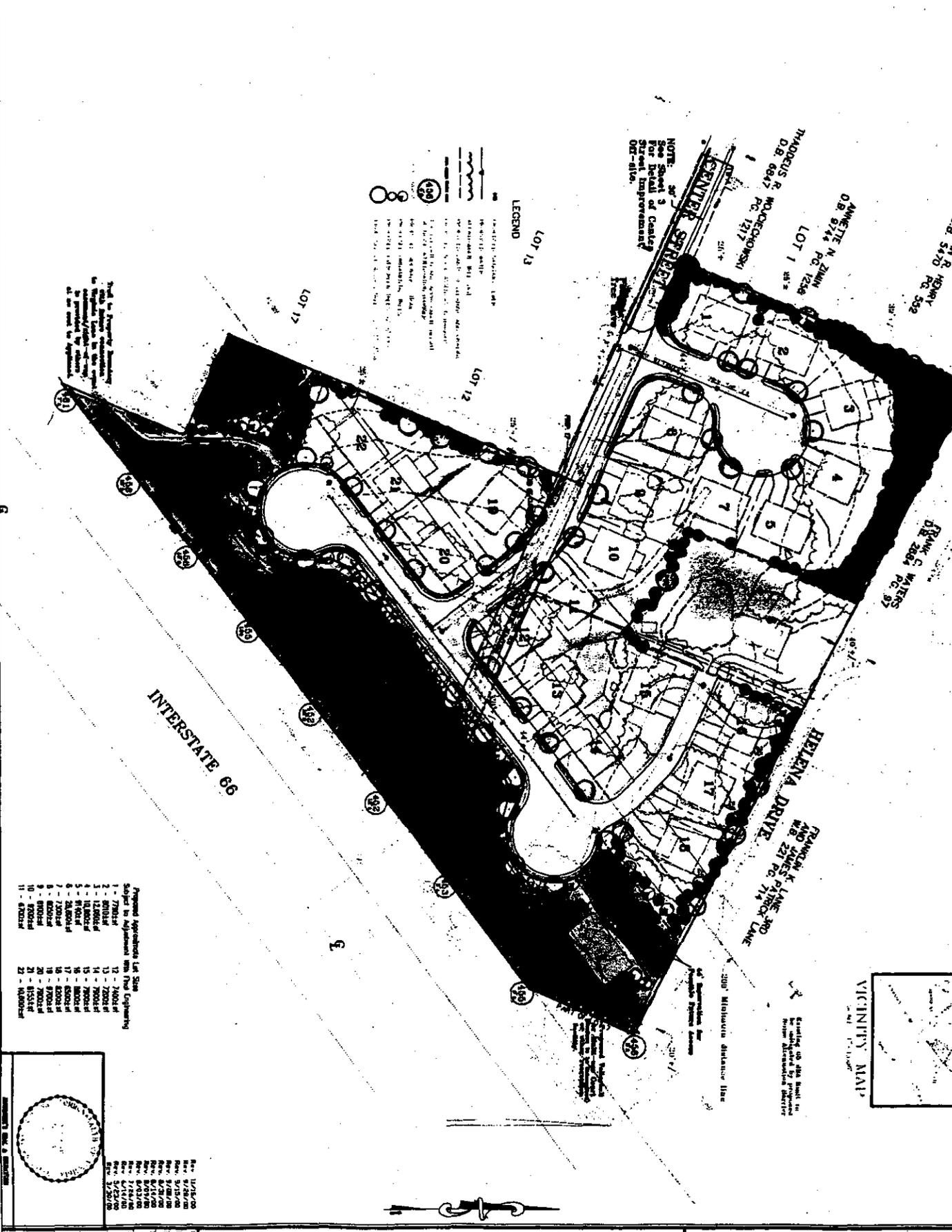
OWNER OF A PORTION OF CENTER STREET TO
BE VACATED

FAIRFAX COUNTY BOARD OF SUPERVISORS

By:



Anthony H. Griffin
County Executive

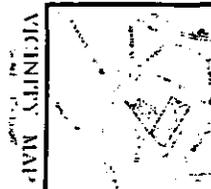


NOTE: See Sheet 3 for Detail of Center Street Improvement DT-8100.

