

**PROFFER STATEMENT  
CURRY DEVELOPMENT, INC.  
RZ 96-V-006**

DATE: February 19, 1997

Pursuant to § 15.1-491(a) of the Code of Virginia (1950 as amended) and § 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owners and Applicants, for themselves and their successors or assigns (hereinafter collectively referred to as the "Applicant") in this Rezoning application, proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Map as Tax Map References 107-4-(1), Parcel 38 and Tax Map Reference 113-2-(1), Parcels 7, 8, 9, 10 and 15 (hereinafter the "Property") will be in accordance with the following conditions if, and only if, Rezoning application RZ 96-V-006 is granted. In the event said Rezoning request is denied, these proffers will immediately be null and void and of no further force or effect. These proffered conditions, if accepted, supersede all proffers existing on the Property. The proffered conditions are:

GENERAL

1. The Property which is the subject of this rezoning application shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP") dated February 22, 1996, and revised through February 12, 1997 (5 sheets), including the conceptual illustrations included with the CDP/FDP, prepared by Huntley, Nyce & Associates, Ltd.; provided, however, that minor modifications may be permitted when necessitated by sound engineering or which may become necessary as part of final site engineering, as determined by the Department of Environmental Management ("DEM").

GENERALIZED DEVELOPMENT PLAN

2. Applicant shall develop no more than 180 units on the Property. Of these, approximately 93 are proposed to be single family detached homes and approximately 87 are proposed to be townhomes. Applicant may alter this mix of units by up to 10%, so long as (a) the Applicant does not increase the total number of units, (b) the Applicant does not encroach beyond the limits of clearing and grading nor reduce the noted buffers and open space and (c) the development remains in substantial conformance with the CDP/FDP Plat, as determined by the Office of Comprehensive Planning ("OCP").

3. Applicant is proposing that approximately 160 units contain garages. Applicant may increase or decrease the number and location of units which contain garages, so long as Applicant (a) complies with Fairfax County parking requirements and (b) remains in substantial conformance with the CDP/FDP, as determined by OCP. Further, the addition of garages shall not result in any loss of proffered open space.
4. Pursuant to Part 8 of Article 2, the Applicant shall provide Affordable Dwelling Units ("ADUs") on the site subject to such modifications and/or amendments which may occur to the Zoning Ordinance. Applicant shall ensure that the ADUs are not confined to a single area, but are distributed in various locations of the townhouse section of the proposed community.
5. The sides and/or rears of the homes that are immediately contiguous to and visible from Gunston Road shall consist predominantly (more than 50%) of brick. In addition, the Applicant shall ensure that any and all decks, patios or fences visible from Gunston Road shall consist of wood and/or brick materials.
6. The Applicant shall ensure that its single family attached and detached homes are architecturally compatible.
7. Unless waived or modified as part of this application, all transitional screening, buffering, and setbacks from public road ways, shall meet the requirements of the R-8 District.
8. All homes shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by DEM for either electric or gas energy systems.

#### NOISE ATTENUATION

9. For any units within a Highway Noise Impact Zone of 65 dBA Ldn within 290 feet (290') from the centerline of Richmond Highway, a maximum interior noise level of 45 dBA Ldn shall be achieved. Such standard may be met by employing some or all of the following:
  - a. Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.

- b. Doors and windows shall have a laboratory STC rating of at least 28. If windows constitute more than 20% of any facade, they should have the same laboratory STC rating as walls.
    - c. Measures to seal and caulk between surfaces shall follow measures approved by the American Society for Testing and Materials to minimize sound transmission.
10. Within 290' from the centerline of Richmond Highway, an exterior noise level of 65 dBA Ldn shall be achieved by employing some or all of the following noise attenuation methods:
  - a. Structures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those outdoor recreation areas, including rear yards, that are unshielded by topography or built structures.
  - b. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings. The structure employed must be of sufficient height to adequately shield the impacted area from the source of the noise.
11. The Applicant may pursue other methods of mitigating highway noise if it can be demonstrated, through an independent noise study for review and approval by DEM, that these methods will be effective in reducing exterior noise levels to 65 dBA Ldn or less and interior noise levels to 45 dBA Ldn or less, or that noise impacts are less than forecasted by County Staff.
12. The Applicant shall fully enclose (with board-on-board fencing) the rear yards of the twelve (12) townhomes located adjacent to Parcel 39 in order to mitigate noise from Richmond Highway. Said fence shall be a minimum of six feet (6') in height and shall be constructed flush to the ground. Applicant shall work with DEM to incorporate appropriate landscaping and barriers (pursuant to Zoning Ordinance Section 13-303(4)) to meet the barrier requirements of the Zoning Ordinance in this area of the site.

#### STORM WATER MANAGEMENT/BEST MANAGEMENT PRACTICES

13. Storm water management shall be provided via the pond shown on the CDP/FDP and shall comply with Best Management Practices ("BMP") as required by the Public Facilities Manual ("PFM"), as determined by DEM.

### HOMEOWNER'S ASSOCIATION

14. The Applicant shall convey the open space and the private roads shown on the CDP/FDP to a corporate Homeowners' Association.
15. The Applicant shall record a covenant setting forth the maintenance responsibility of the private streets by the Homeowners' Association among the land records of Fairfax County prior to the sale of any lot. Each deed of conveyance to purchasers of lots shall expressly contain this disclosure and prospective purchasers shall be advised of this restriction prior to entering into any contracts of sale.
16. Garages shall not be converted into living space or to any other use inconsistent with the parking of vehicles. A covenant setting forth this use restriction will be recorded among the Fairfax County land records prior to the sale of any lots. Each Deed of Conveyance to purchasers of lots will expressly contain this use restriction.
17. The covenants referenced in Proffers # 15 and #16 above shall run to the benefit of the Homeowners' Association and Fairfax County and will be approved by the County Attorney prior to the sale of the first, individual residential lot.

