

**PROFFERS**

**Christopher W. Warner and Mary J. Warner**

**RZ 2015-HM-010**

**May 13, 2016**

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended), Christopher Walden Warner and Mary Jo Warner, for themselves and their successors and/or assigns (hereinafter referred to as the "Applicants"), hereby proffer that the development of the property identified as Fairfax County 2016 tax map reference 28-3 ((1)) 46 (the "Application Property") shall be in accordance with the following conditions if, and only if, the Board of Supervisors (the "Board") approves this rezoning application. These proffers shall replace and supersede all previous proffers approved on the Application Property.

1. GENERALIZED DEVELOPMENT PLAN –

- A. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan entitled "Warner Subdivision" consisting of six (6) sheets prepared by Smith Engineering, dated July 1, 2015, as revised through May 3, 2016 (the "GDP").
- B. Pursuant to Paragraph 5 of Section 18-204 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), minor modifications to the GDP may be permitted as determined by the Zoning Administrator. The Applicants reserve the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed dwelling units at time of subdivision plan submission based on final building footprints, utility locations and final engineering design, provided that such do not materially decrease the amount and location of open space below the minimum required by the Zoning Ordinance, tree save areas, tree planting, distance to peripheral lot lines below the minimum required by the Zoning Ordinance, or typical lot setbacks as shown on the GDP.
- C. Notwithstanding Note 5 on Sheet 2 of the GDP, the construction of the two (2) proposed single family dwelling units may be phased in accordance with Note 27 on Sheet 1 of the GDP.

2. TRANSPORTATION –

- A. Subject to Virginia Department of Transportation (VDOT) approval, the Applicants shall dedicate at no cost and convey in fee simple to the Board right-of-way up to a width of thirty (30) feet as measured from the centerline along the Application Property's Clarks Crossing Road frontage, as shown on the GDP. Dedication shall be made at time of subdivision plan or upon demand of either Fairfax County or VDOT, whichever should first occur. The existing fence located on the property to

be dedicated shall be removed at the time of dedication. The Applicants shall be responsible for the cost of fence removal.

- B. Subject to VDOT and Department of Public Works and Environmental Services (DPWES) approval, and prior to the issuance of the first Residential Use Permit ("RUP") for the Application Property, the Applicants shall construct frontage improvements within the dedicated right-of-way to Clarks Crossing Road as shown on the GDP.
- C. The Applicants agree to provide non-illuminated signage within the Clarks Crossing Road right-of-way that alerts eastbound motorists of slow moving cyclists ahead subject to VDOT and Fairfax County Department of Transportation (FCDOT) approval. The Applicants shall construct said signage prior to the issuance of the first RUP for the Application Property.

3. LANDSCAPING AND OPEN SPACE –

The Applicants shall provide landscaping on the Application Property as generally shown on Sheets 2 and 5 of the GDP. As part of the subdivision plan submission, the Applicants shall submit to the Urban Forest Management Division ("UFMD") a detailed landscape plan for review and approval that shall be generally consistent with the quality and quantity of plantings and materials shown on the GDP. The landscape plan shall be designed to ensure adequate planting space for all trees based on the requirements in the Public Facilities Manual ("PFM"). Plantings shall include only non-invasive species and, to the extent practical, native species. At time of subdivision plan, adjustments to the type and location of vegetation and the design of landscaped areas from that shown on the GDP shall be permitted as approved by UFMD.

4. DESIGN AND LAYOUT –

Prior to entering into a sales contract, potential purchasers shall be given notice of yard setbacks and any limitations on the construction of additions, such as porches, sunrooms, patios and decks.

5. TREE PRESERVATION –

- A. For the purposes of maximizing the preservation of trees located on adjacent properties, the Applicants shall prepare a Tree Preservation Plan. The Applicants shall contract with a certified arborist or registered consulting arborist (the "Project Arborist") to prepare a Tree Preservation Plan to be included as part of the subdivision plan submission. The Tree Preservation Plan shall be reviewed and approved by UFMD. The Tree Preservation Plan shall seek to preserve the trees identified on the GDP for preservation. 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 incorporated into the Tree Preservation Plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.

- B. Clearing, grading, and construction shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of necessary utility lines and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in accordance with the approved plans.
- C. The Applicants shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Project Arborist shall walk the limits of clearing and grading with a UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. The Applicants shall also work with UFMD to identify areas adjacent to the limits of clearing and grading where a mix of understory plantings and shrubs may be provided, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw, and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. 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 adjacent trees and associated understory vegetation and soil conditions.
- D. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four (4) foot high, 14 gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no farther than ten (10) feet apart or super silt fence, to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be placed at the limits of clearing and grading. The tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to the performance of any clearing and grading activities on the site. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.
- E. The Applicants shall (1) prune roots one inch in diameter or larger of trees to be preserved that may be damaged during clearing, demolition, grading, utility installation and/or the installation of retaining walls; and (2) mulch to a minimum depth of three (3) inches within the areas to be left undisturbed where soil conditions are poor, lacking leaf litter or prone to soil erosion. Areas that will be root pruned and mulched shall be clearly identified on the Tree Preservation Plan. All treatments

for such trees and vegetation shall be clearly specified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be included in the Tree Preservation Plan and shall be subject to the review and approval of UFMD.

