

PROFFERS**BRENT R. PERRY AND WILLIAM GREEN, JR.****LAMARRE DRIVE PROPERTY**

RZ 2000 - BR - 039
October 23, 2000
Revised January 12, 2001
Revised February 15, 2001
Revised March 6, 2001
Revised March 14, 2001
Revised March 26, 2001
Revised April 18, 2001

Pursuant to Section 15.2-2303(a) of the 1950 Code of Virginia, as amended, the undersigned Applicant and owners proffer for themselves and their successors and assigns the following conditions subject to the approval of the Board of Supervisors of Fairfax County, Virginia of RZ 2000-BR-039 to the R-4 Cluster zoning category:

1. Generalized Development Plan

- a) Subject to Section 18-204 of the Fairfax County Zoning Ordinance, development of the subject property shall be in substantial conformance with the Generalized Development Plan (GDP) prepared by Land Design Consultants, Inc. dated February 8, 2001.
- 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 modify the layout without requiring the approval of an amended GDP such that the modifications are in substantial conformance with the aforementioned GDP. The permissible changes may include but are not limited to the modification of lot lines and driveway access. Note that the modification of lot lines shall not reduce the minimum yard setbacks stated on the GDP or within these proffers.
- c) The applicant reserves the right to develop the Application property in two phases as depicted on the GDP. The development of Lots 1,2,3 and A constitute Phase I; the development of Lots 4,5 and B constitute Phase II.
- d) A septic field and well exist on the subject property. The septic field will be abandoned in place and the existing well will be capped. The future property owners will be notified of these features by the developer on the individual lot grading plans and within the HOA documents.

2. Landscaping and Open Spaces

Before approval of a subdivision, site, or grading plan, the Applicant shall designate the limits of clearing and grading to be observed during construction consistent with the approved GDP. Additionally, the Applicant shall designate for preservation all healthy trees of 10-inch diameters or greater located on individual lots outside of the limits of clearing and grading but within 10 feet of the limits of clearing and grading bordering Parcels A and B and Lots 1 through 5 shown on the GDP.

The Director of the Department of Public Works and Environmental Services ("the Director") will assign a replacement value to the designated trees on individual lots and/or within the limits of clearing and grading. In determining the replacement value of each designated tree, the Director will use the latest edition of the "Valuation of Landscape Trees, Shrubs, and Other Plants" published by the International Society of Arboriculture.

Before approval of a subdivision plan, site plan, or grading plan, Applicant shall provide a letter of credit payable to the County of Fairfax in an amount commensurate with the total value of the designated trees, but not less than \$5,000.00 nor more than \$19,000.00, to ensure preservation of the designated trees. The terms of the letter of credit shall be subject to approval by the County Attorney, and the issuer must meet the qualifications set out in the Public Facilities Manual. If the County draws on this letter of credit and expends the proceeds to restore or replace designated trees damaged or destroyed as a result of the development process, Applicant shall provide the County a replacement letter of credit in the same form and amount as the original letter of credit required by this proffer, except that the cumulative total of any such letters of credit shall not exceed the value of all trees designated for preservation. Applicant shall provide any such additional letters of credit within 14 working days of a request by the Director. The letter of credit shall be released upon the release of the last public improvement bond and conservation deposit.

- b) The applicant shall utilize tree preservation as the primary focus of sanitary lateral location and accordingly the locations shown on the GDP may be slightly modified to preserve the maximum number of trees.
- c) The Applicant shall establish a homeowners association (HOA) for the proposed development to own, manage, and maintain the open space in Parcels A and B and all other community owned land and improvements. Restrictions placed on the use of the open space and maintenance responsibilities of the HOA shall be disclosed to all prospective homeowners in a disclosure memorandum at time of contract execution and included in the HOA documents.

3. Storm Water Management and Best Management Practices

- a) The Applicant shall provide stormwater management and best management practice (BMP) techniques to control the quantity and quality of stormwater runoff from the Application property unless otherwise waived. On-site detention for stormwater and best management practices for both phases shall be provided in accordance with the Fairfax County Public Facilities Manual (PFM) and, as indicated on Note 21 on the GDP, located on Parcel A shown on the GDP. The Applicant will grant an access easement to the stormwater management facility to DPWES at the time of recordation of the final subdivision plat to provide access to the facility for the purpose of maintenance by Fairfax County. The stormwater facility shall be conveyed to the Homeowners Association for stormwater and best management purposes. Any and all stormwater management ponds on the Application Property shall be designed and constructed in conformance with the Fairfax County Public Facilities Manuals as required in the Water Supply Protection Overlay District (WSPOD). The Applicant may request a waiver of the on-site stormwater detention pond located on Parcel A as described in Note 21 on the GDP, prior to subdivision plat approval.
- b) If a waiver for stormwater management is granted, the Applicant shall create two separate conservation easements, as defined below, within the areas delineated as Parcels A and B. The conservation easement in Parcel A will be established concurrent with Phase 1 of the development and will be established at the time of subdivision record plat. At the time of subdivision plat approval, the Applicant shall record the conservation easements to include those areas which qualify for BMP credit on Parcel A within the

