

PROFFERS

RZ 1997-DR-034

March 2, 1998

Pursuant to Section 15 2-2303(A), Code of Virginia, 1950 as amended, the owners, Elm Street Development for themselves, their successors and assigns (hereinafter referred to as the "Applicant") the Applicant in RZ 1997-DR-034, filed for property identified on the Fairfax County tax map as 16-1 ((1)) 1, 2, 3 and 7 (hereinafter referred to as the "Application Property"), agrees to the following proffers, provided that Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R-1 to the PDH-12 District subject to a conceptual/final development plan (CDP/FDP) for a maximum of 136 residential single-family attached dwelling units.

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

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP, prepared by Charles P. Johnson and Associates, Inc., dated August 25, 1997, as revised on January 22, 1998.
- b. Pursuant to Section 18-204, minor deviations from the CDP/FDP may be permitted as determined by the Department of Environmental Management (DEM). Further, the Applicant may revise the width or depth of townhouse units shown on the CDP/FDP or may switch non-garage units to garage units and garage units to non-garage units without requiring approval of an amended CDP/FDP or proffer interpretation, provided that such changes are in conformance with the Zoning Ordinance and are in substantial conformance with the CDP/FDP and do not increase the number of units, decrease the amount of open space, or decrease the ratio of parking spaces per unit.
- c. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction 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 homeowner's association, which shall be established, and the Board. Prospective purchasers shall be advised of the use restriction prior to entering into a contract of sale.

2. TRANSPORTATION -

- a. Applicant shall dedicate and convey in fee simple to the Board, right-of-way along the Application Property's frontage, as shown on the CDP/FDP. Dedication shall be made at time of site plan approval or upon demand from Fairfax County, whichever shall first occur. Ancillary easements shall be granted by the Applicant at time of site plan approval or upon demand, whichever shall first occur.
- b. Prior to entering into a contract of sale, prospective purchasers of townhouses shall be notified in writing of the maintenance responsibility of the private streets by the homeowners association and shall acknowledge receipt of this information in writing. The Applicant shall record a covenant in a form approved by the County Attorney setting forth the maintenance responsibility of the private streets by the homeowners association among the land records of Fairfax County. Each deed of conveyance shall expressly contain this disclosure.
- c. Prior to the issuance of the 50th RUP, Applicant shall construct the following road improvements to VDOT standards:
 - i. Widen Rock Hill Road along the Property's frontage from its southern boundary to the entrance with face of curb set thirty-five (35) feet from centerline.
 - ii. Widen Rock Hill Road along the Property's frontage from its northern boundary to the entrance to provide twelve (12) feet of pavement measured from centerline and a two (2) foot shoulder.

Applicant reserves the right to provide the corresponding metric equivalent improvements in accordance with VDOT and County standards.
- d. To allow the existing cul-de-sac to remain in its present condition, Applicant shall demonstrate to DEM that they have made reasonable efforts to obtain the necessary off-site right-of-way to convert the existing Bryce Court cul-de-sac to a permanent VDOT cul-de-sac.

3. RECREATION -

- a. Applicant shall construct a picnic area, trails and tennis court and provide play equipment for pre-school aged children as shown on the CDP/FDP. Applicant shall

provide written cost documentation of the above referenced improvements to DEM at time of site plan to determine satisfaction of Article 6 PDH Recreation Improvement Requirements. Any funds leftover or in excess shall be contributed to the HOA for recreation purposes.

- b. Prior to the issuance of the 50th RUP, the Applicant shall design and construct a gravel parking lot as approved by the Park Authority on the Fairfax County Park Authority property next to Hutchison Elementary School (TM 16-1 ((1)) 6B). The parking lot will be constructed as an extension of the existing parking lot to the east of the school and will contain 30 spaces. The Applicant's improvements shall consist of grading, gravel section, curb stops or ballards and stabilization of disturbed areas, but shall not require any paving, storm drain, stormwater management, landscaping, signage or other improvements.

4. LANDSCAPING AND OPEN SPACE -

- a. Street trees and peripheral landscaping shall be provided by the Applicant as shown on the CDP/FDP. The exact location of the proposed plantings may be modified as necessary for the installation of utilities in coordination with the Urban Forester, but there shall be no decrease in the amount of landscaping or number of trees.
- b. Prior to any land disturbing activities, the Applicant shall prepare and submit at time of site plan submission a tree preservation plan in conformance with the limits of clearing and grading as shown on the CDP/FDP. All trees shown to be preserved on the tree preservation plan shall be protected by fencing a minimum of four (4) feet in height, placed at the dripline of the trees to be preserved. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any work being conducted on the site, including the demolition of any existing structures or fences. The Applicant may selectively clear within tree save areas and buffers using hand saws and light rubber tire equipment in order to facilitate the installation of play equipment, remove dead, dying or diseased trees, or facilitate the survival of trees to be preserved, as may be approved by the Urban Forester.
- c. The oak tree adjacent to the northwestern corner of the site shown on the CDP/FDP "to be saved" shall be preserved by providing four (4) foot high fencing around the drip line prior to and during development activity.

5. STORM WATER MANAGEMENT-

Applicant shall provide storm water management in accordance with the requirements of DEM at time of site plan approval. Storm water management shall be satisfied with the construction of a dry pond designed to Best Management Practices in a location as generally shown on the CDP/FDP, as determined by DEM.

6. AFFORDABLE DWELLING UNITS -

- a. The Applicant shall provide Affordable Dwelling Units (ADUs) in conformance with Article 2-800 et. sec. of the Zoning Ordinance, subject to amendments as may be adopted by the Board prior to site plan approval.
- b. 14 of the ADU's shall be provided within the condominium units as shown on the CDP/FDP. These units shall be architecturally similar in style and exterior materials to the single-family attached units.
- c. The remaining ADU's shall be dispersed throughout the single-family attached units.

7. BUFFER -

- a. The Applicant shall maintain a 50 foot buffer consisting of existing trees and supplemental plantings and a minimum 65 foot building setback line along the entire boundary with the Reflection Lake and Four Seasons Communities in accordance with the CDP/FDP. The Applicant shall maintain the limits of clearing and grading depicted on the CDP/FDP, except as needed for minor disturbances for placement of utilities. To supplement the 50 foot buffer along the northern property line, adjacent to lots 174 through 177 in Four Seasons, a mix of deciduous, evergreen and understory plantings shall be provided within the 50 foot buffer as shown on the CDP/FDP to create a natural wooded transition between the Four Seasons Community and this community.
- b. Covenants in a form approved by the County Attorney running to the benefit of the HOA shall be placed on the buffer areas which prohibit private use of the area by encroachment of structures, fences, sheds, play equipment, firewood or dumping of debris.

ELM STREET DEVELOPMENT

James L. Perry

By:

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