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May 10, 1999

**PULTE HOME CORPORATION  
PROFFERS  
FOR THE LEONARD/ROHRBAUGH PROPERTY  
Rezoning # RZ 1998-SU-047  
March 30, 1999**

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, and Section 18-203 of the Zoning Ordinance of Fairfax County (1978 amended), the property owners and Applicant in this rezoning application proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 45-4-((1))-3, 4, 5A, 5, 10 and 45-4-((5))-A (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said rezoning request for the R-1 and R-8 Districts is granted. In the event said application request is denied, these proffers shall be null and void. The Applicant, for itself, its successors and assigns, agrees that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia in accordance with applicable County and State statutory procedures. The Applicant further agrees that these proffers shall remain fully binding on the Applicant and its successors or assigns and any and all future owners of the Property. These proffered conditions, if accepted, supersede all proffers existing on the Property. The proffered conditions are:

GENERAL

1. Subject to the proffers and the provisions of Section 18-204 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development will be in substantial conformance with the submitted Generalized Development Plan ("GDP") containing 10 sheets and prepared by Dewberry and Davis and Studio 39 dated July 8, 1998 and revised through March 26, 1999.

2. The development shall consist of a maximum of 112 single family attached residential units. The size, width, and location of the building footprints shown on the GDP are conceptual and the Applicant reserves the right to modify the size and location of the building footprints, or develop a lesser number of lots, in accordance with the requirements of Section 18-204 of the Zoning Ordinance, provided that such modifications are in substantial conformance with the GDP and do not result in a reduction in the amount of open space, parking, setbacks, or tree preservation areas shown on the submitted GDP.

3. The Applicant shall establish a homeowners association for the purpose of maintaining common areas and private streets within the approved development. In conjunction with the appropriate site plan review processes, private streets and common areas shall be dedicated to the homeowners association.

4. The Applicant shall subject all private streets in the community to a public access easement in order to allow ingress/egress to and from North Lake Drive through the Property. Said easement shall be of a content and form approved by the County Attorney.

5. The Applicant shall include language in its Declaration of Covenants, Conditions and Restrictions which: (a) discloses the future local street connection between North Lake Drive and the abutting property to the east; (b) discloses the existence of the public access easement required by Proffer 4; (c) prohibits the conversion of garages into any use other than the parking of vehicles; and (d) discloses the existence of private streets throughout the community. The appropriate homeowners association documents shall specify that the homeowners association is responsible for the maintenance of the private streets.

6. The private streets on the Application Property shall be constructed with a pavement section, thickness and material which conforms with Public Facilities Manual (PFM) standards as determined by the Department of Public Works and Environmental Services (DPWES).

7. Purchasers shall be advised in writing prior to entering into a contract of sale of the existence of: (1) the public access easement through the Property; (2) the future local street connector between North Lake Drive and property to the east; (3) the existence of private streets within the community and that the homeowners association shall be responsible for the maintenance of all the private streets in the development; and (4) the prohibition on conversions of garages to bedrooms or living areas.

#### TRANSPORTATION

8. To provide for an interparcel connection to the east, the Applicant shall perform the following:

- (a) The right-of-way associated with this public street connection and generally shown on the GDP shall be dedicated in fee simple to the Fairfax County Board of Supervisors on demand or at site plan approval, whichever first occurs.
- (b) The Applicant shall engineer and construct the interparcel connector road shown on the GDP in accordance with standards and requirements of DPWES and VDOT.
- (c) Landscaping between this public street connection and the existing development to the south shall be provided as shown on the GDP.

9. At time of final site plan approval, the Applicant shall provide a contribution to the Fairfax

Center Area Road Fund in accordance with fund guidelines. Using Board of Supervisors approval as the base date, this cash contribution shall be adjusted accordingly to the construction cost index as published in the *Engineering News Record* by McGraw-Hill.

10. Subject to VDOT and County approval, the Applicant shall remove the non serviceable portions of the existing service drive along Route 50 west of the existing entrance into the Property. If removed, the pavement associated with the non serviceable portion of the service drive shall be removed and the area graded and landscaped in a manner generally consistent with the landscape concepts depicted on the GDP.

