

PROFFERS

RZ 1998-PR-027 Hearthstone Vanguard Joint Venture

May 2, 2000

Pursuant to Section 15-2-2303A of the 1950 Code of Virginia, as amended, the undersigned hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein. For the purpose of these proffers, the term "Applicant" or "Developer" refers to the Hearthstone Vanguard Joint Venture or their successors or assigns.

1. **Development Plan:** Subject to the provisions of Section 18-204 of the Zoning Ordinance and notwithstanding Note 20, the Subject Property shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP") entitled, "Hearthstone Village," prepared by Patton, Harris, Rust and Associates, dated April 5, 2000.
2. **Noise Attenuation:** With reference to traffic noise emanating from Hunter Mill Road, the Developer shall provide the following noise attenuation measures:
 - a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Developer proffers that all residential units within 200 feet from the center line of Hunter Mill Road impacted by highway noise having levels between 65 and 70 dBA Ldn, shall have the following acoustical attributes:
 - (1) Exterior walls will have a laboratory sound transmission class ("STC") of at least 28.
 - (2) Doors and windows will have a laboratory STC of at least 28. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.

- (3) Adequate measures to seal and caulk between surfaces will be provided.
- b. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Developer proffers that all residential units within 70 feet from the center line of Hunter Mill Road impacted by highway noise levels between 70 and 75 dBA Ldn, shall have the following acoustical attributes:
 - (1) Extension walls will have a laboratory sound transmission class ("STC") of at least 45.
 - (2) Doors and windows will have a laboratory STC of at least 37. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.
 - (3) Adequate measures to seal and caulk between surfaces will be provided.
- c. In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation measures such as acoustical (architecturally solid, no gaps) fencing, walls, earthen berms, or combinations thereof, shall be provided for patio areas, unshielded by topography or built structures, as determined by the Department of Public Works and Environmental Services ("DPWES"). In areas where the fence shown on the CDP/FDP along Hunter Mill Road is intended to function as a noise attenuation fence, it shall be constructed as a noise attenuation fence, which is solid from the ground up. Any such fence shall meet Zoning Ordinance requirements regarding height.
- d. As an alternative to "a," or "b," above, the Developer may elect to have a refined acoustical analysis performed, subject to approval of DPWES to verify or amend the noise levels and impact areas set forth above and/or to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above.

3. **Limits of Clearing and Grading:** The Developer shall conform to the limits of clearing and grading shown on the CDP/FDP subject to minor modifications for the installation necessary of trails, utility lines and stormwater management facilities as approved by DPWES. At the time of grading plan review, the Developer shall designate limits of clearing and grading, in addition to those shown on the CDP/FDP in areas where it is economically feasible to save additional trees without precluding construction of the project in accordance with the CDP/FDP, including but not limited to, the specific density and general development configuration shown thereon for review by the Urban Forestry Branch. In addition, the Developer will inventory the areas to be cleared to determine what specimen trees would be candidates for transplantation to new locations within the site. The inventory shall be completed by an arborist certified by the International Society of Arboriculture and submitted with the subdivision plan for approval by the Urban Forestry Branch. No clearing will take place on the site until this inventory is approved. To the extent the Developer deems it economically feasible, he shall transplant said trees. Prior to any clearing and grading on-site, the final limits of clearing shall be confirmed in the field by DPWES. If any trails, utility lines, or stormwater management facilities are required to be located within the area protected by the limits of clearing and grading, they shall be located and installed in the least disruptive manner feasible, considering cost and engineering, as determined by DPWES, and subject to County Urban Forester approval. If any trees within the area designated to be preserved are destroyed as a result of the Developer's construction activities, the Developer will provide appropriate replacement trees in terms of species, size and quantity as determined by the Urban Forestry Branch pursuant to Section 12-0403 of the Public Facilities Manual ("PFM").
4. **Buffer Areas:**
 - a. Trees shall be preserved within the 25 foot buffer area on the northern boundary of the site, and the open space area west of the library site and behind Lots 51, 52, and 53, and supplemental plantings will be provided in these areas in order to provide effective year round screening to the adjacent Hunterbrooke area, subject to Urban Forestry Branch approval.

In addition, the Developer shall provide a six (6) foot high board fence within the 25 foot buffer area, to be located approximately parallel to the interior line of said buffer area, subject to minor field-adjustments to preserve trees, as approved by DPWES.

