PROFFERS

RZ 1998-SU-043

January 29, 1999

Pursuant to Section 15.2-2303(A) Code of Virginia, 1950 as amended, the undersigned owners, for themselves, their successors and assigns, and PS/SE Centreville Assemblage, LLC (hereinafter referred to as the "Applicant"), as the Applicant in RZ 1998-SU-043, filed for property identified on Fairfax County tax map as 65-2 ((1)) Parcels 1, 2, Part of 3, and Part of 4 (hereinafter referred to 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-16 Zoning District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for 72 residential single-family attached dwelling units.

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

a. Subject to the provisions of Section 16-403 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 Dewberry & Davis, dated December 15, 1998.

b. Pursuant to Section 16-403 minor deviations from the CDP/FDP may be permitted as determined by the Zoning Administrator.

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 Homeowners Association, which shall be established, and the Fairfax County Board of Supervisors. Prospective purchasers shall be advised of the use restriction prior to entering into a contract of sale.

2. TRANSPORTATION -

a. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing of the maintenance responsibility of the private streets, open space, and landscaping by the homeowners association and shall acknowledge receipt of this information in writing. Acknowledgment of receipt of this information within the body of the contract of sale and inclusion of this responsibility in the Homeowner Association (HOA) documents will be sufficient confirmation of the compliance with this proffer.

b. All of the private streets shall be constructed to pavement thickness standards of public streets as set forth in the Public Facilities Manual, subject to DPWES approval.

c. At the time of site plan approval or upon demand from VDOT or Fairfax County whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way along the Application Property's Upper Ridge Drive frontage, as shown on the CDP/FDP.

d. Prior to the issuance of the first Residential Use Permit (RUP), the Applicant shall substantially complete road improvements (base paving and open to traffic) for a full section of Upper Ridge Drive with appropriate transitions and tie-ins to existing pavement sections adjacent to the Application Property, as approved by DPWES.

e. At time of site plan approval, the Applicant shall contribute one-thousand seven hundred twenty-six dollars and no cents ($1,726.00) per dwelling unit shown on the CDP/FDP to the Board of Supervisors. Said funds shall be utilized as determined by the Board of Supervisors for road improvements within the Centreville area that will benefit the residents of the immediate area. Said contribution amount shall be adjusted by increases to the Construction Cost Index from the Engineering News Record from the date of Board approval of this rezoning application, to the date of site plan approval.

3. RECREATION -

a. Applicant shall provide active recreational facilities valued at a minimum of nine-hundred and fifty-five dollars and no cents ($955.00) per unit in accordance with Paragraph 2 of Section 6-110 of Zoning Ordinance.

In order to satisfy this requirement and subject to the Board's approval of facilities on land which is not part of the subject PDH District, the Applicant shall:

- Construct a tot lot with perimeter fence or a combination of fencing and landscaping as shown on the CDP/FDP.
- Contribute $30,000 to the Fairfax County Park Authority (FCPA) for park improvements to the Old Centreville Road Park.
- Contribute $20,000 to the Homeowners' Association for purchase of recreation memberships in the Asherview Community Association swim club facility or to FCPA for additional park improvements to the Old Centreville Road Park.

b. The value of the above contributions and improvements shall be documented as to satisfaction of Paragraph A above, as determined by the director, DPWES. In the event the total contribution/improvement value is less than $955.00 per unit, then an

additional contribution will be made to FCPA for park improvements to the Old Centreville Road Park.

c. The Applicant shall construct a public six-foot wide asphalt trail along the Application Property's Centreville Road frontage. A five-foot wide trail connection from the internal sidewalk system shall be provided.

d. The Applicant shall construct a five-foot sidewalk within the right-of-way along the Application Property's Upper Ridge Drive frontage.

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 plannings may be modified as necessary for the installation of utilities as determined appropriate by the Urban Forester, DPWES. Street trees shall be planted approximately 30 feet on center along the Property's Upper Ridge Drive frontage.

b. An entrance feature shall be constructed which substantially conforms to the design and style of the entry feature shown on Sheet 3 of CDP/FDP.

c. The on-site stormwater management pond shall be maintained by Fairfax County. Nevertheless, the homeowners' association for the proposed development shall provide supplemental landscaping as approved by DPWES and shall maintain the aesthetic appearance of the stormwater management pond area by maintaining the landscaping and trimming the grass in this area on a regular basis, subject to receiving permission from DPWES. This responsibility shall be set forth in the HOA documents. The Applicant shall work with DPWES at the time of site plan submission to determine if less land consumptive stormwater management alternatives than the proposed SWM facility are desirable or feasible for the subject property. If determined feasible, such facilities shall be implemented on the Subject Property in lieu of the pond shown on the GDP.

5. NOISE -

a. In order to achieve a maximum interior noise level of 45 dBA Ldn, the Applicant proffers that all residential units impacted by highway noise having levels between 65 and 70 dBA Ldn, (up to 280 feet from centerline) shall have the following acoustical attributes:

(1) Exterior walls shall have a laboratory Sound Transmission Class (STC) of at least 28. If windows constitute more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.

