

3:30 PM AGENDA
March 24, 2003

PROFFERS

**RZ 2002-LE-023
WILLIAM K. AMES**

March 21, 2003

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Generalized Development Plan.** Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance, development of the property shall be in substantial conformance with the plan entitled "Generalized Development Plan 4001, 4003 Buckman Road ("GDP")," consisting of three (3) sheets prepared by GJB Engineering, Inc., revised as of November 1, 2002.
2. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy homes, as applicable.
3. **Road Dedication/Construction.** At the time of site plan approval, or upon demand by Fairfax County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, right-of-way along the Buckman Road frontage of the site, necessary for public street purposes and as shown on the GDP, shall be dedicated and conveyed to the Fairfax County Board of Supervisors ("Board") in fee simple. The Applicant shall also construct curb and gutter pavement widening for an improved two-lane section consistent with the improvements abutting the site to the east fronting the Roxbury of Mount Vernon subdivision ("Roxbury") as shown on the GDP. This road dedication and widening shall be shown on the site plan submitted under Article 17 of the Zoning Ordinance.
4. **Landscaping.** Landscaping for the site shall be in substantial conformance with the landscaping shown on the Details Plan (Sheet 3 of the GDP), subject to minor adjustments approved by the Urban Forestry Division.
5. **School Contribution.** Prior to the issuance of the first building permit, the Applicant shall contribute \$30,000 to the Board of Supervisors to be utilized for the provision of capital facilities within the school pyramid serving this development. In the event that the final record plat yields less than fifteen (15) units, this contribution amount shall be reduced according to the approved guidelines by applying the student ratios set forth in Appendix 11 of the staff report to the number of units approved on the final record plat to determine the number of additional students projected to come from the new development.

6. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and such density is hereby reserved to be applied to the residue of the Subject Property.
7. **Homeowners' Association.** The Applicant shall file and pursue an application for incorporation of the Subject Property into Roxbury, so that the Subject Property can be governed by the bylaws and covenants of Roxbury, including, without limitation, the provisions of pro rata maintenance contributions for the common facilities (including private streets) of Roxbury and the Subject Property and architectural review of dwellings to ensure that the dwellings on the Subject Property are compatible with the existing dwellings in Roxbury. In the event that the Applicant's application for incorporation into Roxbury is not accepted, the Applicant shall establish a Homeowners' Association ("HOA") for the proposed development to own, manage and maintain the open space areas and all other community owned land and improvements. The HOA documents shall expressly state that the HOA shall be solely responsible for the maintenance of the private streets and the on-site Best Management Practices ("BMPs") referenced in Proffer No. 10. The HOA documents shall specify the maintenance schedule for said BMPs.
8. **Lighting.** All common area or public area lighting, except entry monumentation signage lighting, shall feature full cut-off shielding, and shall be directed inward and downward to prevent lighting from spilling onto adjacent properties. Notwithstanding the aforesaid, uplighting of the entry monumentation signage shall be permitted.
9. **Affordable Housing Contribution.** Prior to the issuance of the first on-site building permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.
10. **Water Quality/Stormwater Management.**
 - a. The Applicant shall expand the existing stormwater management pond in Roxbury to serve as a stormwater facility for the Subject Property, in lieu of providing on-site stormwater detention, if approved by DPWES. If the Applicant's request for waivers of on-site stormwater detention ("SWD") are not granted by DPWES, an on-site SWM facility will be provided, which may require a Proffered Condition Amendment and may result in the loss of units. The Applicant shall provide BMPs on-site through a combination of LID (Low Impact Development) practices, such as landscape swales and bioretention facilities, subject to DPWES approval (in the locations as generally shown on the GDP). In addition, BMPs may be provided off-site with the expansion of the Roxbury stormwater detention pond, subject to the approval of DPWES.

- b. The Applicant shall execute with Fairfax County a Private Maintenance Agreement for all on-site, privately maintained BMPs, including any bio-retention, bio-filtration and/or landscape swales designed for water quality purposes in accordance with Chapter 118 of the County Code and record the executed Agreement in the land records of the County. Reference to this Private Maintenance Agreement shall be incorporated into the Homeowners Association ("HOA") documents and all purchasers shall be advised prior to entering into a contract of sale of the location of the facilities and that the HOA is responsible for maintaining these privately maintained facilities. In the event of annexation of the Subject Property into Roxbury under Proffer No. 7, the annexing HOA shall be made aware, through the annexation documents, of the existence of the privately maintained facilities above.

The Applicant will provide, within the subdivision and site plans, a detailed maintenance plan for the facilities.

The Private Maintenance Agreement shall address:

- 1) Incorporating into the Agreement a detailed maintenance plan for the facilities that considers useful life and future replacement.
 - 2) County inspection to ensure that the facilities are maintained in good working order.
 - 3) A restriction that the Applicant and/or the HOA shall not petition the County for future maintenance/replacement of the facilities, unless otherwise provided for in the Maintenance Agreement.
 - 4) Establishment of an initial fund, prior to bond release and the construction of the facilities, with the HOA that provides for the cost of replacing the plant material as part of the maintenance/replacement of the facility. The amount of said initial fund shall be determined by DPWES.
 - 5) References to the location of the maintenance plan (above) by site plan number in the County records.
 - 6) The HOA shall provide DPWES with an annual report of inspections and maintenance performed by the HOA's maintenance contractor, as well as a statement of budget and expenditures.
11. **Waterline Extension.** In addition to the public water supply connection shown on the GDP at Buckman Road and in order to improve domestic water flow and quality and fire hydrant flow, the Applicant shall extend the proposed waterline off-site to connect to the existing waterline in Roxbury as noted on the GDP, subject to receiving the necessary off-site easement from Roxbury, at no cost to the Applicant. The Applicant shall make a good faith effort to acquire this easement and provide documentation of said effort to DPWES.

