

PROFFERS**RZ 1998-SU-002****July 10, 1998**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, Coscan Washington, Inc., and the owner's for themselves, their successors and assigns (hereinafter referred to as the "Applicant"), the Applicant in RZ 1998-SU-002, filed for property identified on Fairfax County tax map as 44-4 ((1)) 16A, 17 and 20 (hereinafter referred to as the "Application Property"), agrees to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R-1 Zoning District to the PDH-2 Zoning District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for thirty-nine (39) residential single-family detached dwelling units.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN (CDP/FDP) -

- a. Development of the Application Property shall be in substantial conformance with the CDP/FDP, prepared by Land Design Consultants, dated November 1997 as revised through July 8, 1998.
- b. Notwithstanding that the CDP is presented on three (3) sheets and the CDP/FDP is the subject of proffer 1.a. above, it shall be understood that the CDP shall be the entire plan shown on Sheets 1, 2 and 3 relative to the points of access, the total number and general location of units and types, amount of open space, the general location of the recreational facilities, location of common open space areas and buffers, and limits of clearing and grading. The Applicant has the option to request a final development plan amendment ("FDPA") for elements other than CDP elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance, if in conformance with the approved CDP and proffers.
- c. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP without requiring approval of an amended FDP provided such changes are in substantial conformance with the FDP as determined by the Zoning Administrator, agents or assigns, and neither increase the total number of units nor decrease the following: amount of open space; the amount of parking; the amount of tree preservation; the location of common open space areas; or distances to peripheral lot lines. Such changes may include, revising the width and or depth of the lots.

2. **TRANSPORTATION -**

- a. Applicant shall dedicate and convey in fee simple to the Board, right-of-way for public street purposes, as shown on the CDP/FDP. Dedication shall be made at time of subdivision plan approval or upon demand from Fairfax County, whichever shall first occur. Ancillary easements as may be required shall also be dedicated, as determined by DEM, at time of subdivision plan approval.
- b. Applicant shall notify all purchasers in the homeowner's association documents of possible, future interparcel access/public street connections and removal of the temporary cul-de-sac.
- c. The Applicant shall limit the hours of heavy equipment movement to and from the Property between 8:45 a.m. and 3:00 p.m., except that certain equipment movement will need to occur after hours due to the size of the equipment.
- d. Subject to VDOT approval, the Applicant will include in all subcontractor agreements the requirement for construction vehicles to only use Walney Road and Walney Park Drive as their access to the Property. The Applicant will post "No Construction Vehicles" signs at the entrance to the Wynmar development off Poplar Tree Road. The Applicant will post construction entrance signs, subject to VDOT approval, at the entrance along Walney Road.
- e. The subdivision plan will contain the following standard VDOT construction notes regarding as needed maintenance of existing public streets, which includes cleaning and maintenance:

"The developer is responsible for any damage to existing roads and utilities which occur as a result of project construction within or contiguous to existing right-of-way."

3. **RECREATION -**

- a. Open space of approximately 23% shall be provided, as shown on the CDP/FDP, and shall be utilized as passive and active recreational areas.
- b. Applicant shall construct recreation facilities including a multi-use court, two benches, three picnic tables, trails and landscaping as shown on the CDP/FDP. Improvements shall be constructed concurrent with the corresponding phase of the development of the Application Property. These facilities shall be located in order to maximize tree preservation, as determined by the Urban Forester.

- c. Prior to the issuance of the 20th RUP, Applicant shall contribute \$500.00 per unit to the Fairfax County Park Authority for recreational improvements in E.C. Lawrence Park.

4. LANDSCAPING AND OPEN SPACE -

- a. For the purposes of maximizing the preservation of trees on individual lots and within open space areas, the applicant shall retain a certified arborist to identify approximately 50 existing trees onsite which are suitable for transplanting primarily along the western boundary or other areas deemed appropriate by the Urban Forester. This identification will be coordinated during a site visit with the landscape architect and a Fairfax County Urban Forester prior to construction. After the site visit, a landscape plan shall be submitted with the subdivision plan for approval by the Urban Forestry Branch. This plan shall include the general location of where the transplanted trees will be located and an implementation plan designed in coordination with the Urban Forestry Branch. The actual transplanting shall occur during the early spring months only. This plan shall also provide for the preservation of specific quality trees or stands of trees located on individual lots which can be preserved without precluding the development of a typical home on each of the lots as shown on the CDP/FDP. DEM may require modifications to the landscape plan to the extent said modifications do not alter the number of dwelling units as shown on the CDP/FDP, reduce the size of the units or require the installation of retaining walls or tree wells.

Subject to the approval of the Urban Forester/DEM, the Applicant shall perform the following measures relating to tree preservation on the property prior to any land disturbing activities:

- Perform a pre-construction evaluation of the condition of trees to be saved and transplanted existing vegetation to determine the condition of the trees designated to be saved/transplanted.
- The trees designated to be saved shall be marked on the ground with a filter fabric fence or equivalent demarcation prior to clearing and grading and at all times during construction. Signage affirming "restricted access" shall be provided on the temporary fence highly visible to construction personnel. The arborist contracted by the Applicant shall monitor the construction of the

proposed development to ensure consistency with the landscape/tree preservation plan.

