

Alternate 'A'

RZ 2001-PR-004

Larry and Carol Boehly

July 23, 2001

PROFFERS

Pursuant to Section 15.2-2303A of the Code of Virginia, 1950, as amended, the undersigned proffer the following conditions provided the Board of Supervisors rezones the Subject Property to the R-3 District as proffered. For the purposes of these proffers, the term "Applicant" refers collectively to Larry and Carol Boehly, their successors and assigns. The term "Subject Property" refers to the one (1) acre property that is the subject of RZ 2001-PR-004.

1. Subject to these proffers and the provisions of Section 18-204 of the Fairfax County Zoning Ordinance under which minor modifications may be permitted, development of the Subject Property shall be in substantial conformance with Alternate 'A' of the two (2) sheet plan entitled "Generalized Development Plan" dated January 18, 2001, as revised through June 18, 2001 ("GDP") and prepared by Walter L. Phillips, Inc. The GDP depicts three (3) single-family detached dwellings in the R-3 District. At the time of subdivision plan review, the Applicant may elect to reconfigure lots within the Subject Property (e.g. minor adjustment to lot width) provided such changes are in substantial conformance with the GDP and proffers and provided no lot falls below the R-3 minimum standards. The size, width, and location of the building footprints shown on the GDP are conceptual and, except as provided for by these proffers, may be modified within R-3 minimum setbacks, provided there is no encroachment into the Tree Save Areas shown on the GDP.

2. The Applicant shall dedicate and convey in fee simple to the Board of Supervisors 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 occur first. Prior to the issuance of the first Residential Use Permit for a house on the Subject Property, the Applicant shall construct the improvements to Arden Street as generally shown on the GDP, and shall mill and/or overlay the roadway from edge-of-pavement to edge-of-pavement for the length of the new sewer line extension in Arden Street. The Arden Street improvements will include the addition of a stormwater inlet to receive run-off along the Arden Street frontage of TM 39-4 ((1))-59.

2A. The cul-de-sac depicted at the northern terminus of Arden Street on the GDP shall be temporary. At the time of subdivision plan approval the Applicant shall deposit with Fairfax County to be held in escrow the sum of \$20,000 ("Escrow Payment"). The Escrow Payment shall be available for use by Fairfax County for the removal of the temporary cul-de-sac and the construction of a permanent extension of Arden Street through North Railroad Street to connect to that segment of Arden Street which lies north of North Railroad Street. The Escrow Payment includes the cost of construction; scarification; removal and replacement of pavement, curb and gutter; the addition of 4-way stop signs at the intersection; and regrading and replanting. It is anticipated that the removal of the temporary cul-de-sac and the construction of the extension of Arden Street will take place at such time as Gallows Road in the vicinity of the Subject Property is widened and the Idylwood Road/Gallows Road intersection is improved, or whichever shall occur first.

2B. The Applicant shall post a sign at the cul-de-sac which states that the cul-de-sac is temporary. The HOA documents shall include a statement to the effect that funds have been placed in escrow with Fairfax County for the eventual extension of Arden Street to connect with that portion of Arden Street north of North Railroad Street. The first buyer(s) of Lots 1, 2, and 3 shall be advised in writing prior to the time they enter into their contracts that funds have been placed in escrow with Fairfax County for the eventual extension of Arden Street to connect with that portion of Arden Street north of North Railroad Street.

3. Any home which the Applicant builds on any of the three (3) lots shall be brick on all sides but for architectural features such as dormer windows.

4. No structure shall be constructed on Outlot A. A homeowners association ("HOA") shall be established to own Outlot A and to maintain the rain garden and, if not maintained by the County, the stormwater maintenance facility shown on Outlot A on the GDP. Such maintenance, which with regard to the rain garden shall be carried out in conformance with the specifications set out in Attachment A or such other document as may be approved by DPWES, shall be noted as a responsibility of the HOA in the HOA documents, which shall include the specifications set out in Attachment A. The first buyers of Lots 1, 2, and 3 shall be advised in writing prior to the time they enter into their contracts of the responsibilities imposed in this proffer with regard to the maintenance of the rain garden and the stormwater maintenance facility by the HOA.