(2) Doors and windows will have a laboratory Sound Transmission Class (STC) of at least 28. If windows constitute 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 45 dBA Ldn, the developer proffers that all residential units impacted by highway noise levels between 70 and 75 dBA Ldn (up to 210 feet from centerline) shall have the following acoustical attributes:

(1) Exterior walls will have a laboratory Sound Transmission Class (STC) of at least 45.

(2) Doors and windows will have a laboratory Sound Transmission Class (STC) of at least 37. If windows constitute more than twenty percent (20%) of any facade, they shall have the 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) fences, walls, earthen berms, or combinations thereof, shall be provided for open space areas unshielded by topography or built structures as determined by DPWES.

d. As an alternative to "A," "B," "C," above, the Applicant may elect to have a refined acoustical analysis performed subject to approval by DPWES, to verify or amend the noise levels and impact area set forth above and/or to determine which units may have sufficient shielding to permit a reduction in the mitigation measures prescribed above or which may include alternative measures to mitigate noise impact on the site.

6. ARCHITECTURE -

The single-family attached houses shall be constructed with architectural features generally conforming to the illustrative elevations as shown on Sheet 3 of the CDP/FDP.

7. BLASTING -

If blasting is required, and before any blasting occurs on the Subject Property, the Developer will insure that blasting is done per Fairfax County Fire Marshal requirements and 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 preblast survey of each house or building, to the extent that any of these structures, are located within one hundred fifty (150) feet of the blast site.

b. Require his consultant to request access to house, buildings, or swimming pools that are located within said 150 foot range, to determine the pre-blast conditions of these structures. The Developer's consultants will be required to give adequate notice of the scheduling of the pre-blast survey.

c. Require his consultant to place seismographic instruments prior to blasting to monitor the shock waves. The Developer shall provide seismographic monitoring records to County agencies upon their request.

d. Upon receipt of a claim of actual damage resulting from said blasting, the Developer shall cause his consultant to respond expeditiously by meeting at the site of the alleged damage to confer with the property owner. The Developer will require subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures which are directly attributable to the blasting activity.

8. ARCHAEOLOGY -

The Developer shall obtain a Phase I Archaeological Survey of the Subject Property. Said survey shall be provided to the County Archaeologist within sixty days after rezoning of the Subject Property. After rezoning, the Developer will send written notification to the County Archaeologist granting authorization to conduct additional archaeological assessments, if necessary, and to remove artifacts of significance, provided no significant vegetation is disturbed, and provided said on-site activities do not interfere with the Developer's construction schedule or construction activities. The County Archaeologist will be granted sixty days from receipt of said written survey to complete on-site activities.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

CONTRACT PURCHASER:

PS/SE CENTREVILLE ASSEMBLAGE, LLC

By: _____
Mark W. Morgan

Title: MANAGER

OWNERS:

_____
Ewell S. Mohler, Jr.

_____
Heidi U. Mohler

EXECUTOR OF THE ESTATE OF VERNA R. LIGHT

By: _____ Executor
S. Michael Miller

Gladys S Mohler By Gladys S Mohler
[redacted] her attorney in fact
Gladys S. Mohler

[redacted] Rita E. Koch
Rita E. Koch

CONTRACT PURCHASER:

THE RYLAND GROUP, INC.

By: _____

Name: SCOTT GALLIVAN

Title: PRESIDENT – WASHINGTON DC DIVISION

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I/We, **GLADYS M. MOHLER**, legal resident(s) of the County of Frederick County, State of Virginia, do hereby constitute and appoint **EWELL S. MOHLER**, presently residing in the County of Fairfax, State of Virginia, my/our true and lawful attorney-in-fact for and in our name(s), place and stead to sign any deed, obligation, settlement statements, deed of trust, mortgage, check, contract, or other papers pertinent to the purchase or sale and settlement of a parcel of real estate known as:

SEE SCHEDULE "A" ATTACHED

Granting and giving unto said attorney-in-fact full authority and power to do and perform any and all other acts necessary or incident to the performance and execution of the powers herein expressly granted, with power to do and perform all acts authorized hereby, as fully to all intents and purposes as the grantor(s) might or could do if personally present, with full power of substitution.

This power of attorney shall not terminate on disability of the principal, which terminology shall have the meaning and purpose as contemplated by Section 11-9. Code of Virginia, 1950, as amended, but shall continue as provided in such Code section.

WITNESS the following signature(s) and seal(s), this 12/13/97 day of December, 1997.

Gladys M. Mohler (SEAL)
GLADYS M. MOHLER

STATE OF VIRGINIA
~~COUNTY OF CITY OF~~ At Large, to-wit:

I, Steven M. Miller, a Notary Public in and for the said State and County, do hereby certify that Gladys M. Mohler, whose name(s) is/are signed to the writing above, bearing date on the 13th day of December, 1997, has/have this day acknowledged the same before me in my County and State aforesaid.

My Commission expires 9/30/2000.

GIVEN under my hand and Notarial Seal this 13th day of December 1997.

Notary Public As Aforesaid