- b. Trees, as shown on the CDP/FDP, shall also be preserved within the 15 foot buffer area on the western border of the site, subject to Urban Forestry Branch approval. In addition, the Developer shall provide supplemental screening within said buffer area in the form of evergreen trees, subject to Urban Forestry Branch approval to provide a visual buffer between residents in Oakborough Square and the Subject Property.
- c. Hazardous trees or trees not worthy of preservation, as recommended by a certified arborist and approved by the Urban Forestry Branch, may be removed in either buffer area, subject to Urban Forestry Branch approval. If any trees are removed, they shall be replaced with appropriate trees, as determined by the Urban Forestry Branch, in accordance with Section 12-0403 of the PFM.
- d. The Developer shall perform a pre-construction evaluation of the existing vegetation in each buffer area to determine the condition of the trees designated to be saved. The evaluation shall be completed by an arborist certified by the International Society of Arboriculture and submitted with the subdivision plan for approval by the Urban Forestry Branch. Prior to construction the Developer shall walk the limits of clearing with a certified arborist and an Urban Forestry Branch representative to determine where minor adjustments to the line may be made to ensure the preservation of trees in the tree save area. Prior to this pre-construction walk of the limits of clearing, the Developer shall have the limits of clearing flagged.
- e. In each buffer area the trees designated to be saved shall be marked on the ground at the drip line with 48" chain link fence or equivalent demarcation prior to clearing and grading and at all times during construction. No construction activities shall occur inside the drip line unless such construction activities are

7. **Traffic Signal:** Subject to Virginia Department of Transportation ("VDOT") approval, the Developer shall provide and install a traffic signal at the northernmost entrance to the development. The Developer shall submit a warrant study to VDOT contemporaneously with the first subdivision plan submission. If the VDOT warrants are not met, the Developer shall contribute \$100,000 to Fairfax County to be used for the installation of the signal when the warrants are met.
8. **Hunter Mill Road:** Subject to VDOT and DPWES approval, the Developer shall dedicate additional right-of-way along the frontage of Hunter Mill Road upon demand of the Board of Supervisors as shown on the CDP/FDP. In addition, the Developer shall construct road frontage improvements (including a trail/sidewalk) along the frontage of Hunter Mill Road. Said improvements shall constitute full improvements for a one-half section of the ultimate Comprehensive Plan's specified road widening requirements for Hunter Mill Road across the frontage of the subject property plus additional construction as may be required to tie and transition to the existing roadway as determined by DPWES and VDOT. The Developer shall also provide ancillary easements to 14 feet parallel to the proposed right-of-way dedication upon demand by the Board of Supervisors.
9. **Oak Tree:** The plans for the road widening referenced in paragraph 8 above shall be designed so as to set the vertical alignment level of the road improvements so that the 200-year old oak tree on the east side of Hunter Mill Road will not be injured by future improvements for the ultimate roadway.
10. **Streetscape:** Subject to Urban Forestry Branch review, a predominance of oak trees shall be planted along the frontage of Hunter Mill Road utilizing a variety of oak species as determined by the Urban Forester. The fence along the Hunter Mill Road frontage shall be a combination of brick and wrought iron, except for any area where the fence functions as a noise wall, in which case the provisions of proffer 2c shall apply. Subject to VDOT approval, an additional tree shall be planted in the northeast corner of Lot 21.
11. **Trail Extension:** The Developer shall extend the proposed trail on Hunter Mill Road off-site to the south to connect to the existing sidewalk on Tax Map Parcel 47-2 ((01)) 27E (pt) provided the

consistent with preservation of the applicable tree or trees, as recommended by the certified arborist and specifically approved in writing by the Urban Forestry Branch prior to commencement of the construction activity. Signage affirming restricted access shall be provided on the temporary fence highly visible to construction personnel. The arborist contracted by the Developer shall monitor the construction of the proposed development to ensure consistency with the landscape/tree preservation plan.

