

PROFFERS  
WHITESTONE INVESTMENTS, INC.  
RZ/FDP 2004-PR-006

December 3, 2004

Pursuant to Section 15.2-2303 (a) of the 1950 Code of Virginia, as amended, and Section 18-204 of the Fairfax County Zoning Ordinance, the undersigned, as the applicant in the above-referenced Rezoning Application CDP/FDP 2004-PR-006 and the owner of the Property (the "Applicant") for themselves and their successors and assigns, which is the subject matter thereof, being approximately 1.31 acres identified as Tax Map 39-2-001-56, hereby proffer that the development of the Property will be subject to the following terms and conditions should the application be approved:

1. **Substantial Conformity.** The Property shall be developed in substantial conformance with the CDP/FDP dated 9/03/03, revised to 9/20/04, and notes thereon, prepared by Huntley, Nyce & Associates, Ltd. The Applicant does not intend by this proffer to waive the right to make minor engineering modifications permitted and/or rendered necessary by the subdivision ordinance, the zoning ordinance, or the Public Facilities Manual, as determined by the Zoning Administrator.

2. **Marshall Heights HOA.** a. The Applicant shall request of the Marshall Heights HOA the annexation of the Application Property into the Marshall Heights HOA to own, manage and maintain the open space, private street, any recreational facilities and all other community owned land and improvements. In the event that the Application Property is not approved by the Marshall Heights HOA for annexation into the Marshall Heights HOA, the Applicant shall establish a separate HOA to own, manage and maintain the open space, private street, any recreational facilities and all other community owned land and improvements. The HOA documents shall in either event contain a covenant which shall be recorded providing that the garages shall only be used for purposes that will not interfere with the intended purpose of garages (parking of vehicles). The aforesaid 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 HOA, to be established or joined, and the Fairfax County Board of Supervisors. Initial purchasers shall be advised in writing of the use restrictions prior to entering into a contract of sale.

b. Pror to approval of the site plan for development lots within the Application Property, the Applicant shall submit the documents establishing the HOA, or those documents joining the Marshall Heights HOA, to the County of Fairfax for review and approval. The HOA shall be established, or

8. **Fairfax County Park Authority Contribution.** In addition to proffer 7 above, at the time of final site plan approval Applicant shall contribute the sum of \$575.00 per unit (total \$6325.00) to the Fairfax County Park Authority (FCPA), to be used by the Fairfax County Park Authority only for recreational facility development within the service area of the Property.

9. **Architectural Design.** The dwellings to be constructed shall be of colonial design with brick facades on the front and sides.

10. **Noise Study.** The traffic noise study performed by Miller, Beam & Paganelli, Inc. dated July 8, 2004 indicates that proposed Lot 1 may be impacted by noise levels in rear yards and proposed Lots 1 and 2 may have interior noise impacts. To mitigate these impacts, Applicant will provide the following:

Applicant shall achieve a maximum interior noise level of approximately 45dBA Ldn in any area identified as affected by levels above 65 dBA Ldn. All units or floors of units within this impacted area shall be identified on the site plan and will have the following acoustical attributes as determined by DPWES:

- (a) Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.
- (b) Doors (excluding garage doors) and windows shall have an STC rating of at least 28. If glazing (excluding any glazing in a garage door) constitutes more than twenty percent (20%) of any façade, then such glazing shall have the same STC rating as that façade.
- (c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- (d) Exterior noise levels in the rear yards impacted by noise from Route 7 (Lot 1) shall be mitigated through the construction of architecturally solid wood or masonry fencing from the ground up with no gaps or openings, as approved by DPWES (material should have a nominal 2 lb/ft<sup>2</sup> face weight or greater and may be wood such as 5/8" exterior grade plywood, OSB, or T-11 board or masonry).

11. **Dedication for Route 7.** At the time of final site plan approval, or upon demand by Fairfax County, whichever occurs first, the Applicant shall

provide the largest net gain to air quality; (b) The CDP/FDP shows the intended preservation of two existing trees on-site, and the planting of many additional trees; the two trees noted as to be preserved shall be shown on an approved Tree Preservation Plan and shall be protected by tree protection fencing. Tree protection fencing, consisting of four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no farther than 10 feet apart, shall be placed at the limits of clearing and grading as shown on the approved erosion and sedimentation control sheets. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed 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, Applicant shall verify in writing that the tree protection fencing has been properly installed.

Clearing, grading, and construction shall strictly conform to the limits of clearing and grading as shown on the CDP/FDP. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting and shall clearly delineate the limits of clearing and grading with such flagging throughout the construction period. After final site plan and record plat approval, and before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forest Management Branch representative to determine where adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading, if any. The County Urban Forester may require field located modifications of such plans to the extent these modifications do not alter the number of dwelling units shown on the CDP/FDP, reduce the size of the proposed units, significantly move their location on the lot or require the installation of retaining walls greater than 2 feet in height. No root pruning or trenching shall occur prior to this final walk-thru with the Urban Forester

20. **Rt. 7 Future Trail.** Applicant shall at the time of final site plan approval escrow to DPWES the sum equal to the amount of construction cost of a major paved trail along the frontage of the Property, to be used by Fairfax County for construction of trails along Leesburg Pike (Rt. 7). The amount to be escrowed shall be determined by DPWES.

21. **Fence.** The fence along the frontage of the Property shall be a 4 foot high wrought iron style fence.

22. **Construction Hours.** The hours of construction activity shall be limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m on Saturday. There shall be no construction activity on Sunday.

Applicant/Owner:

WHITESTONE INVESTMENTS, INC.

BY:  President