#### ENVIRONMENTAL

11. Stormwater management shall be provided for the property in accordance with Best Management Practice ("BMP") standards in accordance with Fairfax County requirements or as otherwise may be approved by DPWES. Native species of vegetation shall be planted along the edge and within the basin of the proposed pond as determined appropriate by the Urban Forester and DPWES at site plan review.

12. Prior to final site plan approval, the Applicant shall demonstrate to DPWES and DPZ that exterior noise levels within the privacy yards and outdoor recreational areas of the approved townhouse lots are reduced to 65 dBA or less based on final site grades. The Applicant shall provide a sound attenuation wall and earthen berm/wall combination having a minimum combined height of approximately 12-14 feet and a location/design that is in substantial conformance with that shown on the GDP and Exhibit 1 of these proffers, provided that the height of both the berm and wall and/or location of each may be adjusted if warranted based on refined noise analyses or final site grades and engineering. The wall shall be architecturally solid from the ground up with no gaps or openings.

The noise attenuation wall shall be equipped with a gate to provide access to existing and planned trails. The gate shall be architecturally solid from the ground up, with no gaps or openings when closed. The final height of the berm/noise attenuation wall shall be in conformance with the requirements of the Zoning Ordinance. In the event it is determined that the necessary height of the noise attenuation wall does not conform to the requirements of the Zoning Ordinance, the Applicant shall be responsible for securing approval of a variance application from the Board of Zoning Appeals.

Consistent with the GDP and the analysis contained in the Noise Study prepared by Polysonics Corp. dated December 31, 1998, and any revisions to the noise analysis made as a result of changes in final site grade, all residential structures shall be located outside of the areas of the site impacted by highway noise above 75 dBA.

In order to achieve a maximum interior noise level of 45 dBA Ldn, all units located between 65-70 dBA Ldn highway noise impact contours (beyond 240 feet from centerline) shall have the following acoustical attributes:

- (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 shall have the same laboratory STC rating as walls;
- (c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission; and

In order to achieve a maximum interior noise level of 45 dBA Ldn, all units located between the 70-75 dBA Ldn highway noise impact contours (within 240 feet from centerline of Lee Jackson Highway) should have the following acoustical attributes:

- (a) Exterior walls should have a laboratory sound transmission class (STC) rating of at least 45.
- (b) Doors and windows should have a laboratory STC rating of at least 37. If windows constitute more than 20% of any façade, they should have the same laboratory STC rating as walls.
- (c) Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

The Applicant may pursue other methods of mitigating highway noise than those described herein if it can be demonstrated, through an independent noise study for review and approval by DPWES, in consultation with DPZ, 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.

#### LANDSCAPING

13. Landscaping shall be provided in substantial conformance with the quality and quantity of plantings identified in the landscaping concepts shown on the GDP. Trees identified on the GDP as large deciduous trees shall have a minimum caliper of 2 1/2 inches and large evergreen trees shall have a planted height of six (6) feet. The specific type, number and placement of plantings and landscaping shall be determined at the time of site plan approval, subject to review and approval of

a landscape plan by the Urban Forester, DPWES, submitted with the first site plan submission. If, during the process of site plan review, any landscaping shown on the GDP is removed in order to locate utility lines, trails, etc., then an area of additional landscaping of equivalent value, as determined by Urban Forester, DPW&ES, may be substituted at an alternate location on the site, provided, however, that along the western and southern property line, the installation of utilities shall not disturb the 25' wide undisturbed buffer shown on the GDP. The provision of the buffer on the southern property line shall be subject to final approval of the configuration of interparcel connector by VDOT and DPWES. In the event VDOT or DPWES require any adjustment to the road alignment which, in any way, reduces the available buffer area from that shown on the GDP, the Applicant shall use best efforts to provide the number of plantings and/or amount of landscaping shown on the GDP within the available area. Within the area of the EQC, as generally shown on the GDP, there shall be no clearing or grading with the exception of that required to install the sound wall, trail, and utility lines, which are generally perpendicular to the EQC area. Any clearing or grading required for these facilities shall be done in the least disruptive manner possible. For trees within the 25 foot buffers on the west and south as shown on the GDP, in the event any tree trimming is required, or if a tree is located directly on the 25' wide clearing line and cannot be saved, then the tree shall be trimmed or felled with a hand held chain saw. Under no circumstances shall clearing or grading equipment be allowed in these 25 foot wide buffers.

