

## **PROFFERS**

### **CLIFTON N. MORRIS, JR. AND STEPHEN L. MORRIS**

**RZ 2011-LE-019**

**December 9, 2011**

Pursuant to Section 15.2-2303(a), *Code of Virginia*, 1950 as amended, and subject to the Board of Supervisors approving a rezoning of the property identified as Tax Map 81-3 ((1)) 46 and 91-1 ((1)) 43, hereinafter referred to as the "Application Property," from the R-1 District to the R-12 District, Clifton N. Morris, Jr. and Stephen L. Morris, hereinafter referred to as the "Applicants," for themselves, the owners, and their successors and assigns, hereby proffer to the following conditions. If accepted, these proffers shall replace and supercede any 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 (GDP) prepared by Dominion Surveyors, Inc. consisting of twelve (12) sheets, dated August 26, 2011 and revised through October 25, 2011.
- 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 shall have the flexibility in accordance with the Zoning Ordinance to modify the layout shown on the GDP without requiring approval of a proffered condition amendment provided such changes do not increase the total number of dwelling units, decrease the amount of open space; or decrease peripheral setbacks.

#### **2. TRANSPORTATION**

- A. The Applicants shall construct a five (5) foot wide concrete sidewalk along the interior streets as shown on the GDP. The sidewalk shall include accessible ramps as required by the Public Facilities Manual (PFM).
- B. The Applicants shall ensure that the existing sidewalk along the Subject Property's Potters Lane frontage remains open to pedestrians during construction.
- C. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Zoning Ordinance for all eligible dedications described herein, or as may be required by Fairfax County or VDOT at time of site plan approval.

3. LANDSCAPING AND OPEN SPACE

- A. A landscape plan that shows, at a minimum, landscaping in conformance with the landscape design shown on sheets 7A, 7B, 8A and 8B of the GDP shall be submitted in conjunction with the site plan for the Application Property. Deciduous canopy trees shall be a minimum of 2 inches in caliper, and evergreen trees shall be a minimum of 8 feet in height, at the time of planting as shown on the planting schedule on the GDP. Understory plantings shall be provided as shown on the planting schedule on the GDP. The landscape plan shall incorporate the use of native species to the greatest extent feasible, as determined by Urban Forest Management.
- B. The Applicants shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a certified arborist, landscape architect or a registered consulting arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES. The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.
- C. The Applicants shall retain the services of a certified arborist, landscape architect or registered consulting arborist, and 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 Applicants' certified arborist, landscape architect or registered consulting arborist shall walk the limits of clearing and grading with an UFMD, DPWES, 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. 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. The Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities. If it is determined necessary to install utilities in areas protected by the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities.
- E. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot 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 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 erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.
- F. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.
- G. The Applicants shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - (1) Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.

- (2) Root pruning shall take place prior to any clearing and grading, or demolition of structures.
  - (3) Root pruning shall be conducted with the supervision of a certified arborist.
  - (4) An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
- H. Should the Applicants implement the site design identified as "Alternative A" as shown on Sheets 3A and 7A of the GDP, that portion of Outlot A located in the northwest quadrant of Potters Lane and Clara Edward Terrace shall be allowed to return to a naturalized condition subsequent to the installation of the landscaping shown on the GDP. To facilitate a return to a naturalized condition, the Applicant shall install native species understory plantings in addition to the landscaping shown on the GDP in this area. The number of understory plantings shall be coordinated with a representative of UFMD, DPWES, with the understanding that the typical ratio of overstory to understory plantings is 70:30.

#### 4. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

- A. The Applicants shall use best efforts to demonstrate to the Department of Public Works and Environmental Services (DPWES), prior to site plan approval, that stormwater management (SWM) and Best Management Practices (BMPs) for the Application Property were provided in the existing SWM pond located on property identified among the Fairfax County tax assessment records as 91-1 ((19)) A. Should DPWES grant a waiver of on-site detention, the Applicants shall implement the site design identified as "Alternative A" as shown on Sheets 3A and 7A of the GDP.
- B. In the alternative to the provision of SWM off-site, the Applicants shall provide SWM and BMP facilities on-site in an extended detention dry pond and the Applicants shall implement the site design identified as "Alternative B" as shown on Sheets 3B, 4 and 7B of the GDP. Said SWM/BMP pond shall be designed to satisfy detention and water quality in accordance with the requirements of the PFM as determined by DPWES.
- C. At the time of initial purchase, the Applicants shall offer each purchaser the option for a rain barrel to be installed at the base of the rain gutter in the rear yard at no additional cost. The purchaser shall be informed in writing that future maintenance of the rain barrel is the obligation of the purchaser and not the homeowners association established for the community.

#### 5. DESIGN

- A. The Applicants shall design the architecture of the proposed single family attached dwellings consistent with the bulk, mass, type and quality of materials

and elevations shown on Sheet 9 of the GDP. The primary building materials for the front façade of the dwellings, exclusive of trim, shall be brick, or other similar masonry materials. Minor modifications may be made to the final architectural design provided such modifications are in general conformance with the elevations shown on Sheet 9 of the GDP.