5. **Stormwater Management Pond:**

- a. **Planting.** The Developer shall plant a minimum of twenty (20) additional trees adjacent to the stormwater management pond. These trees will be planted in accordance with DPWES guidelines for trees planted in close proximity to stormwater management ponds subject to the approval of the Urban Forestry Branch. Said trees shall meet the size requirements and plantings specifications of the PFM.
- b. **Capacity.** The stormwater management pond shall be oversized to reduce the ten (10) year flow by 20%± as further described in Exhibit "A" attached hereto. In addition, for the purpose of mitigating drainage conditions on parcels to the north of the site, every reasonable effort will be made to drain as much stormwater runoff as is feasible from the surface stormwater drainage on Hunter Mill Road into the proposed on-site stormwater management pond. This determination will be based on sound engineering practices and shall be limited to the western half of the right-of-way on Hunter Mill Road along the site's frontage. Prior to DPWES final approval of the plan for the pond, the Developer shall forward a copy of the plan to the owner of Tax Map 47-2 ((12)) Parcel A2.

6. **Energy Savings:** All homes on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems, as applicable.

necessary easement is granted by the owner of that property, at no cost to the Developer. The Developer shall actively seek such permission. If the Developer has not been able to obtain said easement, he will provide documentation of his efforts to DPWES prior to site plan approval and will escrow the construction cost of said off-site trail extension, as determined by DPWES.

12. **Crosswalk:** Subject to VDOT approval, the Developer shall provide a painted pedestrian crosswalk across Hunter Mill Road at the northernmost entrance to the site. The crosswalk shall be provided at the time of construction of improvements to Hunter Mill Road proffered herein.
13. **Recreation:**
 - a. The Developer shall provide a pedestrian connection from the on-site trail adjacent to the stormwater management pond to the existing trail in Oakborough Park. The trail constructed on the Fairfax County Park Authority land shall be a stone dust trail and it shall be located along a route that is least erodible, subject to the approval of the Park Authority. The on-site trail that connects to the border of the parkland shall be subjected to a public access easement that will be recorded among the land records. Prior to entering into a contract of sale for the two (2) homes closest to the on-site trail connection (Lots 47 and 48), prospective purchasers shall be notified in writing by the Developer of the location of the trail connection. In addition, the Homeowner's Association documents delivered at settlement shall provide notification that the on-site trail is open to the public.
 - b. At the time of issuance of the first residential use permit, the Developer shall contribute \$19,500 to the Fairfax County Park Authority for improvements at Oakborough Park, said improvements may include a gazebo/picnic shelter and a multi-purpose court or as determined by the Park Authority in consultation with the neighboring community.

- c. The Developer shall also provide two (2) gazebos, sidewalks in open space areas, the on-site trail and a tot lot, as shown on the CDP/FDP.
- d. The facilities referenced in paragraphs a, b and c above, shall be provided in accordance with the Nine Hundred Fifty-Five Dollar (\$955.00) per dwelling unit recreational facility requirement of Section 6-110 of the Fairfax County Ordinance. To the extent that this requirement is not satisfied by the provision of these facilities, a monetary contribution in the amount of the deficiency, if any, shall be provided to the Fairfax County Park Authority for use on recreational facilities in the general vicinity of the subject property.

14. Private Streets:

- a. The private street areas shall be constructed by the Developer to pavement thickness standards of public streets (TS-1) as set forth in the PFM, subject to DPWES approval. Public access easements shall be recorded providing public access to the streets, sidewalks and trails on the subject property.
- b. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Developer of the maintenance responsibility of the private streets and open space areas on the site and said purchasers shall be required to acknowledge receipt of this information in writing. Each deed of conveyance for a lot shall expressly contain these disclosures and these disclosures shall be contained in the Homeowners' Association documents.
- c. The Developer shall deposit the sum of \$5,000 into a maintenance account that will be available for utilization by the Homeowners' Association for street maintenance after the Developer turns over control of the Homeowners' Association to the homeowners.

- d. The Developer shall provide seven (7) additional parking spaces adjacent to the village green in the southeast corner of the site as depicted on Exhibit "B" attached hereto. The open space calculation on the FDP may be revised to reflect this change.

15. **Miller Road:**

- a. Home purchasers will be notified in writing prior to purchase that there will not be an on-site street connection between Miller Road and Hunter Mill Road. Further, this disclosure shall be included in the Homeowners' Association documents.
- b. In the disturbed areas adjacent to the sidewalk to be constructed along the Miller Road frontage, the Developer shall remove all tree stumps, reseed the disturbed areas and provide supplemental plantings as shown on the CDP/FDP Landscape Plan (Sheet 3 of 4), subject to approval by the Urban Forestry Branch.

