RZ 2004-PR-018

November16, 2004

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, the owners, and Landmark Property Development, LLC (hereinafter referred to as "Applicant") for themselves, their successors and assigns in RZ-2004-PR-018 filed for property identified as Tax Map 48-1 ((1)) Parcel 80 (hereinafter referred to as the "Application Property"), proffer the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the R-5 District.

1 Development Plan:

Development of the Application Property shall be in substantial conformance with the Generalized Development Plan GDP prepared by Charles P. Johnson & Associates consisting of four (5) sheets dated February, 2004 as revised through November 1, 2004.

2 Minor Modifications:

Minor modifications from the GDP may be permitted in accordance with the Zoning Ordnance.

3 Provision of Sidewalks, trails and Private Streets:

Sidewalks & trails shall be provided in the locations as generally shown on the GDP. Both the streets and sidewalks shall be constructed in conformance with the Public Facilities Manual [PFM] to design, depth of pavement and materials consistent with public street and sidewalk standards. Sidewalks shall be constructed in front of all dwelling units. The Applicants shall be responsible for the maintenance of all private streets and sidewalks until the HOA takes responsibility. Purchasers shall be advised in writing prior to entering into a contract of sale that the HOA will be responsible for the maintenance of the private streets and sidewalks. The HOA documents shall expressly state that the HOA shall be responsible for the maintenance of the private streets and sidewalks.

Right-of-way dedications as shown on the GDP all along the Sutton Road property frontage shall be dedicated in fee simple at no cost to the Board of Supervisors at the time of site plan approval or upon demand by the Board of Supervisors, which ever comes first.

4 Energy Efficiency

All homes on the subject site 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.

5 Landscaping/Tree Save:

A) Landscaping will be provided in substantial conformance with the landscape plan (Sheet 3 & 4) as determined by the Urban Forest Management Branch (UFMB) of DPWES. The applicant shall utilize native species in site landscaping wherever possible. The trees in front of the Pond retaining wall (if pond waiver is not granted) will be at least 8 feet in height.

B) 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 UFMB.

C) The tree preservation plan for the tree save area 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, located within twenty (20) feet of either side of the limits of clearing and grading shown on the GDP for the open space areas 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 storm-water out-fall. 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.

D) The Project Arborist in coordination with the Urban Forester shall also determine if trees in the areas to be graded and built upon have a reasonable potential for transplantation to another location within the site. Cost, tree quality and potential for survival shall be considered in the determination. Furthermore the Project Arborist in coordination with the Urban Forester shall determine replacement value of the healthy trees measuring ten (10) inches or larger in diameter located within the tree save area depicted on the GDP. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the subdivision plan. The replacement value shall be determined according to the methods contained in the latest edition of the Guide for Plant Appraisal, subject to review and approval by the UFMB. At time of site plan approval, the Applicant

will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees that die or are dying due to negligent construction activities. If trees are found to be dead or dying at time of final bond release by an UFMB representative due to the Applicants negligent construction activities, the cash bond or letter of credit shall be used to plant similar species of species appropriate to the site, in consultation with UFMB and Project Arborist.

E) Tree protection fencing in the form of fourteen (14) gauge welded wire fencing four (4) feet in height attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet shall be provided along the tree save areas. 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 fence, except super silt fence, shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading, or demolition activities, the UFMB shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

F) The applicant will at the invitation of the Marywood HOA plant up to 15 trees (a mix of evergreen and deciduous trees) 8 ft. in height behind lots 6, 7, 8, 9, & 10 along the joint property line to supplement the existing vegetated buffer. The offer will be made to the Marywood HOA via certified & return receipt letter at time of site plan approval. If no response in the same form has been received within 30 days of the return receipt date the offer is withdrawn.

6. Limits of Clearing and Grading:

A) The applicant shall conform to the limits of clearing and grading shown on the GDP. Any trails and utility lines that are deemed necessary to be located within areas protected by the limits of clearing and grading shall be located and installed in the least destructive manner as possible, as determined by the UFMB. Any areas deemed necessary to be disturbed shall be replanted, except those located within permanent easements, as determined by UFMB.

B) The Applicant shall have limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. The applicant shall walk the limits of clearing and grading with an UFMB representative to determine where minor adjustments may be made to the clearing limits to increase the survivability of trees at the edge of the limits of clearing and grading and the applicant shall make those changes. Any tree that is designated for removal within the tree preservation area or at the edge of the limits of clearing and grading shall be removed using a chain saw to avoid damage to surrounding trees.

7. Homeowners' Association (HOA):

A) The Applicant shall establish a HOA for the proposed development to own, manage and maintain all common community open spaces (other than those dedicated to the Park Authority), planting areas, private streets and community structures installed by the applicant unless the town homes are accepted into the existing adjacent Marywood HOA upon formal request via Certified Letter by the Applicant and no later than at the time that the last town home is sold. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified, in writing by the Applicant, of said maintenance responsibilities. Said purchasers shall be required to acknowledge receipt of this information in writing. This information shall also be included in the HOA documents.

B) The Applicant shall place a covenant on each residential lot, which provides that garages shall be used for purposes that will not interfere with their intended purpose (e.g. parking of vehicles). This covenant shall be recorded among the land records of Fairfax County prior to the sale of any lots and shall run to the benefit of the HOA and to the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's Office. The HOA document shall expressly state this use restriction.

C) The applicant shall include a restrictive covenant in the Home Owners Association documents indicating that the decks cannot be closer than five (5) feet to the rear of any property line and/or as per Zoning Ordnance requirements. The HOA is prohibited from allowing any decks to be constructed in opposition to this restriction.