All root pruning and mulching work shall be performed in a manner that protects adjacent trees and vegetation that are required to be preserved and may include, but not be limited to, the following:

- (i) Root pruning shall be done with a trencher or vibratory plow to a depth of eighteen (18) inches, or as specified by UFMD at the pre-construction meeting.
  - (ii) Root pruning shall take place prior to installation of tree protection fencing.
  - (iii) Root pruning shall not sever or significantly damage structural or compression roots in a manner that may compromise the structural integrity of trees or the ability of the root system to provide anchorage for the above ground portions of the trees.
  - (iv) Root pruning shall be conducted with the on-site supervision of the Project Arborist.
  - (v) Tree protection fencing shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
  - (vi) Mulch shall be applied at a depth of three (3) inches within designated areas. Mulch may be placed within tree preservation areas at points designated by the Project Arborist to minimize impacts to existing vegetation. Motorized equipment may be used to reach over tree protection fence to place mulch at designated points. Mulch shall be spread by hand within tree preservation areas.
  - (vii) Mulch shall consist of wood chips or pine bark mulch. Hay or straw mulch shall not be used within tree preservation areas.
  - (viii) UFMD shall be informed in writing when all root pruning and tree protection fence installation is complete.
- F. During the installation of tree protection fencing, performance of root pruning, and/or any clearing or removal of trees, vegetation, or structures, or other activities in or adjacent to tree conservation areas on the Application Property, the Project Arborist, as a representative of the Applicants, shall be present to monitor the process and ensure that the activities are conducted in accordance with the proffers and as

approved by the UFMD. Inappropriate activities such as storage of construction materials, dumping of construction debris, and traffic by construction personnel shall not occur within these areas. Damage to understory plant materials, leaf litter and soil conditions resulting from activities not approved in writing by UFMD shall be restored to the satisfaction of UFMD.

6. PARKS CONTRIBUTION –

The Applicants shall contribute the sum of Two Thousand Six Hundred Seventy Nine Dollars (\$2,679.00) to the Fairfax County Park Authority to offset the impact to parks and recreation services from the new residents anticipated by the development of the Application Property. Said contribution is to be utilized for recreational facility development at one or more park sites located within the service area of the Application Property. Such contribution shall be made prior to the issuance of the first RUP for the Application Property and shall be based on the actual number of dwelling units constructed.

7. STORMWATER MANAGEMENT –

- A. Subject to review and approval by DPWES, stormwater management (“SWM”) and Best Management Practice (“BMP”) measures for the Application Property shall be provided in bioretention facilities, or other type of water quality and quantity control facilities as permitted by the PFM, as depicted on Sheets 2 and 3 of the GDP. The SWM and BMP measures shall be developed in accordance with the PFM, unless waived or modified by DPWES.
- B. The owners of each dwelling unit shall be responsible for the maintenance of the proposed stormwater facilities located on their lot. The maintenance responsibilities will be disclosed to all prospective purchasers prior to entering into a contract of sale.
- C. The Applicants shall provide written materials to contract purchasers of the dwelling units describing proper maintenance of the stormwater facilities in accordance with the PFM and County guidelines.

8. GREEN BUILDING PRACTICES –

New dwelling units on the Application Property shall be constructed to achieve one of the following programs, or an alternative third-party certification as approved by the Environmental and Development Review Branch of the Department of Planning and Zoning (“DPZ”). Selection of one of the following certification methods, or an alternative, shall be within the Applicants’ sole discretion at time of subdivision plan submission:

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- A. Certification in accordance with the Earth Craft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP; or
- B. Certification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance as demonstrated through documentation submitted to DPWES and DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to issuance of a RUP.

9. SCHOOLS CONTRIBUTION -

- A. The Applicants shall contribute the sum of Eleven Thousand Seven Hundred Forty Nine Dollars (\$11,749.00) to the Fairfax County School Board to offset the student generation anticipated by the new development located on the Application Property. Said contribution is to be utilized for capital improvements to Fairfax County Public Schools to address impacts on the school district resulting from new development located on the Application Property. Such contribution shall be made prior to the issuance of the first RUP for the Application Property and shall be based on the actual number of new dwelling units constructed. Such contribution shall be directed to schools in the James Madison High School pyramid.
- B. The Applicants shall notify Fairfax County Public Schools when development of the Application Property is likely to occur.
- C. Should Fairfax County modify the ratio of students per unit or the amount of contribution per student prior to payment of the contribution described in Proffer 9.A., the Applicants shall contribute the modified contribution amount.

10. AFFORDABLE HOUSING -

Prior to the issuance of the first building permit, the Applicants shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (0.5%) of the anticipated sales price of all new dwelling units constructed on the Application Property to assist the County in its goal to provide affordable dwellings. The contribution shall be based on the aggregate sales price of all of the units, as if all of the units were sold at the time of the issuance of the first building permit, and on comparable sales of similar type units. The projected sales price shall be as determined by the Applicants in consultation with the Department of Housing and Community Development (HCD).

11. MISCELLANEOUS -

- A. Upon demonstration by the Applicants that, despite diligent efforts or due to factors beyond the Applicants' control, the required improvements have been or will be

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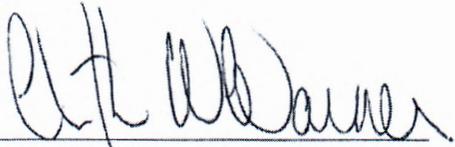
delayed beyond the time set forth in these proffers, the Zoning Administrator may agree to a later date for the completion of such improvements.

- B. These proffers shall bind and inure to the benefit of the Applicants and their successors and assigns.

**[SIGNATURES ON THE FOLLOWING PAGE]**

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APPLICANTS/OWNERS:

  
CHRISTOPHER WALDEN WARNER

  
MARY JO WARNER

***[SIGNATURES END]***