### TREE SAVE, MAINTENANCE AND REPLACEMENT

18. The Applicant will adhere to the limits of clearing and grading as shown on Sheet 3 of the CDP/FDP. During site plan review, if it is determined necessary by DEM to remove any trees previously designated to be preserved in order to locate additional necessary utility lines or trails, then an area of additional tree save of equivalent value as determined by DEM shall be substituted at an alternate location on the Property. If a suitable alternate location cannot be identified on site, the Applicant shall replace such trees according to the directions of DEM, pursuant to the PFM.
19. The Applicant shall maintain an undisturbed 50 foot (50') buffer along the eastern property line, as shown on Sheet 3 of the CDP/FDP. No clearing will be permitted in this area, except for the removal of dead, dying or diseased trees, which shall be removed manually. No construction activity or structures will be permitted in this area.
20. The Applicant shall maintain a minimum 65 foot (65') set back for residential lot lines along the southern property line, adjacent to Gunston Road.

- a. A minimum of 30 feet (30') of this area shall be tree save area and/or landscaped as shown on Sheet 2 of the CDP/FDP. Said 30' landscaped buffer shall consist of a "year round" mixture of existing (where possible) and supplemental vegetation, including evergreen, deciduous and/or ornamental plantings, as permitted by existing easements of record, and as determined by DEM.
  - b. All structures (including decks, sheds, patios and/or porches, but excluding fences) shall be set back a minimum of 50' from the existing edge of the easements of record (which include Washington Gas & Light and AT&T easements) along Gunston Road, as shown on the CDP/FDP.
  - c. These restrictions, as proffered, shall also be included with the Homeowners Association documents.
  - d. The 50' setback noted in Paragraph (b) above, shall be delineated on all subdivision and site plans submitted to DEM for review and approval
21. For purposes of preserving and enhancing the environmental sensitivity of the site, and for maximizing the preservation of trees and other existing vegetation, a Landscaping Plan, prepared in accordance with the CDP/FDP (Sheet 2 consisting of proposed, supplemental landscaping and Sheet 3 referencing tree save areas and limits of clearing and grading, as amended by the attachments to these proffers (Exhibit 1)), shall be submitted to DEM for review and approval prior to final site plan or final subdivision plan approval, as applicable. The Landscaping Plan shall include:
- a. On-site supplemental planting of trees to provide year-round screening, will be provided in the areas as shown on the CDP/FDP (Sheet 2). Existing vegetation (trees and associated understory plants) may be retained and supplemented in order to achieve the noted buffers:
  - b. Existing vegetation as depicted on the CDP/FDP (Sheet 2) will be preserved to the extent possible, as determined by DEM;
  - c. Applicant shall confer with DEM prior to removing any dead, dying or diseased vegetation shown within the limits of clearing and grading;
  - d. Except where otherwise shown on the CDP/FDP, drip lines of all trees and tree areas to be preserved shall be flagged (by "hurricane fencing" and/or other clearly visible means) prior to clearing and grading and at all other

times during the construction process. In addition, the Applicant shall employ other means reasonably necessary to mitigate the impacts of clearing and grading, including but not limited to pruning, fertilization, and signing the limits of clearing and grading; and

- e. In the event any of the protected areas or trees designated to be preserved are disturbed by grading and/or other related construction activities, Applicant shall repair damage and/or shall coordinate with DEM to replant or otherwise landscape said disturbed areas with an appropriate mix of vegetation, as determined by DEM and in accordance with the PFM.
- f. The Applicant shall use its good faith efforts to preserve additional trees along the northern boundary shared with Overlook Pointe and shall enhance the application property in this area with additional trees and supplemental "year round" landscaping, as reviewed and approved by DEM.
- g. The Applicant shall use its good faith efforts to identify other, additional trees and tree save areas on the Property during subdivision and site plan review, and shall preserve those additional trees and tree save areas.
- h. The Applicant shall use its good faith efforts to locate any utility easements and lines necessary to serve the Property (water, sewer, cable, etc.) through existing or proposed streets or open space areas in order to minimize (or eliminate) any disturbance to tree save areas.

#### SERVICE DRIVE

- 22. By the time of the issuance of the 75th building permit, the Applicant shall construct, or cause to be constructed, the service drive across the contiguous property to the north (Tax Map reference 107-4-(1)), Parcel 39 ("Parcel 39") and extend the service drive as noted from the Applicant's Property through Parcel 39 to the existing service drive located within the Overlook townhome community to the north, generally in the location shown on the CDP/FDP. The design, location and final configuration of this improvement shall be subject to approval by VDOT and DEM. Said service drive connection shall be operational and available to serve traffic from the Property prior to the issuance of any additional building permits beyond the 75th building permit; although the Applicant may secure issuance of Residential Use Permits ("RUPs") for its first 75 homes.
- 23. In the event the County or VDOT or others elect to independently make said service drive improvement across Parcel 39, the Applicant shall make a monetary

contribution to DEM in an amount equal to the cost of the service drive improvement across Parcel 39 (including construction costs, rights-of-way and easements) at the time of the issuance of the 75th building permit. This contribution shall be used towards road improvements in the vicinity of the Mason's Passage project.

#### OFF-SITE RIGHT-OF-WAY, EASEMENTS AND CONSTRUCTION

24. If not previously dedicated and/or constructed by others, the Applicant shall attempt to acquire and then, if successful, shall dedicate to the County such off-site right-of-way and easements as are necessary to complete and construct the extension of the service drive through Parcel 39 at the Applicant's expense. The Applicant shall use its good faith efforts and offer a reasonable, fair market value for said right-of-way easements.
  - a. If the Applicant is unable to bring about the dedication by others of the necessary right-of-way or easements, or to acquire by purchase the right-of-way or easements at fair market value (as determined by M.A.I.) (Member of the Appraisal Institute appraisal), then the Applicant shall request that the Board of Supervisors condemn the necessary land and easements.
  - b. It is understood that the Applicant's request to the Board of Supervisors for condemnation shall not be considered until it is forwarded, in writing, to the Division of Land Acquisition or other appropriate County Official accompanied by: (i) plans, plats and profiles showing the necessary right-of-way or grading easements to be acquired, including all associated easements and details of the proposed service drive improvement to be located on Parcel 39; (ii) an independent appraisal of the value of the right-of-way property to be acquired and all damages to the residue to Parcel 39; (iii) a sixty (60) year title search certificate of the right-of-way property to be acquired and (iv) a letter of credit in an amount equal to the appraised value of the property to be acquired and of all damages to the residue which can be drawn upon by the County.
  - c. It is also understood that in the event the property owner of Parcel 39 is awarded more than the appraised value of the property and of the damages to the residue in the condemnation suit, the amount of the award in excess of the letter of credit amount shall be paid to the County by the Applicant within sixty (60) days of said award. In addition, the Applicant agrees that all reasonable and documented sums expended by the County in acquiring

the right-of-way and necessary easement shall be paid to the County by the Applicant within sixty (60) days of written demand.