16. **Archeological Survey:** Prior to any land distributing activities, the Developer shall have a Phase I archeological survey of the property conducted which shall be submitted to the County Archeologist. The scope of work for the archeological survey shall be developed with the County Archeologist prior to commencement of the survey. If, based on the Phase I Survey, Heritage Resources determines that further study is warranted, the Developer shall conduct a Phase II and/or Phase III Archeological Survey acceptable to Heritage Resources. The Developer's total cost shall not exceed \$20,000.

17. **Garages:** Garages will be used only for purposes which will not interfere with an intended purposes of the garages, which are the parking of vehicles and the location of certain utilities. A restrictive covenant to that effect, approved by the County Attorney, and running to the Homeowners Association and Fairfax County, shall be recorded among the land records of Fairfax County in conjunction with or prior to the recordation of the Deed of Dedication and Subdivision. Prior to entering into a contract of sale, prospective purchasers shall be notified by the Developer in writing of this covenant requirement.

18. **Sewer Service Area:** All homes shall be located within an approved sewer service area or within 400 feet of an approved sewer service area, as required by Board of Supervisors policy. No homes shall be located more than 400 feet from the approved sewer service area. All homes shall be connected to the public sewer system by gravity flow, no pumps shall be permitted.

19. **Library Site:**

- a. At the time of record plat approval, or upon demand of the Board of Supervisors, whichever first occurs, the Developer shall dedicate the 3+ acre parcel as generally shown on the CDP/FDP to the Board of Supervisors for public purposes. This dedication shall be subject to the proviso that the library/Fairfax County will grant utility and/or storm and sanitary sewer easements to the Developer required for development of the Developer's property, provided any such easements have no adverse impact on the library site and no additional cost or expense is incurred by Fairfax County pertaining thereto.

In addition, the Developer shall:

- (1) provide stormwater detention/BMP capacity in the proffered stormwater management pond to meet Public Facilities Manual requirements for the library site provided the Developer is reimbursed by Fairfax County for the library site's pro rata share for the construction costs for the stormwater detention/BMP pond and, provided further, that the reimbursement shall be made no later than the time for final inspection of the pond for acceptance by DPWES. The library's pro rata share shall be based upon the amount of impervious surface area for the library site in relation to the total impervious surface area that will drain to the pond.
- (2) provide a public street, as depicted on the CDP/FDP, for that portion of roadway extending from Hunter Mill Road to the library entrance.

- (3) clear and rough grade the library site to be in general conformance with the County's selected Conceptual Site Plan for the library; and the Developer shall seed and mulch all disturbed areas resulting from said clearing and grading. The Developer shall also provide ground maintenance, i.e., grass cutting and debris removal, on this site until construction of the library commences.
 - (4) grant easements to Fairfax County to permit storm and sanitary sewer connections from the library site to an existing storm-sewer outfall and to an existing sanitary sewer line.
 - (5) provide landscaping and streetscape improvements on the library site in accordance with the plan set forth on Sheet 3 of 4 on the CDP/FDP.
 - (6) provide utility service stubbed into the library site (approximately five [5] feet) for three (3) phase electric service, gas, telephone, water, storm and sanitary sewer. Storm sewer facilities shall be sized and located so as to accommodate the runoff from the library site.
- b. In the event that the Developer has not fulfilled the proffered conditions set forth in paragraph 19a and subparagraphs (1) through (6) above, by the end of the calendar year 2003 and funding for the library facility is fully allocated and construction of this facility is fully authorized by the appropriate governmental authorities, then, in those events, Fairfax County may go forward with fulfilling the conditions set forth in paragraph 19a and subparagraphs (1) through (6) above, and the Developer shall provide the necessary dedications/easements upon demand of the Board of Supervisors. Further, the Developer will reimburse Fairfax County for expenditures by the County that are necessary to the fulfillment of the conditions that would have been required of the Developer under these proffers, said reimbursement to be made to the County prior to issuance of the 31st residential use permit on the subject property.