LEGEND

- 1. Proposed Lot
- 2. Proposed Street
- 3. Proposed Easement
- 4. Proposed Utility
- 5. Proposed Tree
- 6. Proposed Tree
- 7. Proposed Tree
- 8. Proposed Tree
- 9. Proposed Tree
- 10. Proposed Tree
- 11. Proposed Tree
- 12. Proposed Tree
- 13. Proposed Tree
- 14. Proposed Tree
- 15. Proposed Tree
- 16. Proposed Tree
- 17. Proposed Tree
- 18. Proposed Tree
- 19. Proposed Tree
- 20. Proposed Tree
- 21. Proposed Tree
- 22. Proposed Tree

Tree Save
 D.B. 5870 P.C. 332
 JOAN R. HENRY
 D.B. 5847 P.C. 1217
 THADDEUS R. MALCZAKOWSKI
 ANNETTE N. ZIMIN
 D.B. 5744 P.C. 1248
 LOT 1
 FRANK C. WATERS
 D.B. 2804 P.C. 97
 FRANK K. LANE AND
 MRS. JAMES P. LANE AND
 MRS. JAMES P. LANE
 D.B. 221 P.C. 114



Proposed Adjustments Let Size
 Subject to Adjustment with Final Engineering

1	77902.41	13	74022.41
2	80702.41	14	72022.41
3	79022.41	15	72022.41
4	79022.41	16	80202.41
5	81022.41	17	80202.41
6	78002.41	18	80202.41
7	72022.41	19	82022.41
8	82022.41	20	82022.41
9	82022.41	21	82022.41
10	82022.41	22	82022.41
11	82022.41		

DATE: 12/28/00
 TIME: 5:15:00 PM
 PROJECT: JCE/CENTER STREET
 SHEET: 1 OF 2
 DRAWN BY: JLD
 CHECKED BY: JLD
 IN CHARGE: JLD
 DATE: 1/24/01
 TIME: 1:18:00 PM
 PROJECT: JCE/CENTER STREET
 SHEET: 1 OF 2
 DRAWN BY: JLD
 CHECKED BY: JLD
 IN CHARGE: JLD

Conceptual/Final Development Plan - RZ 2000-PR-007
JCE/Center Street

Dewberry & Davis
 5401 Arlington Blvd., Fairfax, Va. 22031
 (703) 248-8100 FAX (703) 248-0118

Engineer
 Planner
 Surveyor
 Landscape

PROPOSED CDP DEVELOPMENT CONDITIONS

RZ 2000-PR-007

January 8, 2001

If it is the intent of the Board of Supervisors to approve Conceptual Development Plan Application CDP 2000-PR-007 from the R-3 District to the PDH-3 District for residential development located at 39-4 ((7)) 2-6, 6A, 8, 10, 11, 18A, 18B, and 19 and a portion of Center Street to be vacated/abandoned, staff recommends that the Board of Supervisors condition the approval by requiring conformance with the following development conditions.

1. Irrespective of the number of lots shown on the proffered Conceptual/Final Development Plan (CDP/FDP) dated November 30, 2000, and the Final Development Plan (FDP) approved by the Planning Commission on November 30, 2000, a maximum of twenty-one (21) single-family detached dwellings shall be constructed on the site. The subdivision plan shall be submitted and approved for no more than twenty-one (21) units. The lot to be deleted shall be at the discretion of the applicant with the area of the deleted lot incorporated into other lots within the subdivision. Minor adjustments to lot lines from those shown on the CDP/FDP may be made to accomplish the foregoing. Proffer #3 and Proffer #8 address tree preservation, open space, landscape and design aspects relative to certain proposed units. These proffered commitments shall continue to apply relative to any units shown on the subdivision plan that are proposed in the locations on the CDP/FDP referenced in the proffers.
2. Written notice of the pre-construction conference shall be provided to adjacent homeowners in accordance with Par. 1 of Sect. 17-107 of the Zoning Ordinance so that adjacent homeowners may attend said meeting for informational purposes. Such written notice shall be sent by certified mail postmarked a minimum of fifteen (15) days before the day of the pre-construction conference. Copies of the written notice shall be provided to the Providence District Supervisor's Office ten (10) days prior to the pre-construction conference.
3. Construction traffic shall be restricted to Center Street.