WSPOD among the land records of Fairfax County in a form approved by the County Attorney but to exclude the sanitary lateral easements. These conservation easements shall be recorded to the benefit of the Board of Supervisors of Fairfax County. These conservation easements shall also be disclosed in the Homeowners' Association documents for the development. These easements shall prohibit any use of the easement areas, except for that passive recreational use consistent with open space character of the easement and the removal of dead, dying trees, or hazardous trees as determined by DPWES. The Urban Forestry Branch of DPWES shall make the determination that a given tree is dead, dying, or hazardous.

- c) Prior to the approval of a subdivision plat for Phase II, the owner of Parcel 57-3 ((1)) 6 shall make no improvements on that part of his property designated as future Parcel B and intended for use as a conservation easement. The owner of this Parcel shall not remove any trees within the bounds of the future conservation easement, with the exception of those dead, dying, or posing a hazard, and then only with a determination by the Urban Forestry Division of the necessity of the action. Before approval of a subdivision plat for Phase II, the Applicant or Developer shall execute and record in the land records of Fairfax County a conservation easement on Parcel B in the same form as that recorded for Parcel A and approved by the County Attorney. The temporary restrictions set out above shall be in effect until and terminate upon the recordation of the conservation easement.
- d) The Applicant agrees to provide stormwater improvements as approved by DPWES, for the benefit of certain neighboring parcels which are currently referenced as Tax Map 57-3 ((9)) and 138 and 155, prior to the approval of the subdivision record plat for phase I. These improvements will include the regrading of the existing topography on the Application property and the referenced neighboring parcels that currently impedes drainage to the stormwater inlet located on Parcel 57-3 ((9)) 138. The applicant will stabilize and seed this area after regrading is complete and will not be responsible for subsequent maintenance or reseeded of the disturbed area.

The execution of this improvement will require letters of permission from the homeowners of the Parcels 57-3 ((9)) 138 and 155 prior to the approval of the subdivision plat for the Application property. If these homeowners do not provide these letters of permission, the Applicant shall be relieved of this proffer requirement. The Applicant must demonstrate to the satisfaction of DPWES that all reasonable means were used to acquire the letters of permission prior to the relief of the proffer requirement.

4. Building Footprint

- a) The applicant shall construct single family detached dwellings on the subject property to reflect a building footprint for the principal structure (to exclude decks, patios, etc.) of the same or lesser size on the proposed lots as that shown on the GDP. This proffer therefore revises note 23 on the GDP to prohibit the modification of the typical house footprint. The homes constructed on the subject property shall be two stories fronting Lammarr Drive with brick fronts or 6 inch siding fronts and front load garages.

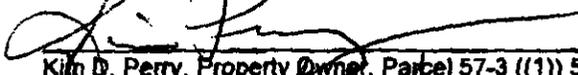
5. Miscellaneous

- a) Successors and Assigns. These proffers shall bind the Applicant and his/her successors and assigns.
- b) Counterparts. These proffers may be executed on 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 hereby reserves the right to either demolish or maintain the existing houses. If the existing dwelling on parcel 5 shown on the tax map on the GDP is preserved, an 8 foot side yard may be maintained on the southern property boundary but all other side yards shall be a minimum of 10 feet. If the existing dwelling on the aforementioned parcel 5 is demolished, all side yards shall be a minimum of 10 feet.
- 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 (i.e. parking of vehicles). This covenant shall be recorded among the land records of Fairfax County and within the homeowners association documents in a form approved by the County Attorney prior to the sales of any lots and shall run to the benefit of the homeowners association, which shall be established, and the Board. Purchasers shall be advised of the use restriction prior to entering into a contract of sale.
- e) The lots 1 through 5 shown on the GDP shall range in size from 7,200 square feet to 8,600 square feet.



 Brent R. Perry, Property Owner, Parcel 57-3 ((1)) 5



 Kim D. Perry, Property Owner, Parcel 57-3 ((1)) 5



 William Green, Jr., Property Owner, Parcel 57-3 ((1)) 6



 Suzanne M. Green, Property Owner, Parcel 57-3 ((1)) 6