- In addition, where practical, adjustments to the proposed grading and location of the proposed units on lots 13 through 20 of the application property will be modified at time of final engineering to enhance specific tree preservation in an effort to provide an approximately 50-foot wide undisturbed buffer in the area adjacent to the Sutton Oaks subdivision.

As a result of final engineering in the event the areas designated as tree save areas on the GDP are modified or cannot be preserved, equivalent tree save areas or equivalent landscaped areas shall be substituted on the site as determined by DEM.

- Any retaining walls required on Lots 21 and 22 shall be no higher than three feet.
 - The Applicant shall plant twenty 8-10 foot high evergreen trees along the rear of Lots 21 and 22 in areas cleared and graded.
- b. All open space areas shown on the CDP/FDP shall be dedicated and conveyed to a homeowners association.
- c. All open space areas shall remain undisturbed before, during and after development activity, except for necessary crossings for placement of trails and utilities, as approved by DEM. The trails and utility lines located within the areas protected by the limits of clearing and grading shall be located and installed in the least disruptive manner possible considering costs and engineering, as determined by DEM. A replanting plan shall be developed and implemented, as approved by DEM, for any areas within the areas protected by the limits of clearing and grading that must be disturbed.
- .d. The HOA shall record and enforce a covenant in a form approved by the County Attorney which runs to the benefit of the Homeowners' Association which prohibits the storage of materials or any debris dumping within open space areas shown on the CDP/FDP.
- e. Applicant shall extend easements for sanitary sewer to adjacent properties as deemed appropriate by DEM at the time of subdivision plan review.

- f. The existing driveway on Lot 35 shall be removed and resodded/reseeded, prior to final bond release.

5. **AFFORDABLE HOUSING -**

At the time of final subdivision plat approval, the Applicant shall make a cash contribution to the Fairfax County Housing Trust Fund of one percent (1%) of the sales price of each unit in accordance with the Residential Cash Proffer Formula adopted by the Board of Supervisors on May 20, 1991, or as it may be reduced by future Board action.

6. **STORM WATER MANAGEMENT-**

- a. Applicant shall provide storm water management in accordance with the requirements of DEM at time of subdivision plan approval. Storm water management shall be designed to Best Management Practices in a location as generally shown on the CDP/FDP. In lieu of on-site SWM, Applicant may utilize an off-site facility, if it can be demonstrated that the off-site facility has sufficient capacity for the Application Property and said facility is available pursuant to written agreement by the off-site owner, as approved by DEM. In such event, the area shown on the CDP/FDP for SWM would remain as undisturbed open space. The Applicant reserves the right to apply for any future waiver/modification of the SWM/BMP requirements, subject to DEM approval.
- b. Applicant shall, during construction of the Project, remove any sediment from the adjacent SWM facility in the Wynmar development that occurred from construction activity.

7. **BLASTING -**

If blasting is required, and before any blasting occurs on the subject property, the developer will insure that the Fairfax County Fire Marshal has reviewed the blasting plan. All safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats, shall be implemented. In addition, the Developer shall:

- a. Retain a professional consultant to perform a pre-blast survey of all structures located within 150 feet of the property boundary including those on Tax Map 44-4 ((1)) 15 and 18;

- b. Require the consultant to request access to structures located within 150 feet of the blast site, including those on Tax Map 44-4 ((1)) 15 and 18, to determine the pre-blast conditions of these structures;
- c. Require the consultant to place seismographic instruments near these structures prior to blasting to monitor shock waves;
- d. Be fully insured to federal requirements;
- e. Repair any damages to structures located within 150 feet of the blast site, including those on Tax Map 44-4 ((1)) 15 and 18, which are directly attributable to the blasting activity; and
- f. Give twenty-four (24) hours advance notice to all abutting property owners, including those on Tax Map 44-4 ((1)) 15 and 18.

8. **SIGNAGE -**

- a. The Applicant shall coordinate with the Wynmar Homeowners Association on an acceptable marketing signage program. No temporary trailers or offsite marketing signage will be allowed without the Wynmar Homeowners Association's consent. The Applicant shall submit a marketing signage proposal to the Wynmar Homeowners Association for their review and approval prior to construction commencing.

9. **ARCHITECTURE -**

No houses shall be smaller or have fewer standard features than the homes in the adjoining Maple Hills Estates subdivision. The houses will be of similar architectural style and size with the Maples Hills Estates' houses.

10. **INGRESS-EGRESS EASEMENT**

The 50-foot ingress-egress easement serving the Jennell property (Tax Map 44-4 ((1)) 18) will not be obstructed in any manner.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

OWNERS:

TITLE OWNERS: TAX MAP 44-4 ((1)) 16A

Richard M. Touhey
Richard M. Touhey

Mary Lou Cboins-Touhey
Mary Lou Cboins-Touhey

TITLE OWNER: TAX MAP 44-4 ((1)) 17

David D. Blonar
David D. Blonar

TITLE OWNERS: TAX MAP 44-4 ((1)) 20

John Gerald Land
John Gerald Land

Beth B. Land
Beth B. Land

CONTRACT ASSIGNEE:

COSCAN WASHINGTON, INC.

By: [Signature]

Name: Richard J. Dangler

Title: Vice President

CONTRACT PURCHASER:

IVY DEVELOPMENT, L.C.

By: Ivy Development L.C.
Name: Stephen Bannister Manager
Title: Manager

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