5. In the event an attempt is made by others, including Fairfax County, to vacate all or a portion of South Railroad Street as it abuts the Subject Property, the Applicant will not oppose such vacation. Furthermore, in such event the Applicant shall dedicate in fee simple to the Board of Supervisors of Fairfax County for open space or park purposes any portion of South Railroad Street conveyed to the Applicant as a result of such vacation.

6. A tree preservation plan shall be submitted to the Urban Forester for review and approval as part of the first submission of the subdivision plan. No plans shall be approved or grading or demolition activities conducted on-site until a tree preservation plan has been approved. The tree preservation plan shall provide for the preservation of specific quality trees or clusters of trees within the areas designated on the GDP as the Tree Save Areas during construction. The tree preservation plan shall include a tree condition analysis of all such trees prepared by an arborist certified by the International Society of Arboriculture. The plan shall also include recommendations for pre-construction treatment of trees to be preserved. Prior to construction the Applicant shall have the limits of the Tree Save Area flagged and the Applicant shall walk the Subject Property with an Urban Forestry Branch representative to determine whether minor adjustments to the Tree Save Areas should be made to ensure the preservation of trees in the Tree Save Areas. Before any work is undertaken on the Subject Property, chain link fencing at least four (4) feet high shall be installed at the limits of clearing and grading and the limits of the Tree Save Areas. The certified arborist shall monitor the construction work and tree preservation efforts in order to ensure that the tree preservation plan is properly effectuated.

6A. After the first submission review of the tree preservation plan referred to in Proffer 6, a replacement value shall be assigned to all trees to be preserved, 6" or greater in diameter, within the Tree Save Areas. 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 letter of credit shall be subject to approval by the County Attorney. The total amount of the 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 \$5,000.00. The County may draw funds from the cash bond or letter of credit in order to remove and 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. The letter of credit or cash

bond will be released two years from the date of release of the project's conservation escrow.

7. The HOA documents shall state, in form approved by the Office of the County Attorney, that (a) the purpose of the Tree Save Areas is to conserve and preserve natural vegetation; (b) no live trees in the Tree Save Areas having a caliper of 6 inches or greater four (4) feet above the ground shall be cut down or otherwise removed, provided that dead, diseased, damaged or otherwise hazardous trees, shrubs or vines may be removed; and (c) no fences or structures may be constructed within the Tree Save Areas. The first buyer(s) of Lots 1, 2, and 3 shall be advised in writing prior to the time they enter into their contracts of the prohibition in this proffer on the removal of trees from the Tree Save Areas.

8. To assist in the achievement of Fairfax County's low and moderate income housing goals, at the time of subdivision plan approval the Applicant shall contribute to the Fairfax County Housing Trust Fund an amount equal to .5% of the projected base sales price of each of the three (3) residential units to be constructed on the Subject Property. The projected base sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development and DPWES.

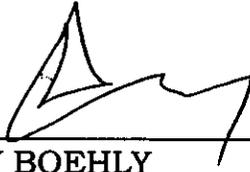
9. At the time of subdivision plan approval the Applicant shall contribute to Stenwood Elementary School computer equipment or other such item(s) as may be identified by the principal of Stenwood Elementary School provided its/their value does not exceed \$1,000.00.

10. All houses constructed on the Subject Property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes, or its equivalent as determined by the Department of Public Works and Environmental Services for either gas or electric energy systems, as may be applicable.

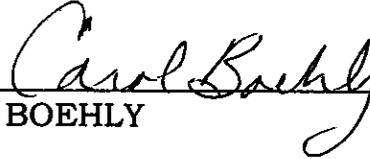
11. At the time of subdivision plan approval the Applicant shall contribute \$1,000.00 to the Fairfax County Park Authority to be used to enhance recreational facilities in a nearby park.

12. Applicant reserves density as may be permitted by Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications of the Subject Property at the time of site plan approval, including all dedications shown on the GDP and all required by Fairfax County or VDOT at the time of subdivision plat approval.

13. These proffers will bind and inure to the benefit of the Applicant and their heirs, successors and assigns.



LARRY BOEHLY



CAROL BOEHLY