

## PROFFERS

### EQUITY HOMES, L.P.

RZ 2000-SU-004

October 13, 2000

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, the undersigned applicant, its successors and assigns, (hereinafter collectively referred to as the "Applicant") and owners for both themselves and their successors or assigns, , filed for a rezoning on property identified on Fairfax County Tax Map 65-4 ((1)) Parcels 4, L1 (hereinafter referred to as the "Application Property") hereby agree to the following proffers, provided that the Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property to the R-3 Zoning District/or cluster development.

1. GENERALIZED DEVELOPMENT PLAN ("GDP")

Development of the Application Property shall be in substantial conformance with the GDP prepared by Paciulli Simmons & Associates, Ltd., dated December 16, 1999, as revised through May 23, 2000.

2. MINOR MODIFICATION

Pursuant to Paragraph 4 of Section 18-203 of the 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 subdivision plan submission based on final house locations and building footprints, but there shall be no encroachment into the limits of clearing and grading as shown on the GDP.

3. TRANSPORTATION

- a. At time of subdivision plan approval or upon demand by VDOT or Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way within the Application Property for the public street system as shown on the GDP.
- b. Prior to issuance of the first Residential Use Permit ("RUP"), the Applicant shall remove the pavement within the temporary cul-de-sac at the end of Deepwood Farm Drive, install curb gutter adjacent to the existing edge of right-of-way and resod any grassy areas.
- c. The Applicant shall construct a 4 foot wide sidewalk on both sides of all public streets within the Application Property.

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4. ARCHAEOLOGY

- a. Prior to land disturbing activities, the Applicant shall conduct a Phase I Archaeological Survey of the Application Property and submit a written report to the County Archaeologist for review and approval.
- b. If based on the Phase I survey, the County Archaeologist concludes that a Phase II and/or Phase III archaeological study is warranted, the Applicant shall retain an archaeological consultant to perform such study(ies) up to a maximum total amount of \$5,000. This time period may be extended if mutually agreed to by the Applicant and Heritage Resources.

5. GEOTECHNICAL STUDY

- a. If required by the Department of Public Works and Environmental Services ("DPWES") and in accordance with the provisions of the Public Facilities Manual, Applicant shall submit a geotechnical study of the Application Property to the Geotechnical Review Board and shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES and to the design to alleviate potential structural problems.
- b. Applicant shall obtain a Phase I Environmental report with regard to any underground/abandoned tanks and, if recommended by Fairfax County or State authorities, test the area for contamination. Applicant agrees to remove all underground tanks and remove contaminated soils, if any, in accordance with Fairfax County guidelines.
- c. The Applicant shall file with Fairfax County and the Little Rocky Run Homeowners' Association a copy of any final report required by county, state or federal requirements regarding the disposal of the underground tanks and the presence and elimination of any contaminated soil.

6. CONSTRUCTION ACCESS

- a. Subject to VDOT and DPWES approval, the Applicant will utilize South Springs Drive for access for construction equipment/vehicles to the Application Property during construction activity.
- b. Subject to VDOT approval, the Applicant will provide appropriate signage of Deepwood Farm Drive and South Springs Drive warning of construction vehicles on South Springs Drive.

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- c. All construction vehicles shall be parked within the Application Property. There shall be no construction vehicle parking along Deepwood Farm Drive, South Springs Drive, or any other Little Rocky Run subdivision public street.
- d. Applicant shall erect a sign at the construction access point directing all construction traffic to use the South Springs Drive access point.
- e. Applicant shall inspect Deepwood Farm Drive and South Springs Drive on a regular basis, as required by DPWES and VDOT, and shall remove all mud, rocks, nails and other construction debris and shall wash those roads as required by VDOT and DPWES to remove dirt and debris.
- f. Applicant shall install a construction vehicle dirt rack at the construction entrance to the Application Property.

7. CONSTRUCTION HOURS

- a. All construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.
- b. Construction activity on Sundays shall be limited to interior work only and to the hours of 7:00 a.m. to 6:00 p.m. This proffer shall only apply to the original house construction and not to future additions by homeowners.

8. MEMBERSHIP IN LITTLE ROCKY RUN

- a. The Applicant shall apply for membership for all of the approved lots into the Little Rocky Run Homeowners' Association, within 90 days of rezoning approval. The Applicant shall reimburse Little Rocky Run Homeowners' Association for the administrative costs required to seek annexation/membership approval by the required Little Rocky Run membership.
- b. If the necessary Little Rocky Run consents are not obtained by the required voting majority, the Applicant shall provide written notice to each homeowner prior to settlement and written notification in the homeowner association documents that the new community will not be eligible for membership in the Little Rocky Run Association nor will they be entitled to use the recreational and open space facilities of Little Rocky Run. Applicant shall provide Little Rocky Run Homeowners' Association a copy of sales literature and homeowner association documents prior to commencement of new home sales with this clear notification.

