

PROFFERS

RZ 2004-SP-002

SAM H CHUNG & SONG H CHUNG

August 25, 2005

Pursuant to Section 15-2.2303(a) of the 1950 Code of Virginia, as amended, the undersigned applicant and owner, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the subject property is rezoned to the R-12 District as proffered herein.

1. Generalized Development Plan

a) Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance, development of the property shall be in substantial conformance with the plan entitled "Generalized Development Plan (GDP), consisting of five (5) sheets prepared by Cad-Con Consulting Incorporated, revised as of August 25, 2005.

b) Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the proffered GDP. Such modifications shall include only the locations of utilities, minor adjustments to property lines, and the general location of units on the lots, provided that the total open space is not decreased from that shown on the plan, number of parking spaces are not reduced, and that the distance between the units and the edge of the property is not decreased.

2. Transportation

a) At the time of site plan approval or upon demand, whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along Route 29 as shown on the GDP, 70 feet from the centerline at the eastern end of the property and 115 feet from the centerline on the western end of the property.

b) Subject to VDOT and DPWES approval, Applicant shall construct frontage improvements measuring twenty-five (25) feet from the centerline of Stevenson Street (Route 1028) along the Applicant Property's frontage as shown on the GDP, which shall include the construction of five (5) foot wide concrete sidewalk along the Stevenson Street (Route 1028) frontage as shown on the GDP.

c) The Applicant shall construct an 8-foot wide trail within the right-of-way along the Route 29 frontage as shown on the GDP with the final location as determined by the Department of Public Works and Environmental Services (DPWES) to be located in its final location pursuant to the approved plans for Route 29.

d) Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications as may be reasonably required by Fairfax County or VDOT whether such dedications occur prior to or at time of site plan approval.

3. Landscaping and Open Space

Applicant shall provide landscaping on the property as generally shown on sheet 4 (L-1) of the GDP, pursuant to the approval of Urban Forest Management.

The extension of Morrisons Way shall be improved to include sod and landscape between the existing and proposed Morrisons Way.

4. School Contribution

Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, effective January 7, 2003, at the time of the issuance of the first building permit, the Applicant shall contribute \$22,500 to the Board of Supervisors ("Board") for transfer to the Fairfax County School Board to be utilized for the provision of capital improvements within the Fairfax County School Board's pyramid of schools serving this development. In the event that the approved final subdivision plan yields less than nine (9) units, this contribution amount shall be reduced proportionately based upon a ratio of nine (9) units to \$22,500.

5. Homeowner's Association

A Homeowner's Association ("HOA") shall be established to own, manage and maintain the common areas and any other community owned land and improvements, including the private street.

- a) The Applicant (and all future assigns and successors) shall provide for a prorated share the maintenance cost of Morrisons Way from the application property to Stevenson Street to include all future maintenance and construction costs for this street section and snow removal by means of either:
 - i) The separate HOA of the application property contributing a pro-rate share of the cost directly to the adjoining HOA to maintain Morrisons Way, or
 - ii) The application property joining the adjoining HOA.
- b) Such contribution (or joining of the HOAs) shall commence for all nine units at the issuance of the first Non-RUP.
- c) Prior to site plan approval, the Applicant shall demonstrate to DPWES, by means of a written agreement with the adjoining HOA, or documents demonstrating the joining of the HOAs, how this proffer will be implemented.
- d) The maintenance obligations of the HOA as here discussed and the access agreements (allowing adjacent residents use of portions of the site, discussed below) shall be disclosed in writing to contract purchasers of residential units within the proposed development prior to entering into a contract of sale, and shall be disclosed in the homeowner's association documents prepared for the applicant property.

6. Signs

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 to assist in the initial sale of dwelling units on the property. Furthermore, the agents and employees involved in the marketing and sale of the dwelling units on the property shall be directed to adhere to this proffer.

7. Lighting

All lighting shall be in accordance with Part 9, Article 14 of the Zoning Ordinance.

7. Affordable Housing

Prior to the issuance of the first building permit, a contribution shall be made to the Fairfax County Housing Trust Fund consisting of a sum equal to 0.5% of the sales price of each single attached family dwelling constructed. The Department of Housing and Community Development shall determine the amount of said contribution.

9. Architectural Design

a) All residential dwellings constructed on the property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES, for either electric or gas energy systems.

b) Architecture shall be in substantial conformance with that shown on sheet A-1 of the GDP. Materials used shall be brick or masonry for the shaded portions of the elevations.