14. For the purposes of maximizing the preservation of existing trees on the site, the Applicant shall prepare a tree preservation/landscape plan at the time of site plan review. The tree preservation/landscape plan shall correspond to the limits of clearing and grading and landscape concepts identified on the GDP, be submitted as part of the first site plan submission and shall be

reviewed and approved by the Urban Forestry Branch prior to the approval of the site plan. This plan shall provide for the preservation of specific quality trees or stands of trees located on the property without precluding the development shown on the GDP.

15. Subject to the approval of the Urban Forestry Branch and/or DPWES, the Applicant shall perform the following measures relating to tree preservation in areas outside the identified limits of clearing and grading on the property:

- (a) For the purposes of maximizing the preservation of trees in common areas and on individual lots, the Applicant shall prepare a tree preservation plan which shall include three items: (1) a tree survey; (2) a tree condition analysis as discussed in paragraph (b) below; and (3) a description of prescribed treatments to be performed prior to initial clearing and grading through the time of final bond release to ensure long term tree preservation. Treatments shall include, but not be limited to, pre-construction root pruning and crown pruning, crown cleaning, vertical and horizontal mulching and protective fencing. The tree preservation plan shall be submitted to the Urban Forestry Branch of DEM for review and approval as part of the site plan submission
- (b) The tree preservation plan shall include a tree condition analysis, prepared by an arborist certified by the International Society of Arboriculture, for all existing specimen trees and all trees 8 inches in diameter and larger whose trunks lay within 20 feet of either side of the proposed limits of clearing and grading as depicted on the GDP. The certified arborist shall conduct the condition analysis, using the method described in the "Guide for Plant

Appraisal," eighth edition, published by the International Society of Arboriculture. This information shall be provided as part of the tree preservation plan.

- (c) After completion of the condition analysis, the certified arborist shall consult with the Applicant's design engineer to determine the final limits of clearing in a way that maximizes opportunities for tree preservation. The final placement of all utilities including public and private utilities, shall be considered at this time.
- (d) All trees shown to be preserved on the tree preservation plan shall be protected by fencing, a minimum of four feet in height, placed at the dripline of the trees to be preserved. For the tree preservation areas along the western and southern property line, the required protective fencing shall be of a wire mesh type. The fencing shall be installed prior to any work being conducted on the site, including the demolition of any existing structures or fences and shall be made clearly visible to all construction personnel. In addition, the certified arborist shall monitor the construction work and tree preservation efforts in order to ensure that the commitments made, through the submission and approval of the tree preservation plan, are fulfilled.

#### AFFORDABLE HOUSING

16. The Applicant shall provide Affordable Dwelling Units (ADUs) in accordance with the requirements of Article 2 of the Zoning Ordinance. In the event that, prior to issuance of a building permit for approval of units in any section of the approved development, the Board of Supervisors

amends the current Zoning Ordinance requirements for fulfilling affordable housing objectives. the Applicant reserves the right to comply with the Ordinance requirements in effect at that time.

In the event the requirements of the ADU Ordinance change in a way that requires fewer ADU units, units currently allocated to the ADU program may be converted to market rate units if in substantial conformance with the GDP. If in substantial conformance with the GDP, such conversion shall not require a PCA amendment application.

### RECREATION

17. At the time of site plan approval, the Applicant shall contribute \$750.00 for each market rate unit to the Fairfax County Park Authority. This contribution shall be used to provide recreational facilities at Dorforth Park, or similar existing or planned public park sites that serve the application property. Using Board of Supervisors approval as a base date, this contribution shall be adjusted to the construction cost index published in the Engineering News Record by McGraw-Hill.

18. The Applicant shall: (1) at time of first site plan approval, dedicate tax map parcel 45-4-((5))-A in fee simple to the Park Authority for public park purposes; and (2) construct or provide the following on-site design amenities as generally shown on the detail sheets of the GDP: (a) street furniture; and (b) street lighting; and (c) entrance features. The entrance feature signs located the southern end of the site shall be of a double faced design and shall also be used to announce entry into the North Lakes Village for south-bound travelers through the Applicant's project.

