

PROFFERS

MSW, INC.

RZ 2000-SU-009
September 11, 2000

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
SEP 11 2000

ZONING EVALUATION DIVISION

Pursuant to Section 15.2-2303(a), Code of Virginia, 1950 as amended, MSW, Inc., (hereinafter referred to as the "Applicant") for the owners, themselves, successors and assigns in RZ 2000-SU-009, filed for property identified as Tax Map 56-1 ((1)) 38 and 38A, (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 R-8 District in conjunction with a Generalized Development Plan (GDP) for residential development.

1. GENERALIZED DEVELOPMENT PLAN -

- a. Subject to the provisions of Section 18-204 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 GDP, consisting of three sheets prepared by Land Design Consultants, Inc., dated January, 2000 and revised through June 15, 2000.
- b. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from 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 time of site plan submission based on final house locations and building footprints provided such changes are in substantial conformance with the GDP. The Applicant shall have the flexibility to modify the layout shown on the GDP without requiring approval of an amended GDP provided such changes are in substantial conformance with the GDP as determined by the Zoning Administrator, agents or assigns, and neither increase the total number of lots nor decrease the following: open space, 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.

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 one hundred thirty-two (132) feet from the centerline along the frontage of Lee Highway (Route 29) as shown on the GDP. Dedication shall be made at time of recordation of the final record plat or upon demand from either Fairfax County or VDOT whichever shall first occur.

- b. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way measuring approximately 2,074 square feet along the frontage of Dixie Hill Road as shown in the cross-hatched area on the GDP and in accordance with VDOT Project #R000-029-249, RW 225, C-525. Dedication shall be made at time of recordation of the final record plat or upon demand from either Fairfax County or VDOT whichever shall first occur.
- c. Subject to VDOT and DPWES approval, the Applicant shall construct frontage improvements to Lee Highway (Route 29) measuring fifty-nine (59) feet from centerline within the dedicated right-of-way, as shown on the GDP. In lieu of actual construction, Applicant reserves the right to escrow funds with DPWES, in an amount approved by DPWES, for the future construction of improvements to Lee Highway (Route 29) at time of site plan approval.
- d. Subject to VDOT and DPWES approval, the Applicant shall construct frontage improvements to Dixie Hill Road measuring nineteen (19) feet from centerline of the former dedicated right-of-way, as shown on the GDP.
- e. The Applicant shall construct an eight (8) foot wide asphalt trail within the dedicated right-of-way along Lee Highway (Route 29), as shown on the GDP. Said asphalt trail shall meander to preserve existing trees, subject to VDOT and the Urban Forestry Branch of DPWES approval.
- f. The Applicant shall construct a five (5) foot wide concrete sidewalk within the proposed residential development and a five (5) foot wide concrete sidewalk or asphalt trail along Dixie Hill Road within dedicated right-of-way as shown on the GDP.
- g. At time of site plan approval, the Applicant shall make an appropriate monetary contribution per approved residential unit to the Fairfax Center Road Fund in conformance with the procedural guidelines adopted by the Board of Supervisors on November 22, 1982 and as subsequently revised.
- h. All of the improvements described herein shall be constructed concurrent with development of the Application Property.
- i. 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 site plan approval.

3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as shown on the GDP. Deciduous trees shall be a minimum of 2 ½ inches in caliper and evergreen trees a minimum height of seven feet at time of planting.
- b. Applicant shall transplant four (4) existing American Hollies identified on the GDP tree legend as numbers 8, 9, 10 and 11 to alternative locations on the Application Property.

4. STORMWATER MANAGEMENT -

The Applicant shall provide stormwater management (SWM), including rain gardens, in the location as generally shown on the GDP 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, the Applicant shall maintain the area shown on the GDP as SWM facilities as open space, which shall be owned and maintained by a homeowners association established by the Applicant. Removal of the SWM facilities shown on the GDP shall not require the approval of a proffered condition amendment.

5. NOISE MITIGATION -

In order to reduce the maximum interior noise to a level of approximately 45 dBA Ldn for residential units within that area impacted by highway noise from Lee Highway (Route 29) having levels between 65 and 70 dBA Ldn noise contours, the Applicant shall construct the proposed residential units with the following acoustical measures:

Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 39 for exterior walls;

Doors and windows shall have laboratory STC rating of at least 28. If windows constitute more than 20 percent of any facade, they should have the same laboratory STC rating for walls.

Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

In order to reduce the maximum exterior noise to a level of approximately 65 dBA Ldn in rear yards of the proposed dwelling units, noise attenuation measures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those rear yards and that are unshielded by topography or built structures. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings (except where necessary to provide for a gate, drainage or utilities, as determined by DPWES). The structures employed shall be of sufficient height to adequately shield the impacted area from the source of noise, as determined by DPWES and must meet Zoning Ordinance height restrictions.

As an alternative, the Applicant may, at its sole discretion, have a refined acoustical analysis performed to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above, subject to approval by DPWES.

Nothing herein shall be construed to restrict or otherwise limit the use of decks, balconies or patios and all other permitted accessory uses on residential units.

6. AFFORDABLE HOUSING -

At the time of final site plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one-half of one percent (.5%) of the projected sales price of the house to be built on each 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 DPWES. The timing and amount of this contribution may be modified at the Applicant's sole option based on the adoption of a future amendment to the formula adopted by the Board of Supervisors.

7. PARKS AND RECREATION -

At the time of final site plan approval, the Applicant shall contribute to the Fairfax County Park Authority the sum equal to five hundred dollars (\$500.00) for each approved residential dwelling unit. Said funds shall be expended for recreation facilities in the vicinity of the Application Property.

8. DESIGN -

- a. The proposed townhomes shall be generally consistent with the architectural elevations shown on Sheet 3 of the GDP. The elevations facing Lee Highway (Route 29) shall not be identical in appearance.
- b. Applicant shall construct proposed dwelling units as twenty-four (24) foot wide townhomes with two-car garages. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purposes of garages (i.e. parking of vehicles). In addition, the covenant shall preclude the parking of over-sized vehicles, such as boats and recreational vehicles, on the Application Property. 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. Purchases shall be advised of the use restriction prior to entering into contract of sale.
- c. Applicant shall construct a six (6) foot high board-on-board fence along the north property line as shown on the GDP. Landscaping shall be provided on both sides of the fence as shown on the GDP in order to provide the most effective screening.
- d. Should the Applicant install lighting within the residential community on the Application Property, all lighting fixtures shall be full cut-off lights directed downward and inward to prevent light from projecting off-site.
- e. Applicant shall construct an entry feature on the Application Property at the access to Dixie Hill Road. The entry feature shall include brick piers and may incorporate other features, such as decorative lighting, within the Applicant's discretion.

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, the private streets, rain gardens and all other community owned land and improvements, including the six (6) foot high board-on-board fence along the north property line as described in proffer 8.c. Purchasers shall execute a disclosure memorandum at time of contract acknowledging that the homeowners association shall be responsible for the maintenance of all of the private streets, and the rain gardens in the development, and the six (6) foot high board-on-board fence along the north property line as described in proffer 8.c. The homeowners association documents shall specify that the homeowners association is responsible for the maintenance of the private streets and rain gardens, and the six (6) foot high board-on-board fence along the north property line as described in proffer 8.c.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

Applicant/Title Owner:

MSW, INC.

By: Monte L. West

Name: Monte L. West

Title: President