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- c. If the Application Property does not become a member of the Little Rocky Run Homeowners' Association, the developer shall establish a homeowners' association for the proposed development to own, manage and maintain open space areas. The covenants of the new homeowners association shall include a process by which members of the new homeowners association can seek to become members of the Little Rocky Run Homeowners' Association, if the new homeowners association should dissolve or release all of the Application Property lots from the new homeowners association.

9. PARK CONTRIBUTION

In the event the Application Property does not become a member of the Little Rocky Run Homeowners' Association, the developer shall contribute \$15,000 to the Fairfax County Park Authority for improvements to a nearby park in the Sully District.

10. SITE SUPERINTENDENT

Applicant shall provide the name and phone number of the construction site superintendent to the Little Rocky Run community manager, who will coordinate Little Rocky Run's concerns during construction.

11. TREE PRESERVATION

- a. The limits of clearing and grading shall be honored in accordance with the approved GDP. The Applicant shall retain a certified arborist to prepare a tree preservation plan to be reviewed by the Urban Forestry Branch 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 12 inches or greater in diameter within 20 feet on either side of the limits of clearing and grading. 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.

The Tree Preservation Plan shall include the following elements:

- A pre-construction evaluation of the existing vegetation designated to be saved to determine the condition of the trees.
- Individual trees outside the limits of clearing and grading designated

to be saved shall be protected by four (4) foot high, 14 gauge welded wire attached to six (6) foot steel posts driven 18 inches into the ground and placed no further than ten (10) feet apart, placed along the limits of clearing and grading contiguous to the trees designated to be saved. The fencing shall be installed prior to the commencement of clearing and grading activities. Signage affirming "restricted access" shall be provided on the temporary fence highly visible to construction personnel. The arborist contracted by the Applicant shall monitor the construction of the proposed development to ensure consistency with the Tree Plan. Prior to the commencement of any clearing or grading activities, the Applicant's arborist shall verify in writing to DPWES that the protection fence has been properly installed.

- In addition, where it is determined feasible by the Urban Forester, adjustments to the proposed grading and location of the proposed units on the application property may be modified at time of final engineering to enhance specific tree preservation.
- b. Subject to final engineering and compliance with Fairfax County regulations, a minimum of ten (10) feet shall be used to establish the limits of clearing and grading along the rear lot lines of Lots 3 through 8 and 20 through 22 as shown on the GDP. In those areas of the limits of clearing and grading behind lots 3 through 8 and 20 through 22 where there is no existing vegetation, the Applicant shall plant a single row of evergreen trees (excluding white pines), 7' in height planted ten (10) feet on center.
- c. After the first submission review of the proffered tree preservation plan, a replacement value shall be assigned to all trees to be preserved, 12 inches or greater in diameter, within 20 feet of the limits of clearing and grading as shown on the GDP. Trees recommended for removal on the tree preservation plan shall not be assigned a value. The calculated replacement values for these designated trees shall be assigned by a certified arborist according to methods contained in the latest edition of the Guide For Plant Appraisal, published by the International Society of Arboriculture, subject to review and approval by the Urban Forestry Division. At the time of subdivision plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees. The terms of the bond or letter of credit shall be subject to approval by the County Attorney. The total amount of the insurance bond, cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees, but shall not exceed \$10,000.

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The County may draw funds from the cash bond or letter of credit in order to remove or replace trees that are dead and/or dying due to construction, and are required to be removed and replaced by the Urban Forestry Division, according to the value assigned for those designated trees, if this work is not completed in a timely manner by the Applicant.

Any funds received by Fairfax County pursuant to this proffer shall be used solely to remove and replace designated trees shown to be preserved on the approved tree preservation plan.

The letter of credit or cash bond will be released one year from the date of the project's conservation escrow, or sooner if approved by the Urban Forestry Division.

- d. The demolition of existing features and structures shall be conducted in a manner that minimizes the impact on individual trees and groups of trees to be preserved as approved by the Urban Forestry Branch. Methods, such as leaving the existing house foundation in place to minimize excavation, may be utilized to minimize root damage to the trees to be preserved. These methods shall be described in detail on the tree preservation plan.
- e. Applicant shall conform to the limits of clearing and grading shown on the GDP, subject to modifications for the necessary installation of trails, utility lines and storm water management facilities in the least disruptive manner, as approved by DPWES. Grading activity shall not alter the pre-construction elevation of any contiguous off-site properties or result in the increase of post-development runoff on off-site properties.
- f. The Applicant shall supplement existing vegetation within the remnants of the farm pond, and immediately surrounding the present water surface in coordination with the Urban Forestry Branch, DPWES. Supplemental vegetation shall consist of indigenous plant materials including native tree and shrubs seedlings, and/or vegetative matting appropriate for the existing soils conditions. Planting location and materials may be subject to approval and authorization for a nationwide permit from the Corp of Engineers, if required.