8 Housing Trust Fund:

At the time of the first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund of 0.5% of the sales price of each dwelling. The amount of said contribution shall be determined by the Department of Housing and Community Development.

9 Recreational/Public Facilities:

The Applicant proffers that the expenditure for recreational facilities will be a minimum of $955.00 per residential unit (total of $8,595) to be used for onsite recreation facilities (including the Gazebos); and of 2 off site benches in the Marywood HOA Open Space lot. The remainder of the funds will go to the Marywood Home Owners Association for use at the community open space area around their SWM facility.

10 Storm Water Management Facilities, BMP's:

If approved by DPWES, the SWM requirement will be provided by utilizing an infiltration trench generally as shown on the GDP as well as modifications to the riser structure in the existing offsite detention pond in the adjoining Marywood Subdivision (Property located at Tax Map 48-1 ((44)) Parcel A1). Modifications to the offsite pond are subject to the approval of DPWES. In the event that final engineering determines that these two facilities are not sufficient to provide 100% of the detention requirements or if modifications to the offsite pond are not approved by DPWES a partial waiver of stormwater management may be requested from DPWES and diligently pursued by the applicant. If the proposed waiver is not granted a Proffered Condition Amendment may be required to alter the SWM on site.

The applicant will utilize Low Impact Design (LID), wherever feasible as determined by DPWES and as shown on the GDP, to minimize the amount of impervious area on the site, reduce discharge velocities leaving the site, increase time of concentration on the site, increase infiltration into the ground, and provide disconnection for runoff from impervious areas.

The temporary siltation & erosion control facilities for use during on site grading and construction shall be located/sited in the general area of the proposed infiltration trench.

11 School Contribution:

Prior to Site Plan approval, the Applicant shall contribute $22,500.00 to the Board of Supervisors for transfer to the Fairfax County School Board for use within the local school pyramid.

12 Signs:

No temporary signs (including "popsicle" style paper or cardboard) 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 property to adhere to this proffer.

13 Lighting:

All exterior lighting shall conform to the Outdoor Lighting standards contained in Part 9 Article 14 of the Zoning Ordnance.

14 Architectural Elevations:

The architecture shall generally conform with the illustrative architectural elevation as shown on the GDP page 4, as determined by DPWES. Building materials will be a mix of brick, conventional simulated wood siding and similar materials. The dwelling on Lot 9 with its side facing Sutton Road, shall use the same building materials and window treatments as the front of the dwelling.

15. Driveways:

Driveways shall be a minimum of eighteen (18) feet in length from the property line to the garage door.

16. Park Dedication/Trail:

At the time of site plan approval, Parcel B adjacent to the Fairfax County Park Authority land shall be dedicated to the Park Authority and conveyed in fee simple for park purposes. The applicant will construct on site trails as depicted on the GDP. Furthermore, the applicant will at the request of the Fairfax County Park Authority and subject to the approval of DPWES, VDOT, and if necessary, by any other parties of interest who are determined to benefit from the adjacent plated Outlet Road construct a trail from Sutton Road along the property frontage to the Park Authority property within the existing plated Outlet Road. The trail will be constructed within the cleared area of the platted Outlet Road and will not disturb existing vegetated areas of the Outlet Road.

The Park Authority shall make the determination no later than at the time of second submission of the site plan.

17. Archaeological Study:

The applicant will conduct phase 1a (historical data research) and 1b (Shovel test pits) Archaeological studies of the area of the site to be disturbed prior to Site Plan approval. If the phase 1a and 1b Archeological studies warrant, a phase 2 study of selected recovery and materials laboratory testing will be conducted. The applicant will allow the Park Authority or its designee access to the site for a period of two weeks or more if mutually agreeable, after the applicants phase one and phase two studies are completed if the Park Authority deems it necessary to conduct a phase three investigation. All reports and laboratory results as well as material recovered will be donated to the Park Authority.

18. Entry Feature:

Signage shall comply with Section 12-201 of the Zoning Ordinance. The applicant will construct a new or replace the existing entry sign for the existing Marywood HOA to include the additional 9 town homes on the subject site at the time of issuance of 1st building permit.

19. Construction Access and Hours:

Construction access shall be from the existing parcel access off of Sutton Road and will not utilize the Marywood HOA private street subject to DPWES. Construction activity shall be limited to the hours of 7:00 Am and 7:00 PM Monday through Friday and 8:00 AM to 6:00 PM on Weekends. On Sundays only light interior construction is allowed and exterior work is restricted to cleanup and other non-noise invasive activities. No construction activity shall be permitted on Thanksgiving Day, Christmas Day, and New Years Day. These hours shall be posted on the Application Property prior to any land disturbing activities, a contact telephone number will be given to the Marywood HOA and posted on site. The Applicant shall include a construction hour notice in its contract with its general contractor.

20. Telecommuting & Ride Share:
The Applicant shall pre wire each unit with a minimum of three (3) network point of access ready wiring locations consisting of Ethernet cable and / or coaxial cable or its equivalent as well as an exterior point of connectivity. In addition the Applicant will include within the Sales Brochure and accompanying the Home Owners Association Documents, a set of Fairfax County Ride Share Program information. The Applicant will include a notice board within the Gazebo where the material can be displayed.

21. Successors and Assigns:

These Proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

OWNER,
Eastwood Properties, Inc.

By: _____
Richard L. Labbe
President

CONTRACT PURCHASER &
APPLICANT,
Landmark Property Development, LLC

By: _____
Scott M. Herrick
Its: Managing Member