### TRANSPORTATION

25. At the time of applicable subdivision or final site plan approval(s), or upon written request by the County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors, for public road purposes, such land as is necessary from the centerline of Richmond Highway to achieve a total of sixty feet (60') from centerline.
26. At the time of applicable subdivision or site plan approval(s), or upon written request by the County or VDOT, whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors, for public road purposes, such land as is necessary to provide a total of 45 feet (45') of right-of-way from the centerline of Gunston Road, as shown on the CDP/FDP.
27. The Applicant shall construct a left turn lane from Gunston Road into the westernmost entrance to the site, as shown on the CDP/FDP.
28. The Applicant shall construct frontage improvements along Route 1 Richmond Highway and along Gunston Road, as shown on the CDP/FDP.
29. The design and construction of all road improvements shall be completed according to VDOT standards, as determined by VDOT and DEM.
30. If determined necessary by VDOT, the Applicant shall coordinate with VDOT (and contribute such funds as are required) to modify the timing of the existing signal at the intersection of Route 1 and Gunston Road in order to facilitate traffic movement resulting from this project.

### RECREATIONAL FACILITIES

31. Applicant shall provide the active and passive recreational facilities as shown on the CDP/FDP.
32. Applicant shall phase these improvements with the surrounding contiguous development of homes.

33. Applicant shall construct the Village Green as shown on the CDP/FDP with a combination of active and passive recreational facilities, such as field(s), sidewalks, playground(s), gazebo, trails, etc.
34. Applicant shall construct a playground/field and tot lot at the northern end of the development. Said area shall contain no field lights.
35. Applicant shall provide for appropriate dedication to and maintenance by the Mason's Passage Homeowner's Association of all active and passive recreational facilities.
36. At the time of site plan review, the Applicant shall demonstrate to the satisfaction of DEM that the Applicant has expended, or will expend, the equivalent of \$300.00 per unit (exclusive of ADUs) for recreation facilities within the development. In the event that the recreation facilities provided by the Applicant do not equal \$300.00 per unit (exclusive of ADUs) the Applicant shall contribute the balance of the amount in accordance with the provisions of Section 2-704 of the Zoning Ordinance.
37. Applicant shall construct all trails shown on the County-Wide Trails Plan for the site according to the standards contained in Section 8 of the Public Facilities Manual. In addition, the Applicant shall grant all easements necessary for the construction or use of such trails.

#### WASHINGTON GAS

38. The Applicant and/or Washington Gas shall be responsible for all improvements within the land shown on the CDP/FDP as "Area to be Dedicated to Washington Gas." These improvements shall include any and all dedication, planting and landscaping, relocation of utilities and any other improvements required as part of the site plan approval for that parcel. Any such improvements to said Washington Gas parcel shall be required prior to site plan approval for that site, and shall not be a requirement for site or subdivision plan approval(s) associated with the remainder of the Property.
39. Access to the Washington Gas parcel shall be provided via the internal street network. No direct access to Gunston Road and/or Richmond Highway will be provided.
40. Prior to the construction of any facility on this parcel, the Applicant or Washington Gas shall submit a final plan of development (consistent with the

attached Conceptual Landscape Plan for the Washington Gas Facility) for review and approval by the Office of Comprehensive Planning and administrative review and approval by the Planning Commission. Said plan shall be generally consistent with the attachment to these proffers (Exhibit 2) and shall provide for a minimum of 25 feet (25') of tree save area along both the Route 1 and Gunston Road areas of this parcel; except that minor crossing(s) through this area may be permitted, only if necessary to access existing, underground gas facilities. In addition, said plan shall include the installation of high quality fencing, screening and landscaping, to screen completely from view (at street and pedestrian level) any facilities from all surrounding properties. Said plan shall be designed to ensure an attractive "gateway" appearance from Gunston Road and Route 1.

41. Until the construction of any facility on this parcel, the "Area to be Dedicated to Washington Gas" shall be maintained as a tree save area.

#### LOWER POTOMAC POLLUTION CONTROL PLANT

42. The location of the Lower Potomac Pollution Control Plant ("LPPCP") shall be included within the initial sales contracts and deeds, and Homeowners' Association documents for the development. These documents shall expressly state that: (i) the application property is located within the immediate proximity of a major sewage treatment plant, (ii) that this sewage treatment plant will be subject to expansion and modification as required to provide sewage treatment, (iii) much of the land surrounding Mason's Passage may be developed as part of future sewage treatment plant expansions or modifications, and (iv) that sewage treatment is an industrial process and certain odors, noises and other impacts will be present as a result of the sewage treatment plant operations.
43. The Applicant shall prominently post a map (which has been approved by the Department of Public Works) showing the limits of the LPPCP property including the plans for the proposed LPPCP expansion inside the sales trailer for Mason's Passage. The minimum size of the map shall be 24" by 36".
44. Applicant shall provide attractive entrance feature(s) at the major entrances to this community, generally consistent with Exhibit 3 to this proffer statement.
45. As part of its landscaping plan, the Applicant shall provide for additional landscaping along the rears of the single family detached homes located contiguous to Richmond Highway, generally as shown on Exhibit 4 to this proffer statement.

46. Assuming permission is granted by the Overlook community to the north, the Applicant shall install, at its cost, additional landscaping within the Overlook community, generally as depicted on Exhibit 5 to this proffer statement.
47. Applicant shall revise the northeast corner of its site (as reflected on Exhibit 6 to this proffer statement) to provide for a minimum 35' setback from the common property line with the Overlook community to the north.