12. **Architectural Design.** The general design and architecture of the approved units shall be in substantial conformance with the illustrative elevations attached as Sheet 3 of the GDP, or of comparable quality. In addition, the following architectural treatments shall be implemented:

- a. At least fifty (50) percent of the front facades of the units shall be brick;
- b. The side wall facing Buckman Road on the northernmost unit shall be faced with brick; and
- c. The rear windows of the units shall have shutters as shown on Sheet 3 of the GDP.

For the purpose of administering this proffer, it shall be understood that the elevations attached to the GDP are illustrative in nature and that "substantial conformance" shall not preclude reasonable product design choices that honor the general unit style and the type and proportion of elements and materials generally reflected on the GDP.

13. **Interior Noise Mitigation.** Due to the proximity to the commercial site to the south and in order to reduce the maximum interior noise to a level of approximately 45 dBA Ldn, the construction of the dwelling on the southernmost lot (i.e., the lot closest to this commercial site) shall employ the following acoustical measures:

- a. Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39;
- b. Doors and windows shall have a laboratory STC rating of at least 28. If glazing constitutes more than 20% of any façade, they shall have the same laboratory STC rating as walls; and
- c. Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

The unit requiring these acoustical measures shall be graphically identified on the site plan.

14. **Recreation.** In the event that the Subject Property is incorporated into Roxbury as specified in Proffer No. 7 above, the Applicant shall contribute \$7,585 at the time of site plan approval to Roxbury to be utilized for the improvement of recreation facilities within Roxbury. Subject to receiving permission from Roxbury, the Applicant shall also provide a sidewalk or trail connection between the subject site and Roxbury within the southern half and eastern side of the subject site per Note 15 of the GDP, Sheet 1 of 3. If the Subject Property is not incorporated into Roxbury, then, at the time of site plan approval, the Applicant shall contribute \$7,585 to the Fairfax County Park Authority to be utilized for recreational facilities in one of the Park Authority's parks in the general vicinity of the Subject Property, in which case, the above-referenced pedestrian connection will not be required.

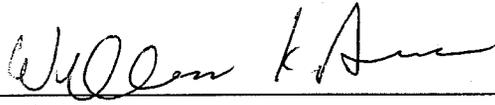
15. **Signs.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant's direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the Subject Property to adhere to this proffer.
16. **Crosswalk.** Subject to VDOT and DPWES approval, the Applicant shall construct a painted crosswalk from the proposed entrance to this site to connect to the trail system on the north side of Buckman Road. The location of the crosswalk shall be generally as shown on the GDP, unless deletion or modification is warranted by VDOT review of the site plan.
17. **Private Street.** The on-site private street shall be constructed in conformance with the Public Facilities Manual ("PFM") and shall be constructed of materials and depth of pavement consistent with Sect. 7-0502 of the PFM, subject to any design modifications approved by the Director of DPWES. The Homeowners' Association shall be responsible for the maintenance of the on-site private street. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation will be disclosed in the HOA documents.
18. **Driveways.** All driveways shall be a minimum of eighteen (18) feet in length from the townhouse garage door to the inside of the sidewalk as well as eighteen (18) feet from the garage door to the front property line so that cars do not overhang into the sidewalk.
19. **Tree Preservation.**
 - a. **Tree Preservation Plan.** The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. The preservation plan shall be prepared by a professional experienced in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and the plan shall be reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater within twenty (20) feet to either side of the limits of clearing and grading shown on the GDP. The tree survey shall also include areas of clearing and grading not shown on the GDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. The condition analysis ratings shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal* published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as crown pruning, root pruning, mulching, fertilization and others as necessary, shall be included in the plan.

- b. **Tree Preservation Walk-Through.** The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forestry Division representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time, and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal at the edge of the limits of clearing and grading or within a tree preservation area shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees. The Applicant and a representative from the Urban Forestry Division shall meet at the site prior to construction to identify invasive vines and vegetation in the tree save areas and the appropriate course of action relative to same. Property owners contiguous to the areas being discussed shall be notified by certified mail of the date and time of this meeting and invited to attend.
- c. **Tree Protection Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing four (4) feet high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart shall be erected at the limits of clearing and grading as shown on the demolition, and Phase I & II Erosion and Sediment Control Sheets for those tree save areas depicted on the GDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing, except super silt fencing, shall be performed under the supervision of a certified arborist. Three (3) days prior to the commencement of any clearing, grading or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.
- d. **Limits of Clearing and Grading.** The Applicant shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. All utility crossings (including stormwater management outfall facilities and sanitary sewer lines) shall be located so as not to interfere with proposed tree save areas. If it is determined necessary to install utilities and/or trails outside of the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the Urban Forestry Division. A replanting plan shall be developed and implemented, subject to approval by the Urban Forestry Division, for any areas outside the limits of clearing and grading that must be disturbed.

20. **Garages.** The Applicant shall place a covenant on each townhouse garage unit that prohibits the use of the garage for any purpose which precludes motor vehicle storage. The covenant shall be in a form acceptable to the County Attorney and it shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board.

[SIGNATURE ON FOLLOWING PAGE]

**APPLICANT/OWNER OF TAX MAP 101-2
(1) PARCELS 4 AND 5**

A handwritten signature in cursive script, appearing to read "William K. Ames", is written above a horizontal line.

William K. Ames