- B. The sides of the proposed single family attached dwelling units, exclusive of trim, shall be brick, or other similar masonry material. The sides of units 1, 4, 5, 9, 10, and 17 shall have façade treatments, such as trim and shutters, that match those on the front of the dwellings. Units 1 and 17, adjacent to Potters Lane, shall have entrances that front on Potters Lane.
- C. A seven (7) foot masonry wall with piers shall be constructed parallel to a portion of the western property line as shown on Sheets 3A, 3B, 4, 7A and 7B. Individual lot owners may construct a private fence to enclose the rear yard of the townhouse lot, notwithstanding the fact that a privacy fence is not shown on the GDP. Said individual privacy fences may be wood board-on-board or other materials as approved by the homeowners association established for the community.
- D. A minimum one car garage shall be provided for each residential dwelling. A covenant shall be recorded which provides that the garage shall only be used for a purpose that will not interfere with the intended purpose of the garage, e.g., the parking of vehicles. This covenant shall 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 the homeowners association established for the community. Initial purchasers shall be advised of the use restriction prior to entering into a contract of sale. Said use restriction shall be included in the homeowners association documents prepared in conjunction with the proposed development.
- E. A minimum eighteen (18) foot long driveway, measured from the garage door to the nearest sidewalk base, shall be provided for each unit.
- F. All lighting shall comply with Zoning Ordinance Article 14, Part 900, Outdoor Lighting Standards.
- G. Should the Application Property be developed in accordance with Sheets 3A and 7A of the GDP, and subject to the approval of the Fire Marshal, the fire truck turnaround area shall be constructed of pervious pavers, grasscrete, or other similar material.

## 6. UNIVERSAL DESIGN

- A. At the time of initial purchase, the Applicants shall offer each purchaser the following Universal Design options at no additional cost:
  - Front entrance doors that are a minimum of 36" wide;

- Level door handles instead of knobs;
- Light switches 44"-48" high;
- Thermostats a maximum of 48" high; and/or,
- Electrical outlets a minimum of 18" high.

B. At the time of initial purchase, the Applicants shall offer each purchaser additional Universal Design options at the purchaser's sole cost. These additional options may include, but not be limited to:

- A curb-less shower, or a shower with a curb of less than 4.5" high;
- Grab bars in the bathrooms that are ADA compliant; and/or,
- A first floor bathroom console sink in lieu of a cabinet-style vanity.

## 7. SUSTAINABLE DESIGN

In order to promote energy conservation and green building techniques, the Applicants shall select at time of site plan, within their sole discretion, one of the following programs to be implemented in the construction of the single family attached dwellings shown on the GDP.

- A. Certification in accordance with the Earthcraft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a Residential Use Permit.
- B. Qualification in accordance with ENERGY STAR<sup>®</sup> for Homes as determined by the submission of documentation to the Environment and Development Review Branch of DPZ from a home energy rater certified through the Residential Energy Services Network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR<sup>®</sup> for Homes qualification prior to the issuance of the Residential Use Permit for each dwelling.

## 8. AFFORDABLE HOUSING

At the time of the issuance of the first building permit, the Applicants shall contribute to the Fairfax County Housing Trust fund an amount equivalent to one-half percent (0.5%) of the anticipated sales price of each new single family attached dwelling unit actually constructed on the Application Property to assist Fairfax County's low and moderate income housing goals.

## 9. SCHOOL CONTRIBUTION

The Applicants shall contribute the sum of fifty-six thousand two hundred sixty-eight dollars (\$56,268.00) to the Fairfax County Board of Supervisors for capital improvements and capacity enhancements at the schools that students generated by the residential development shown on the GDP will attend. Said contribution shall be made at time of site plan approval.

10. PARK AUTHORITY CONTRIBUTION

Prior to the issuance of the first building permit, the Applicants shall contribute the sum of ten thousand dollars (\$10,000.00) to the Board of Supervisors for transfer to the Fairfax County Park Authority for use at off-site recreational facilities intended to serve the future residents of the Application Property, as determined by the Fairfax County Park Authority in consultation with the Supervisor for the Lee District.

11. CONSTRUCTION

Except as may be specified herein, all transportation, pedestrian and landscaping improvements shall be constructed and/or installed concurrent with the development of the single family attached dwelling units shown on the GDP.

12. HOMEOWNERS ASSOCIATION

The Applicants shall use best efforts to annex the Application Property into the existing Potters Glen Homeowners Association as demonstrated to DPWES at time of site plan approval. In the alternative, the Applicants shall establish a homeowners association for the proposed development to own, manage and maintain the open space parcel, referred to as Outlot A on the GDP, streets, and all other community owned land and improvements. Maintenance responsibilities of the homeowners association, whether as a part of Potters Glen or individually, shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the homeowners association documents.

13. ESCALATION

All monetary contributions required by these proffers shall escalate on a yearly basis from the base year of 2011, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.

14. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicants and their successors and assigns.

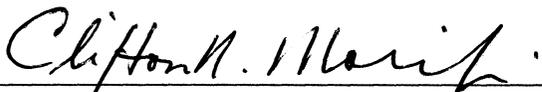
15. COUNTERPARTS

These proffers may be executed in 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 in the same instrument.

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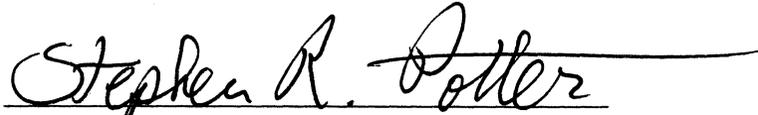
APPLICANT/CONTRACT PURCHASER OF  
TAX MAP 81-3 ((1)) 46 AND 91-1 ((1)) 43

  
CLIFTON N. MORRIS, JR.

  
STEPHEN L. MORRIS

[SIGNATURES CONTINUE ON NEXT PAGE]

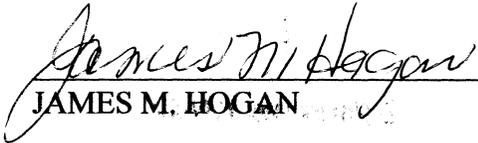
TITLE OWNER OF TAX MAP 81-3 ((1)) 46

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STEPHEN R. POTTER, Sole Heir of  
ROBERT W. POTTER

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 91-1 ((1)) 43

  
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JAMES M. HOGAN

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