These proffers may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.



FIGURE 1: BUFFER STRIP CROSS SECTION

FIGURE 2: BUFFER STRIP CROSS SECTION WITH SLOPE



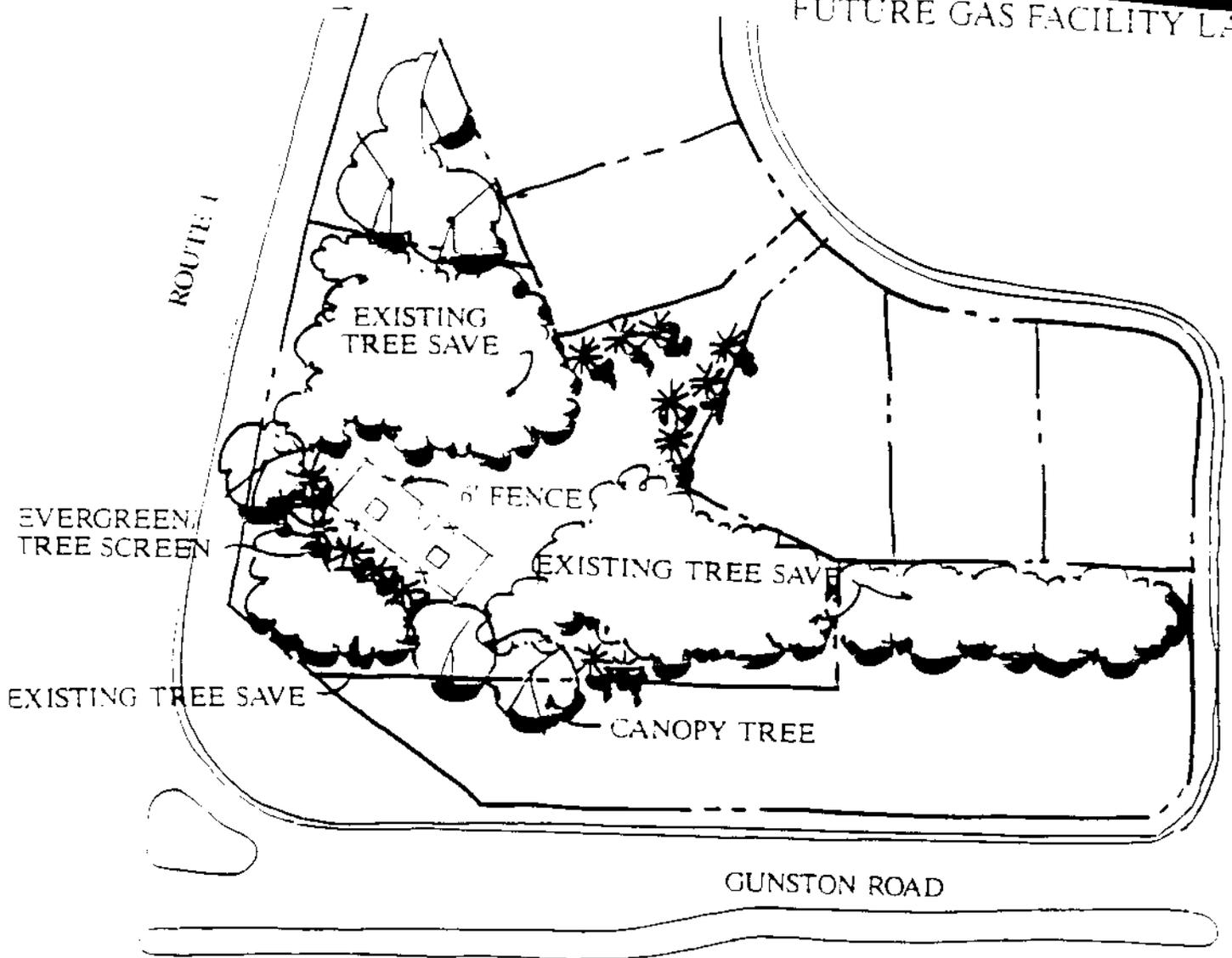
FIGURE 3: BUFFER STRIP CROSS SECTION WITH SLOPE AND WATER

MT. VERNON DISTRICT  
 FAIRFAX COUNTY, VA

FIGURE 4: BUFFER STRIP CROSS SECTION WITH SLOPE AND WATER

MOUNTAIN VIEW  
 LANDSCAPE ARCHITECTS

FUTURE GAS FACILITY LAY



LEGEND



EXISTING TREE SAVE

CANOPY TREE 2 1/2" - 3" cal.

EVERGREEN TREE 6' - 8' ht.