10. Amenity Design

a) The applicant shall provide a play area at the southern end of the property, immediately beyond the proposed lot 4 and shall consist of benches, picnic tables, grills and or its equivalent as shown on plan, sheet C-2 of the GDP.

b) Full use of these playground/tot lot facilities shall be provided to the residents of the Stevenson Street Town House Development, subject to written agreement being provided that the residents of the subject development (RZ 2004-SP-002) also have full use of the new playground facilities on the Stevenson Street Town House Development.

11. Driveways

All residential dwelling driveways shall be a minimum of eighteen (18) feet in length from the inside of the sidewalk to the garage door.

12. Limits of Clearing and Grading

The Applicant shall strictly conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails outside of the limits of clearing and grading as shown on the GDP, they shall be located so as not to interfere with any trees shown to be saved, and in the least disruptive manner necessary as determined by Urban Forest Management (UFM). A replanting plan shall be developed and implemented, subject to approval by UFM, for any areas outside the limits of clearing and grading that must be disturbed.

13. Landscaping of Stormwater Management/Water Quality Facilities

- a) The applicant shall comply with DPWES requirements for stormwater and water quality management facilities as shown on the GDP.
- b) In order to restore a natural appearance to the proposed stormwater and water quality management facility, a landscape plan shall be submitted as part of the first submission of the site plan for review and approval by the UFM. The plan shall show all easements and any restrictive planting easement for the facility; landscaping in all areas outside of any restrictive planting easement shall be provided to the maximum extent feasible in accordance with the planting policies of Fairfax County. Applicant will employ "low impact development" ("LID"), within the proposed dedicated open space. This may include promoting sheet flow and forested restoration of currently non- wooded and maintained lawn areas located within the dedicated open space.
- c) All utilities on the property shall be located so as not to interfere with the landscaping shown on the proffered GDP, subject to the approval of UFM.
- d) If the proposed stormwater and water quality management facilities are reduced in size or eliminated due to modification being granted, the area eliminates or portions thereof shall be retained as landscaped open space subject to review and approval of UFM.

14. Tree Preservation

a) Tree Protection plan

The Applicant shall submit a tree preservation plan as part of the first and all subsequent site 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 shall be subject to the review and approval of Urban Forest Management.

The trees preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 10 inches in diameter and greater, and 20 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. 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. This shall include any trees located on the periphery of the site but not on the application property, and those trees shown within the area to be dedicated for right-of-way along Route 29 and on the GDP to be preserved at this time. 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.

b) Tree Protection Fencing

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. 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 further than 10 feet apart, shall be erected at the limits of clearing and grading and as directed by UFM around any off-site trees or trees in the future right-of-way to be preserved.

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 types 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 days prior to the commencement of any clearing,

grading, or demolition activities, but after the installation of the tree protection devices, UFM shall be notified and given the opportunity to inspect the site and 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 UFM.

c) **Demolition of Existing Structures**

The demolition of existing structures shall be conducted in a manner that does not impact on individual trees and or group of trees that are to be preserved as reviewed and approved by UFM. The trees shall be preserved as directed and approved by UFM, which may includes using super silt fence, welded wire tree protection fence, root pruning, and/or mulching.

d) **Site Monitoring**

The applicant shall retain the services of a certified arborist or landscape architect to monitor all tree preservation activities during the construction of the project in order to ensure conformance with all tree preservation proffers/ conditions and UFM approvals. The landscape plan shall describe in detail monitoring of schedule of all preservation activities, which shall be reviewed and approved by UFM.

15. Noise Impact Study

The applicant shall provide to DPWES and DPZ an acoustical study for review and approval prior to final subdivision plat submission. This study shall assess the impact of transportation noise along Lee Highway, Route 29 and Stevenson Street, Route 1028. The study shall utilize standard measures to evaluate noise and shall confirm existing mapped noise contour intervals which demonstrate that interior noise levels for both ground and upper story levels of any proposed dwelling unit does not exceed DNL 45 dBA and that exterior noise within the privacy yards and outdoor recreational areas does not exceed DNL 65 dBA. The following measures shall be employed:

- i) Exterior walls shall have a laboratory sound transmission class of at least 39.
- ii) Doors and windows shall have a laboratory STC rating of at least 28. If glazing constitutes more than 20% of any facade they shall have the same laboratory STC as walls.

- iii) Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

16. Park Contribution

Applicant shall contribute the sum of \$6,360 to the Fairfax County Park Authority at time of site plan approval for the provision of recreation facilities in the vicinity of the Application Property.

17. Asbestos

The Applicant shall comply with DPWES should it determines that there is a potential health risk exists due to the presence of asbestos containing rock on the application property. The Applicant shall:

- a) Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks, and
- b) Commit to appropriate construction techniques as determined by DPWES in coordination with the Health Department to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities, covered transportation of removed materials presenting this risk, and appropriate disposal.

