

PROFFERS

MONROE STREET

RZ 1998-HM-030

January 25, 1999

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, Pulte Home Corporation (hereinafter referred to as the "Applicant") for the owners, themselves, successors and assigns, in RZ 1998-HM-030, filed for property identified as Tax Map 16-4 ((1)) 10, 11, 12, 13 and 25-2 ((1)) 1 (hereinafter referred to as the "Application Property") agrees to the following proffers, provided that the Board of Supervisors approves the rezoning of the Application Property to the PDH-5 District.

1. Development Plan. Development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP"), prepared by Charles P. Johnson & Associates, P.C., dated April 22, 1998 and revised through October 2, 1998 consisting of six (6) sheets.
2. Final Development Plan Amendment. Notwithstanding that the CDP/FDP is presented on six sheets and said CDP/FDP is the subject of Proffer No. 1 above, it shall be understood that the CDP shall be the entire plan shown on Sheet 2 but only relative to the points of access, the total number and type of units, general location of units, amount of open space and general location of common open space areas, and limits of clearing and grading. The Applicant has the option of requesting a Final Development Plan Amendment ("FDPA") for elements other than the aforementioned CDP elements from the Planning Commission for all of 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.
3. Minor Deviations. 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 amount of open space.
4. Recreational Facilities/Amenities. The Applicant shall comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance regarding recreational facilities by providing a sand volleyball court and trails as generally shown on the CDP/FDP. In the event the costs associated with these facilities do not equate to \$955/unit, the Applicant shall provide additional on-site amenities such as a gazebo or picnic area or contribute the excess funds to the Fairfax County Park Authority for use in a nearby park in the Hunter Mill District as determined by the Applicant.

5. 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.
6. Stormwater Management. The Applicant shall provide stormwater management (SWM) and best management practices (BMPs) off-site in a facility located on the adjacent property subject to RZ 92-C-009, "the Davis Property." In the event SWM/BMPs cannot be provided off-site, the Applicant acknowledges that a Proffered Condition Amendment (PCA) may be necessary in order to accommodate SWM/BMPs on-site.
7. Monroe Street.
 - a. Dedication. Subject to Virginia Department of Transportation (VDOT) and DPW & ES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of thirty-nine (39) feet from existing centerline along the frontage of Monroe Street as shown on the CDP/FDP. Dedication shall be made at time of recordation of the final subdivision plat or upon demand from either Fairfax County or VDOT whichever occurs first.
 - b. Construction. Subject to VDOT and DPW & ES approval, the Applicant shall construct frontage improvements to Monroe Street with curb set at thirty-five (35) feet from existing centerline within the dedicated right-of-way, as shown on the CDP/FDP.
8. Frying Pan Road.
 - a. Dedication. Subject to VDOT and DPW & ES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors additional right-of-way to provide a right turn lane which is 250-feet in length with a 100-foot taper to Monroe Street as shown on Sheet 3 of the CDP/FDP. The additional right-of-way is to be measured three (3) feet from the face of curb of the right turn lane.
 - b. Construction. The Applicant shall construct a right-turn lane, measuring 250-feet in length with a 100-foot taper from Frying Pan Road to Monroe Street. It shall be understood that the County shall reimburse the Applicant for the cost of the right turn lane utilizing funds received from proffer obligations from other property owners. The actual cost of the right turn lane will equal the total costs incurred by the Applicant in connection with the construction of the right-turn lane, including, without limitation, the cost of design, engineering, utility relocation, substantial direct

overhead and construction. The Applicant shall provide invoices to DPW & ES in order to demonstrate the actual cost of the right turn lane.

- c. **Trail.** The Applicant shall construct an eight (8) foot wide trail along the Application property frontage of Frying Pan Road. This trail shall be located within a 12-foot easement outside of the right-of-way of Frying Pan Road.
9. **Noise.** In order to achieve a maximum exterior noise level of 65 dBA Ldn in rear yards of the proposed dwelling units adjacent to Monroe Street, noise attenuation measures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those rear yards and that are unshielded by topography or built structures. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings (except where necessary to provide for a gate, drainage or utilities, as determined by the Department of Public Works and Environmental Services). The structures employed shall be of sufficient height to adequately shield the impacted area from the source of noise, as determined by DPW&ES.

As an alternative, the Applicant may, at its sole discretion, have a refined acoustical analysis performed to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above, subject to approval by DPW&ES.

10. **Private Streets.**
- a. **Private Streets.** The private streets shall be constructed in conformance with Public Facilities Manual standard TS-5A with a minimum 30-foot easement and a minimum 24-foot pavement width. Said private streets shall be constructed of materials and depth of pavement consistent with Section 7-502 of the Public Facilities Manual. Sidewalks shall be provided on one side of the private streets.
 - b. **Disclosure.** Purchasers shall be advised in writing prior to entering into a contract of sale that the homeowners association shall be responsible for the maintenance of all the private streets in the development. The homeowners association documents shall specify that the homeowner's association is responsible for the maintenance of the private streets.
11. **Architecture.** The building elevations for the proposed single family detached homes shall be generally in character with the conceptual elevations shown on Sheets 5A, 5B, 5C, and 5D of the CDP/FDP, or of a comparable quality as determined by DPW&ES.

12. Homeowners Association. The Application Property shall be included in the homeowners association for the adjacent property subject to RZ 92-C-009 ("the Davis property"). The residents of the Application Property shall have the ability to utilize the open space and recreational amenities within the Davis property.
13. Use of Garages. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This covenant 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 homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Purchasers shall be advised of the use restriction prior to entering into contract of sale.
14. Energy Conservation. Homes on the property shall meet thermal guidelines of the Virginia Power Saver Program for energy-efficient homes or its equivalent, as determined by DPW&ES, for either electrical or gas energy systems.
15. Design Detail. The design details shown on Sheets 3, 4 and 6 submitted with the CDP/FDP are provided to illustrate the design intent and overall community organization of the proposed development. Landscaping and on-site amenities shall be provided generally in character and quantity with the illustrations and details presented on these sheets. Specific features such as exact location of plantings, sidewalks, etc. are subject to modification with final engineering and architectural design.

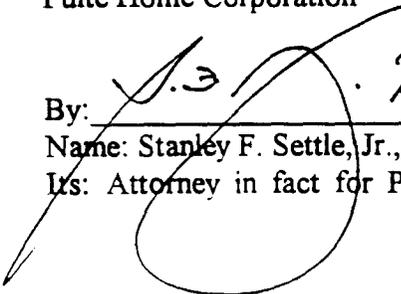
The design of the proposed development shall be harmonious with the Davis property in terms of its entry feature(s)/signage, street trees, mailboxes and pedestrian connections as determined by DPW & ES.
16. Limits of Clearing and Grading. The Applicant shall minimize clearing and grading along the western property line so as to minimize negative impacts to the drip lines of the existing mature trees located within the open space area on the Davis Property, as determined by the Urban Forestry Branch.
17. Affordable Housing. At the time of final subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one percent (1%) of the projected sales price of the house to be built on each lot to assist Fairfax County's low and moderate income housing goals. The projected sales price shall be determined by the Applicant in consultation with the Fairfax County Department of Housing and Community Development (HCD) and DPW&ES. The timing and amount of such contribution may be

modified at the Applicant's sole discretion based on the adoption of a future amendment to the formula adopted by the Board of Supervisors.

18. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.
19. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

APPLICANT/TITLE OWNER

Pulte Home Corporation

By:  .

"Attorney In Fact For

Name: Stanley F. Settle, Jr., *PULTE HOME CORPORATION*

Its: Attorney in fact for Pulte Home Corporation