RECOMMENDED PLANT LIST

- Northern Red Oak
- Red Sunset Maple
- Austrian Pine
- Norway Spruce

- Pin Oak
- Summit Ash
- White Pine

# Masons Passage SIGN ELEVATION for Curry Development

ORNAMENTAL TREE

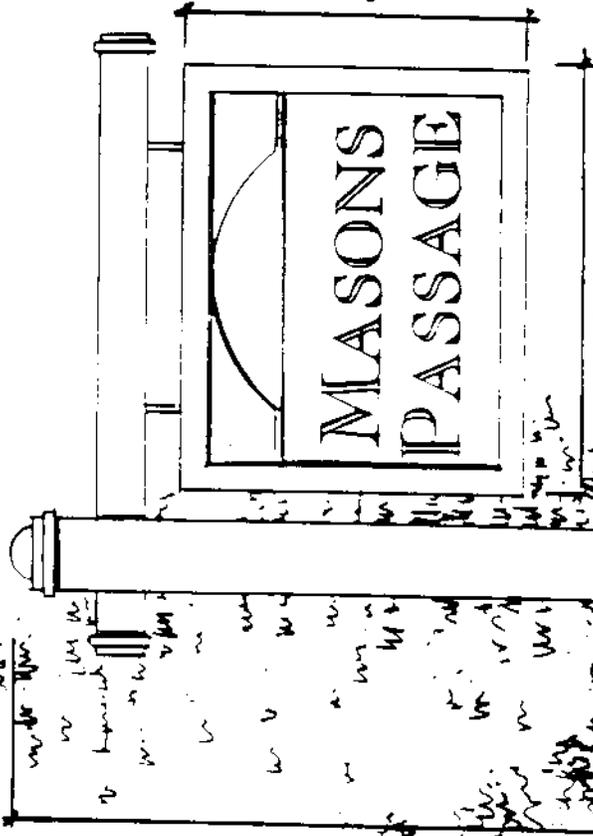
EVERGREEN TREES

SIGN

SEASONAL COLOR

EVERGREEN BORDER

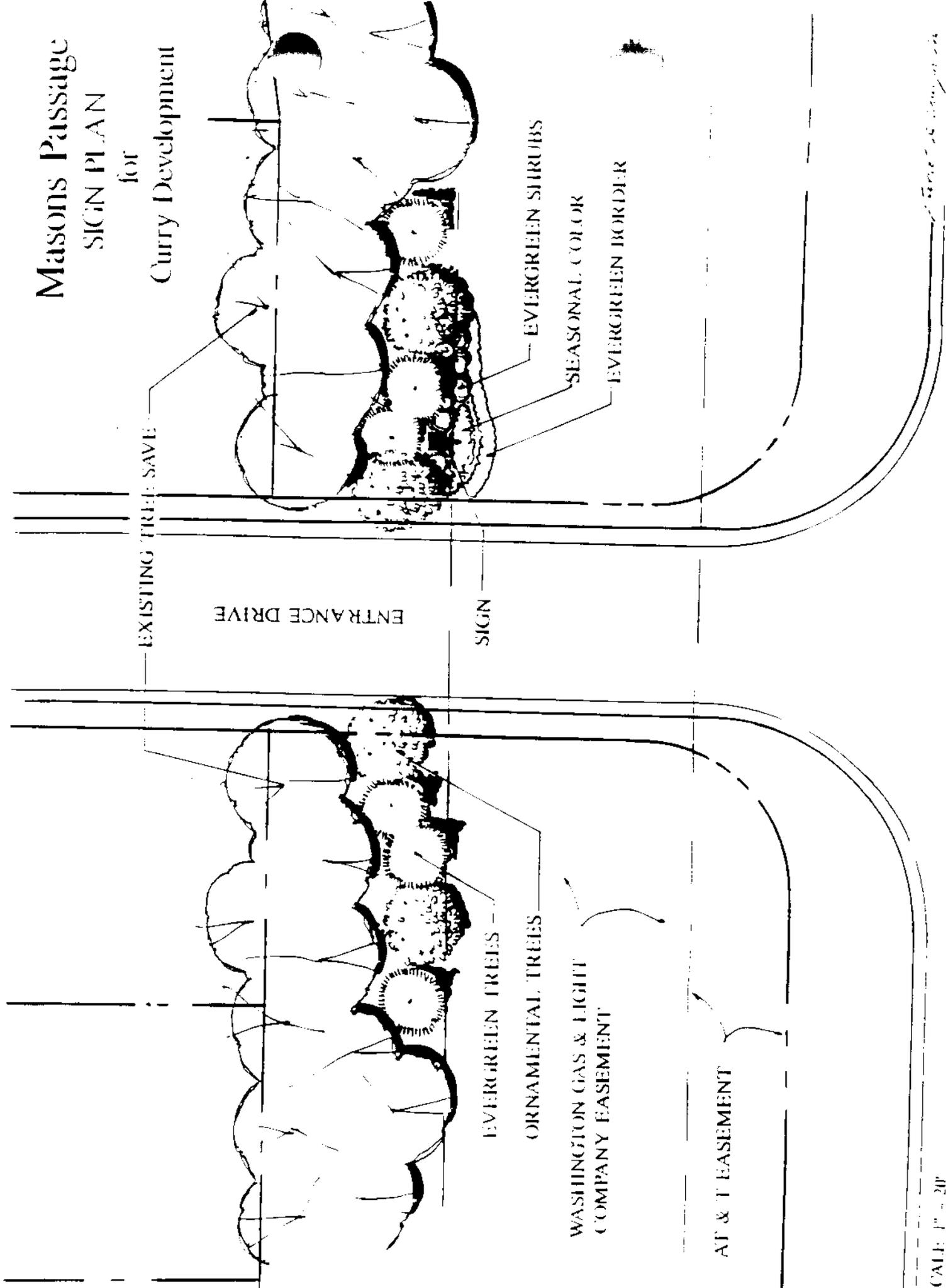
EXHIBIT



SCALE 1/4" = 1'-0"