18. Fencing and Berming

A combination of fence and berm shall be installed along Lee Highway frontage, with coordination and approval by UFM so as not to negatively impact those trees shown to be preserved at this time in the area of right-of-way to be dedicated. As shown on the GDP, a fence will be provided along Stevenson Street and the boundary line between Lots 5 to 9 and the K-mart property to the east. The fence shall be in conformance with that shown on the GDP, and shall be solid from the ground up, with no gaps and no openings. The fence shall not exceed the height permitted by Fairfax County Zoning Ordinance (4 feet along Lee Highway and Stevenson Street; 7 feet along the K-Mart property boundary).

19. Fairfax Center Area Road Fund Contribution

The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board of Supervisors (the "Board") on November 22, 1982, as amended, subject to credit for all creditable expenses, as determined by the Fairfax County Office of Transportation and the Fairfax County Department of Public Works and Environmental Services.

20. Blasting

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will insure that blasting is done per Fairfax Fire Marshall requirements and all safety recommendations of the Fire Marshall, including, without limitation, the use of blasting mats shall be implemented. In addition, the Applicant or its successors shall:

- a) A professional consultant shall be retained to perform a pre-blast survey of each house or residential building located in the Stevenson Street development (on Morrisons Way) and the multifamily building identified as [56-2 ((15)) (14) all units]; written confirmation that the survey has been done will be given to DPWES and copies of the survey shall be provided to Fairfax County upon request prior to any blasting being done on-site.
- b) The consultant shall be required to request access by way of certified mail to the last known address of the owner(s) of any house or building as listed in part (a) above, to determine the pre-blast conditions of these structures. The consultant will be required to give a minimum of fourteen (14) days notice of the scheduling of the pre-blast survey. All owners of structures entitled to pre-blast inspections shall be provided with the name, address, and phone number of the blasting contractor's insurance carrier.
- c) The consultant shall be required to place seismographic instruments prior to blasting to monitor the shock waves. Seismographic monitoring records shall be provided to County agencies upon their request.
- d) Residents of those houses or buildings reference in part (a) shall be notified ten (10) days prior to blasting, no blasting shall occur until such notice has been given.

e) Upon receipt of a claim of actual damage resulting from said blasting, the consultant shall respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner. Any verified claims for damage due to blasting shall be expeditiously resolved.

f) Blasting subcontractors shall be required to maintain necessary liability insurance to cover the costs of repairing any damages to structures that are directly attributable to the blasting activity.

g) The consultant shall be required to provide an analysis of the potential for gas migration from the site to the Fire Marshall for review and approval prior to blasting, and appropriate mitigation or notification as determined by the Fire Marshall shall be implemented.

21. Additional Proffers

a) The Applicant shall pay a lump sum of Fifteen Thousand Dollars (\$15,000.) cash contribution to the Stevenson Street Home Owners Association Inc. as a contribution for the prior construction of Morrisons Way and for the future construction of recreational facilities on the Stevenson Street property. Such contribution shall occur at the earlier of; (1) 180 days from re-zoning approval or (ii) prior to site plan approval.

b) The Applicant shall remove and scarify the remnants of the turn around at the terminus of Morrison's Way, and install curb, gutter, sod and landscaping as required to connect the extension onto the application property.

c) No construction traffic shall use Morrisons Way; all construction traffic, etc. shall enter directly from Stevenson Street. The applicant shall install temporary signage at the Stevenson Street entrance to Morrisons Way stating "No construction traffic or parking". A barricade shall be maintained at the end of Morrisons Way until construction is complete.

d) All exterior construction work shall be performed between 7:00 am and 6:00 pm Monday through Saturday. Interior work only may occur on Sundays between 7:00 am and 6:00 pm.

e) The applicant shall pay all reasonable costs for all document preparation and recordation associated with agreements with the Stevenson Street Town House Development provided for in these proffers.

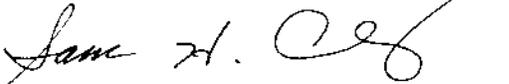
f) The applicant shall install two (2) pole lights at the entrance to Morrison Way, subject to approval of the Stevenson Street Town House Development HOA.

g) The applicant shall install two (2) speed bumps on Morrison Way within the Stevenson Street Town House Development property as directed by the HOA, subject to approval of the Stevenson Street Town House Development HOA.

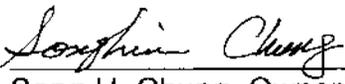
h) The applicant shall install a sign stating "Children at Play" at the entrance to Morrison Way, subject to approval of the Stevenson Street Town House Development HOA.

(Signatures begin on the next page)

Proffer Signatures:



Sam H. Chung, Owner/Applicant



Song H. Chung, Owner/Applicant