12. BLASTING

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will insure that blasting is done per Fairfax County Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats, shall be implemented. In addition, the Applicant or its

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successors shall:

- a. Retain a professional consultant to perform a preblast survey of each house or residential building, to the extent that any of these structures are located within two hundred fifty (250) feet of the blast site.
- b. Require his consultant to request access to house, buildings, or swimming pools that are located within said 250 foot range if permitted by owner, to determine the pre-blast conditions of these structures. The Applicant's consultants will be required to give adequate notice of the scheduling of the pre-blast survey. The Applicant shall provide the Little Rocky Run Homeowners' Association and all residences entitled to preblast inspections, of the name, address and phone number of the blasting contractor's insurance carrier.
- c. Require his consultant to place seismographic instruments prior to blasting to monitor the shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their request.
- d. Notify residences within 250 feet of the blast site, ten (10) days prior to blasting. Applicant shall place a sign within the Little Rocky Run open space at the intersection of South Springs Drive and Union Mill Road, and South Springs Drive and Stonefield Drive notifying residents of blasting.
- e. Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his consultant to respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner.
- f. The Applicant will require blasting subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures which are directly attributable to the blasting activity.

13. HOUSING TRUST FUND CONTRIBUTION

At time of subdivision and plan approval, the Applicant shall contribute a sum equaling 0.5 percent of the aggregate sales prices of units to Fairfax County Housing and Community Development Housing Trust Fund for Affordable Housing needs within Fairfax County.

14. TREE DISPOSAL

No trees or parts thereof may be disposed of or burned on-site, during construction.

15. EROSION/SEDIMENT CONTROL

- a. Prior to and during grading and construction activity, the Applicant shall install and

maintain erosion and sediment control facilities, including super-silt fencing in areas approved by DPWES, to prevent erosion and sediment from the Application Property from entering Little Rocky Run's storm water management pond(s). The Applicant shall enhance erosion and sediment control by providing a double tier system of control measures, along the lower portion of the site, adjacent to the undisturbed open space. The Applicant will also incorporate super-silt fence into the double tier system.

- b. Any grading of the pond area shall not result in flooding or sedimentation damage to adjacent Little Rocky Run properties, as determined by DPWES.
- c. Upon completion of grading, planting and storm water utility work in the southern open space area, the Applicant shall subject this area to a conservation/storm drainage easement in a form as approved by the County Attorney.
- d. The Applicant shall provide a series of natural check dams within the existing stream channel, and within limits of their property subject to DPWES approval and authorization of a nationwide permit from the Corp of Engineers.

16. STORM WATER MANAGEMENT

- a. In the event the on-site storm water management waiver is denied by Fairfax County, Applicant shall provide a storm water management pond on the Application Property in the approximate location as shown on the GDP.
- b. Any on-site storm water management facilities shall be landscaped to maximum extent feasible by the Applicant, in coordination with the Urban Forestry Branch, pursuant to the policy adopted by the Board of Supervisors using native species.
- c. The Homeowners' Association shall be responsible for trimming grassy areas in and around the storm water management pond on a regular basis, subject to approval by DPWES.
- d. The Applicant shall use both underground storm sewer system and open channels to convey surface runoff from the developed site to the existing stream channel within the property, as approved by DPWES.
- e. The Applicant shall provide a floodplain study to DPWES for drainage areas greater than 70 acres draining to the subject site. The study will include pre and post development calculations to determine the limits of the 100 year storm event.
- f. If required by DPWES and subject to the consent of the Little Rocky Run Homeowners' Association, the Applicant shall study and make necessary modifications to the area of Little Rocky Run open space previously disturbed by

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the Applicant to ensure adequate drainage and outfall, as determined by DPWES.

17. ASBESTOS

- a. If DPWES determines that a potential health risk exists due to the presence of asbestos-containing rock on the Application Property, the Applicant shall:
  1. Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks.
  2. Commit to appropriate construction techniques as determined by DPWES in coordination with the Health Department to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed material presenting this risk, and appropriate disposal.

18. ENERGY SAVER PROGRAM

All homes on the Application Property shall meet the thermal guidelines of the Virginia Power Energy Saver program for energy efficient homes or its equivalent for either electric or gas energy systems, as applicable.

19. BUILDING STANDARDS

- a. All homes shall consist of a minimum of 2,700 square feet of interior space, excluding garages and basements and shall be constructed of brick, stone or siding.
- b. The exterior facade of the houses in terms of building materials and facade treatments shall be architecturally compatible with the existing Little Rocky Run community.

20. EXISTING CHAIN LINK FENCE

If the existing chain link fence is determined to be located on the Application Property, then the Applicant shall remove the fence prior to the issuance of the first residential use permit.

21. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

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Wanda V. Mouser  
Wanda V. Mouser

[SIGNATURE PAGES END]



22. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of one when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same instrument.

[SIGNATURE PAGES BEGIN ON FOLLOWING PAGE]