# Masons Passage SIGN PLAN

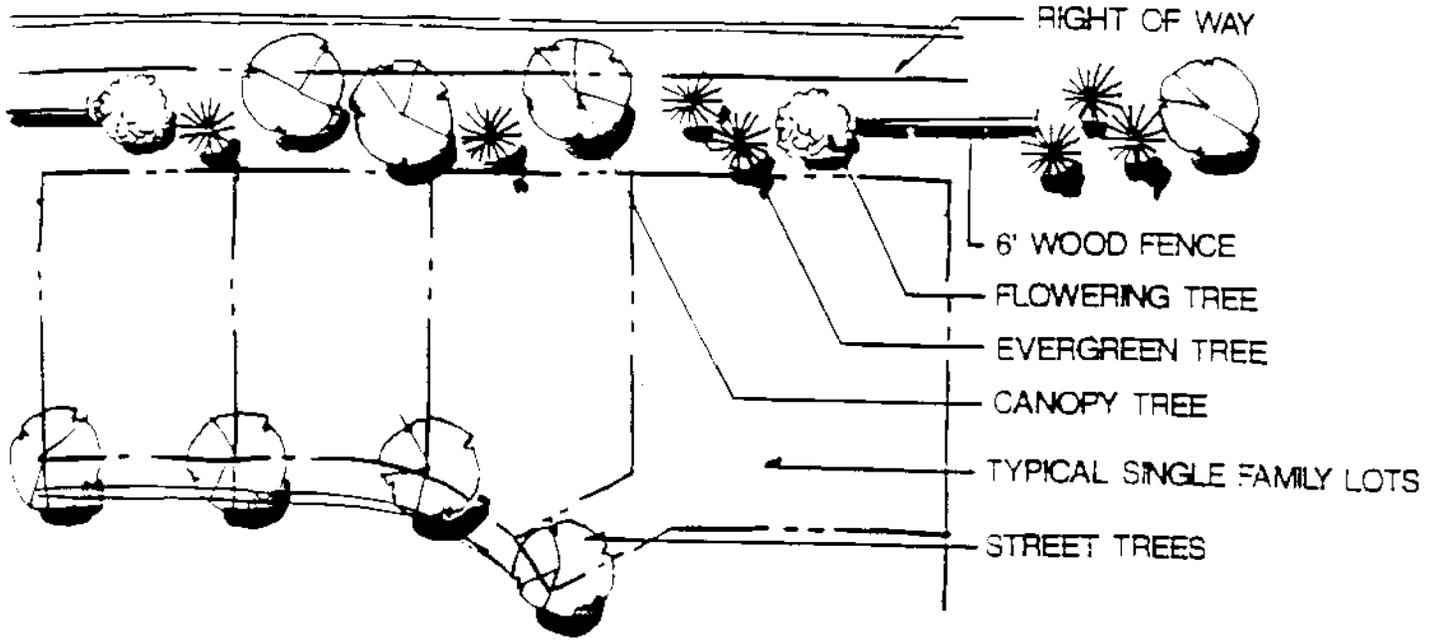
for  
Curry Development



Scale 1" = 20'

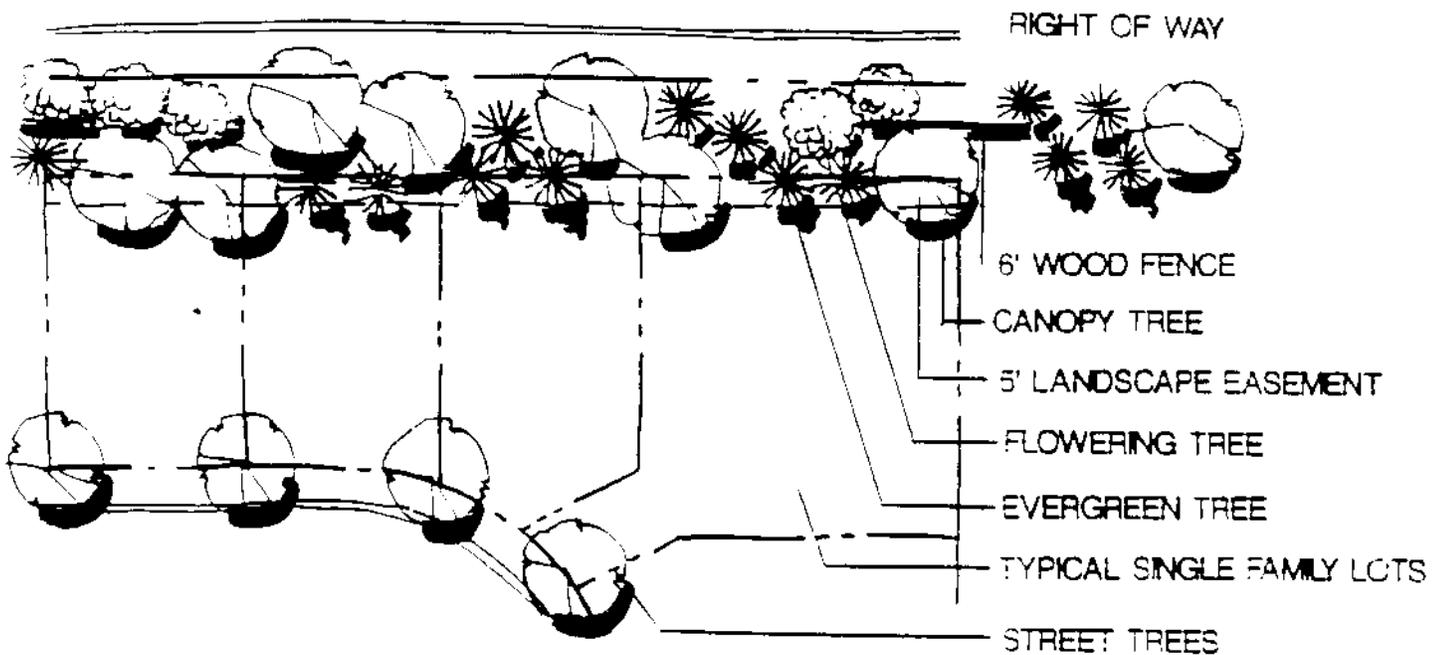
SCALE: 1" = 20'