20. **Asbestos:** If DPWES determines that a potential health risk exists due to the presence of asbestos-containing rock on the subject property, the Developer shall:
- a. Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks.
 - 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 and covered transportation of removed material presenting this risk.
21. **Architectural Treatment:** The Developer shall provide brick, stucco or stone facings on the following side walls: the southern walls of Units 1 and 20 that face Miller Road, the eastern side wall of Lot 21, the eastern side wall of Lot 53 that faces Hunter Mill Road, the northern walls of Lots 30 and 31, and the southern wall of Lot 36. In addition, the Developer shall provide walls with a combination of siding and brick, stucco or stone facings on the lower portion of the walls (with the brick, stucco or stone facings reaching at least the height of the first floor level) on the following side walls: the southern walls of Lots 25 and 47; the eastern walls of Lots 13, 40, 54 and 61; the western walls of Lots 24, 57 and 58; and the northern walls of Lots 7 and 19.
22. **Density Credit:** Advanced density credit shall be reserved as may be permitted by the provisions of paragraph 4 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be reasonably required by Fairfax County or VDOT at time of subdivision plan approval.
23. **Counterparts:** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[Signatures on the next pages or counterparts]

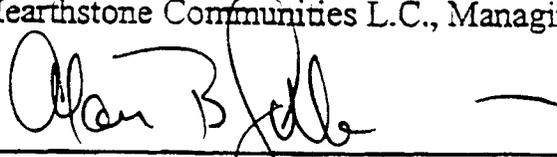
Attachments

Applicant:

Hearthstone Vanguard Joint Venture

By: Hearthstone Communities L.C., Managing General Partner

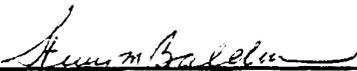
By:

A handwritten signature in cursive script, appearing to read "Alan B. Geller", written over a horizontal line.

Alan B. Geller, Managing Member

Contract Purchaser by Assignment:

WL Homes LLC, d/b/a John Laing Homes

By: 
Steven M. Baldwin, Division President

Owner of Tax Map 47-2 ((1)) Parcel 27E:

(Application/Proffers apply only to that portion of Parcel 27E that is included in the CDP/FDP)

Acorn Associates Limited Partnership

By: Acorn/AJD Corporation, General Partner

By: 

Albert J. Dwoskin, President

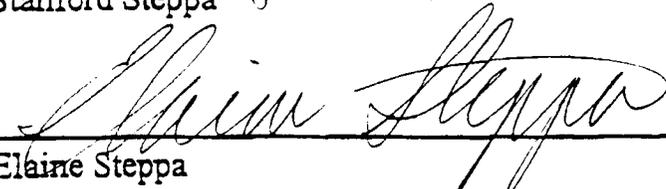
Owners of Tax Map 47-2 ((1)) Parcels 20, 22 and 25:



Louis H. Fanaroff



Stanford Steppa

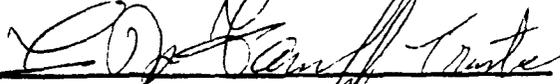


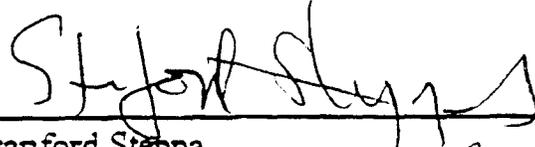
Elaine Steppa

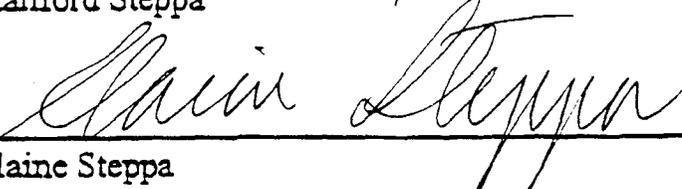
Owners of Tax Map 47-2 ((1)) Parcel 21:

Fanaroff Investment Partnership

By: Louis H. Fanaroff Trust, General Partner

By: 
Louis H. Fanaroff, Trustee


Stanford Steppa


Elaine Steppa

Owners of Tax Map 47-2 ((1)) Parcel 19:

Judy Bareilles, Trustee
Judy Bareilles, Trustee

Tina Marchant, Trustee

Owners of Tax Map 47-2 ((1)) Parcel 19:

Judy Bareilles, Trustee

Tina Marchant, Trustee

Tina Marchant, Trustee

**Contract Purchaser/Assignor of Tax Map 47-2 ((1)) Parcels 19,
20, 21, 22 and 25:**



Gary D. Rappaport

Owner of Tax Map 47-2 ((1)) Parcel 24:


Walter David Kauffman