

PROFFERS
S & R Developers, Inc.
RZ 2002-MV-026

January 17, 2003

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners and Applicant in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 98-3-((1))-20 (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Rezoning request for the R-3 (Cluster) District is granted. In the event said application request is denied, these proffers shall be null and void. The Owners and the Applicant ("Applicant"), for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The proffered conditions are:

I. GENERAL

1. Subject to the proffers and the provisions of Article 18 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the Generalized Development Plan (GDP), containing two (2) sheets prepared by Dewberry & Davis, dated July 31, 2002 and revised through January 7, 2003.
2. The development shall consist of a maximum of eight (8) single family detached residential units.

3. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be incorporated in the HOA documents and 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 homeowners' association (HOA), which shall be established, and the Board of Supervisors. Prospective purchasers shall be advised of this use restriction at the time of entering into a contract of sale.

II. TRANSPORTATION

1. The public street shown on the GDP that provides access to the approved lots from Monacan Road shall be designed and constructed to standards required by VDOT and DPWES.

2. The Applicant shall improve Monacan Road from its intersection with Silverbrook Road to the Subject Property within the existing right-of-way to a two lane section, to include curb and gutter, of a standard required by VDOT and DPWES. If approved by VDOT and DPWES, Monacan Road may be improved to a reduced 28 foot wide section. At the time of subdivision plan review, the Applicant shall coordinate with the Urban Forestry Division, VDOT and DPWES to develop an alignment, within the existing right-of-way, that maximizes opportunities to preserve existing trees. This improvement to Monacan Road shall include pedestrian access in the form of a sidewalk along the northern portion of the improved road.

3. Subject to approval by VDOT and DPWES, the Applicant may escrow funds in lieu of construction for the portion of Monacan Road located east of the site entrance. The amount of any such escrow shall be as determined by DPWES in

accordance with the Unit Price Schedule for public improvements. In the event this option is exercised, the Applicant shall convey to the County, at no cost, those ancillary easements along the property frontage necessary to facilitate the further extension of Monacan Road, by others.

III. ENVIRONMENTAL

1. Stormwater management shall be provided in accordance with the requirements of the PFM. In order to restore a natural appearance to the proposed stormwater management pond, a landscape plan shall be submitted as part of the first submission of the subdivision plan. The plan shall show the restrictive planting easement for the pond, and extensive landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County and subject to Urban Forestry Division review and approval..

2. At the time of subdivision plan review and approval, the Applicant shall diligently pursue the approval of the necessary waivers or engineering approvals to allow the applicable stormwater detention requirements to be potentially waived, or met with a structural pond of smaller size than that identified on the GDP.

3. In the event the detention requirements are waived, to ensure compliance with the applicable BMP requirements, the Applicant shall have the right, but not an obligation, to employ "rain gardens" or similar alternative BMP measures, as approved by DPWES. In the event a rain garden is employed, it shall be maintained by the HOA in general conformance with Attachment A, and determined appropriate by DPWES, and such maintenance responsibilities shall be disclosed in the HOA documents. Should DPWES fail to approve the necessary permits and/or waivers, the Applicant reserves the

right to provide a structural dry pond in substantial conformance with that shown on the GDP in accordance with Proffer III, 1.

4. The location and configuration of the stormwater management facility shall be in substantial conformance with the GDP. Modifications to the configuration of the pond may be made based on final engineering requirements, so long as such modifications do not encroach into designated tree save areas, or those RPA areas approved pursuant to Proffer III-9 below. In the event that the final design and engineering indicates that the applicable water quality/quantity requirements can be met without the use of a structural dry pond or if the required stormwater management pond requires less land area than that shown on the GDP, those areas not required in connection with the stormwater pond or its associated grading shall be examined jointly by the Applicant and the County Urban Forester for feasibility as additional tree preservation areas. If found to be viable for tree preservation purposes, these areas shall be protected in accordance with the requirements of these proffers. If such areas not used for stormwater management are not deemed appropriate for tree preservation by the Applicant and the County Urban Forester, then such areas shall be landscaped with a type and amount of landscaping that is generally consistent with the landscape concepts described on the GDP.

5. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the GDP. If, during the process of subdivision plan review, any new landscaping shown on the GDP cannot be installed, in order to locate utility lines, trails, etc., as determined necessary by the Director, DPWES, then an area of additional landscaping consisting of trees and/or plant material of a type and size

generally consistent with that displaced, shall be substituted at an alternate location on the site. To the extent practical, and in accordance with PFM, native or recommended species shall be used in all landscaped areas as approved by the Urban Forestry Division.

6. The limits of clearing and grading shown on the GDP shall be maximum limits and be strictly adhered to.

7. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division. 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 shown on the GDP to be saved and all trees twelve (12) inches or greater in diameter, located within designated tree save areas, or within ten (10) 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 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.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing consisting of a four (4) foot high, fourteen (14) gauge welded wire fence, attached to six (6) foot steel posts, which are

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 subdivision plan's Phase I and II erosion and sediment control sheets in all areas. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist. Three 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.

The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any clearing and grading activities on the site, including the demolition of any existing structures.

8. Before or during the required pre-construction meeting, the Applicant shall walk the limits of clearing and grading with a representative of the Urban Forestry Division 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, condition, and/or their proximity to disturbance shall 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 chainsaw 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.

9. All homes on the Property shall meet the thermal guidelines of the CABO Model Energy Program for energy-efficient homes, or its equivalent as determined by DPWES, for either gas or electric energy systems as may be applicable.

10. All developed lots and stormwater facilities shall be outside the boundary of the approved RPA. The Applicant shall use its best and most reasonable efforts to minimize clearing and grading within the approved RPA.

IV. AFFORDABLE HOUSING

1. At the time of subdivision plan approval, the Applicant shall contribute one half of one percent of the projected sales price of the new homes to the Housing Trust Fund. The final amount of such contribution shall be determined by the Applicant in consultation with staff of the Department of Housing and Community Development.

V. OTHER

1. 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 marketing and sale of homes on the subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.

2. A contribution of \$3,187.50 per approved unit shall be made at the time of subdivision plan approval to the Board of Supervisors for a specific fund designated for County schools.

3. All driveways shall have a minimum length of 18 feet as measured from the inside of the sidewalk.

4. A minimum of one (1) of the approved eight (8) units shall be designed with a first floor configuration offering exterior access, either directly outside or through a garage without steps, a full bathroom and at least one room suitable for occupancy as a bedroom.

5. In order to help identify property boundaries and discourage unintentional disruption or trespassing on to the adjacent park property, the Applicant shall provide the peripheral landscaping generally shown on the GDP at the rear of Lots 1-6.

6. At the time of subdivision plan approval, the Applicant shall contribute the sum of \$4,305 to the Fairfax County Park Authority.

7. A sidewalk shall be provided along both sides of the new public street that provides access to the approved lots from Monacan Road.

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These proffers may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.

PROPERTY OWNER (Tax Map #98-3-((1))-20)

By: Trudy K. DeBurnley
Name: Trudy K.D. Burnley

S & R DEVELOPERS, INC.

By: 
Name: Shabir Poonawala
Title: President

EQUITY HOMES LLC

By: 
Name: Peter Hazeloop
Title: President

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