RICHMOND HWY RTE 1



EXISTING

RICHMOND HWY RTE 1



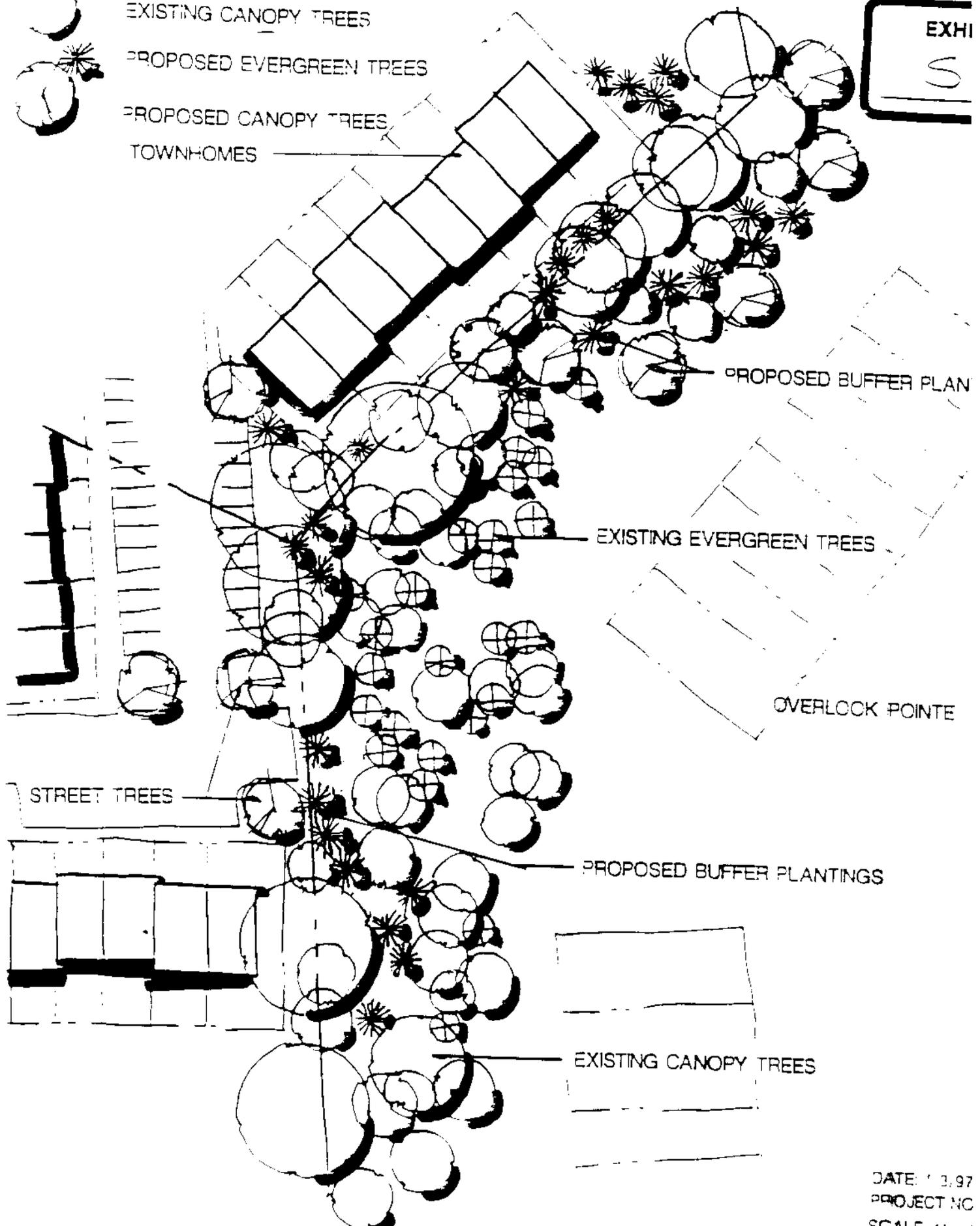
PROPOSED

LEGEND

-  EXISTING EVERGREEN TREES
-  EXISTING CANOPY TREES
-  PROPOSED EVERGREEN TREES
-  PROPOSED CANOPY TREES
-  TOWNHOMES

ADDITIC OVERLOOK POINTE PLA

EXHI  
S



PROPOSED BUFFER PLAN

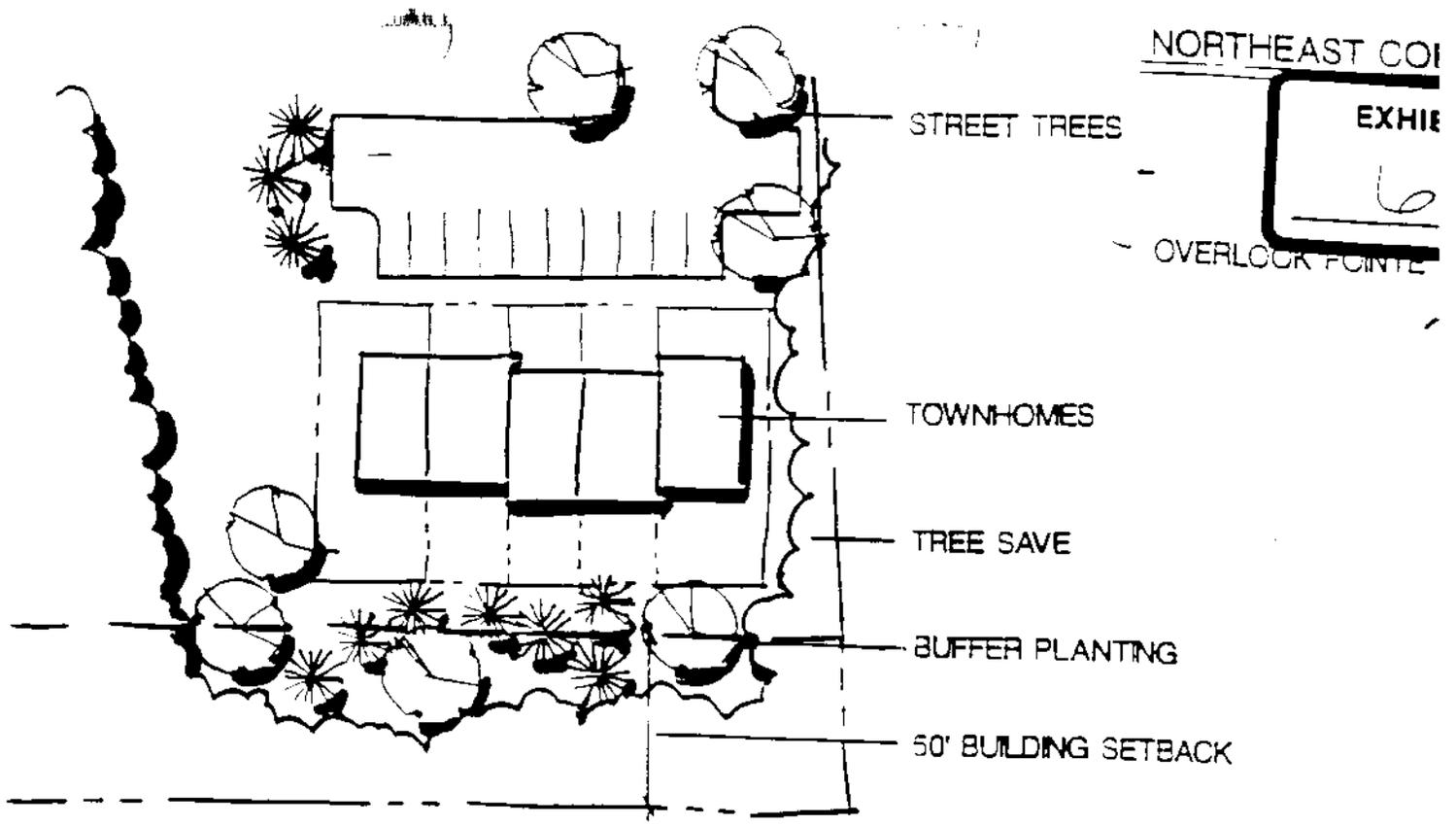
EXISTING EVERGREEN TREES

OVERLOOK POINTE

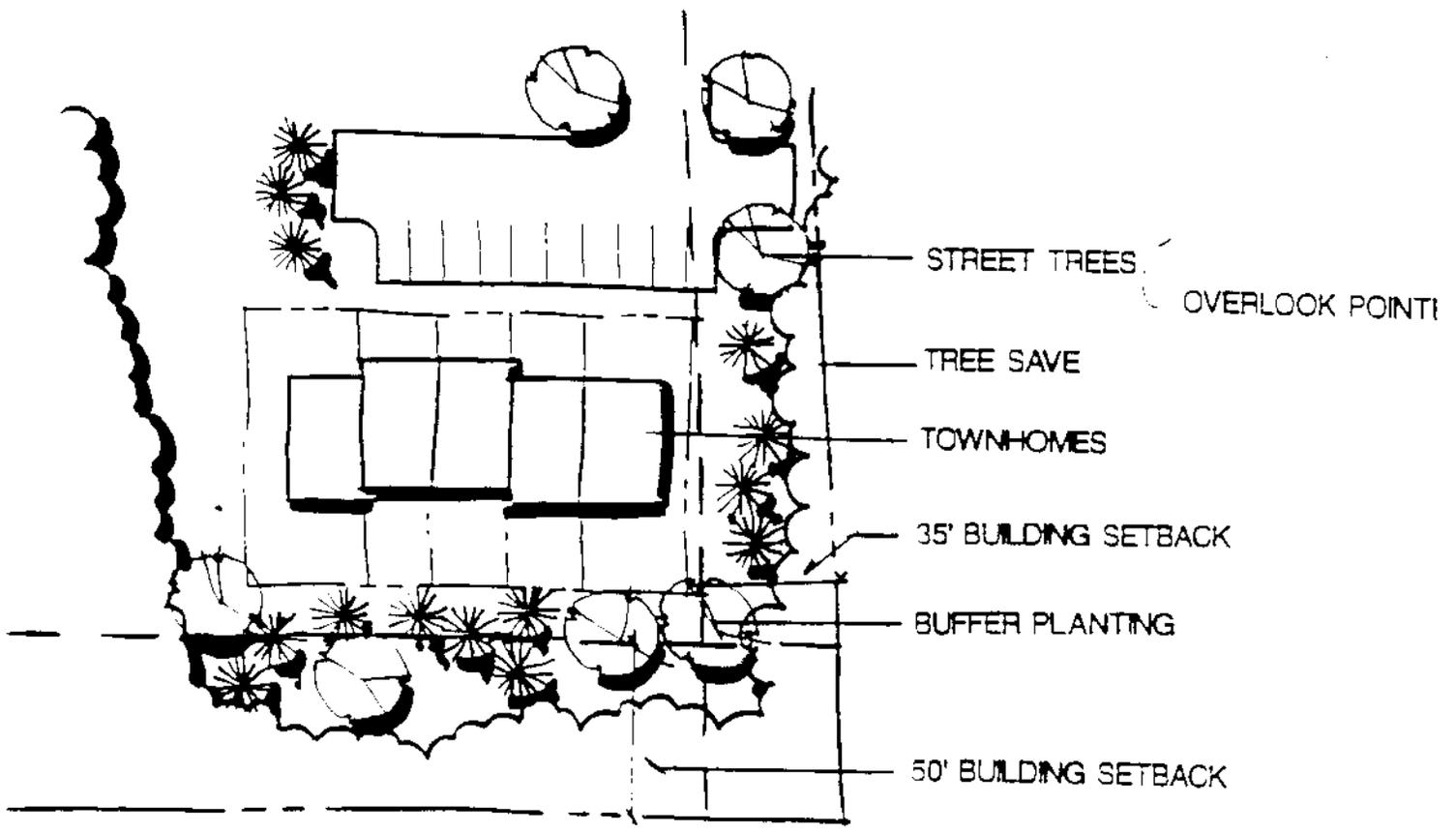
STREET TREES

PROPOSED BUFFER PLANTINGS

EXISTING CANOPY TREES

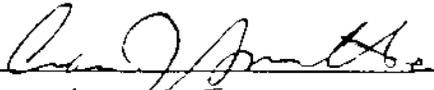


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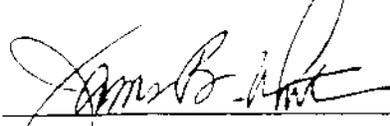


PROPOSED

CURRY DEVELOPMENT, INCORPORATED,  
a Virginia corporation

By:   
Name: ANDREW J. SOMERVILLE III  
Title: PRESIDENT

WASHINGTON GAS LIGHT COMPANY  
a Virginia and District of Columbia corporation  
Title Owner : 13-2-(01), Parcel 15

By:   
Name: James B. White  
Title: Vice President - Business Development

By: Mary Crawford  
Name: MARY CRAWFORD  
Title Owner 113-2-1111, Parcel 7

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title Owner 113-2-010, Parcel 8

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Quinlan H. Hancock and Viola L. Hancock

Title Owner: 113-2-(1), Parcel 9

By: \_\_\_\_\_

Name: WILLIAM W. WILSON

Title Owner: 113-2-010, Parcel 10

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title Owner: 107-4-010, Parcel 38

~~5385~~ ~~107-4-010~~ ~~Parcel 38~~ 18930.14