### ENERGY EFFICIENCY

19. 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 DPW&ES, for either gas or electric energy systems as may be applicable.

## COMMUNITY COORDINATION

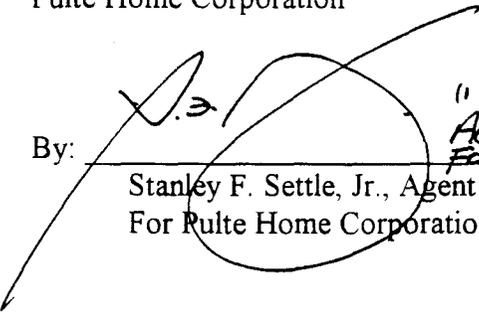
20. Notice and documents of all development related activity on the site shall be provided to a duly appointed representative for North Lake Village. Such notice shall include, but not be limited to, copies of all site plans, landscape plans and related filings with Fairfax County or VDOT that impact the property. A representative of the North Lake Village community shall be provided with an opportunity to review flagging and fencing of tree save areas prior to the beginning of clearing.

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

CONTRACT PURCHASER:

Pulte Home Corporation

By:

A large, stylized handwritten signature in black ink, appearing to be 'S.F. Settle, Jr.', is written over the printed name and extends upwards and to the left.  
Stanley F. Settle, Jr., Agent and Attorney-in-Fact  
For Pulte Home Corporation

"  
AGENT AND ATTORNEY IN FACT  
FOR PULTE HOME CORPORATION

Owners Tax Map 45-4-((1))-3

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John M. Rohrbaugh

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Jeanette E. Rohrbaugh

Owners Tax Map 45-4-((1))-4

*Leona K Watts*  

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Leona K. Watts

*Douglas Watts*  

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Douglas D. Watts

*Riley B Watts*  

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Riley B. Watts

Owners Tax Map 45-4-((1))-4A

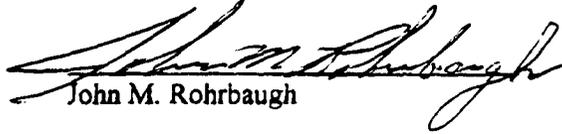
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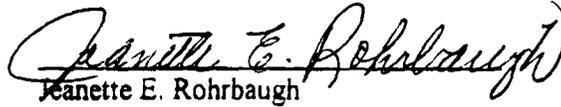
Charles Leonard

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Dottie W. Leonard

Owners Tax Map 45-4-((1))-3

  
John M. Rohrbaugh

  
Jeanette E. Rohrbaugh

Owners Tax Map 45-4-((1))-4

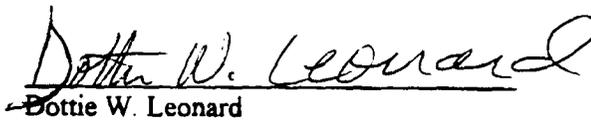
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Leona K. Watts

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Douglas D. Watts

\_\_\_\_\_  
Riley B. Watts

Owners Tax Map 45-4-((1))-4A

  
Charles Leonard

  
Dottie W. Leonard

~~Owners Tax Map 45-4-((1))-5~~

~~\_\_\_\_\_  
Dorsey W. Rohrbaugh~~

~~Owners Tax Map 45-4-((1))-10~~

~~*Ricky Thomas Harrison*~~

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Ricky Thomas Harrison~~

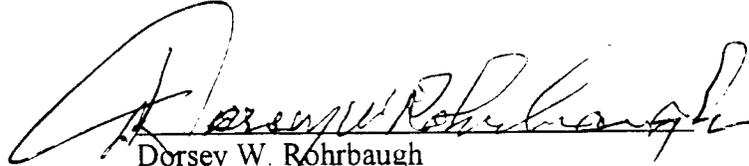
~~Owners Tax Map 45-4-((5))-A~~

~~Rohrbaugh Company, L.L.C.~~

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

~~Dorsey W. Rohrbaugh, Member~~

Owners Tax Map 45-4-((1))-5



Dorsey W. Rohrbaugh

Owners Tax Map 45-4-((1))-10

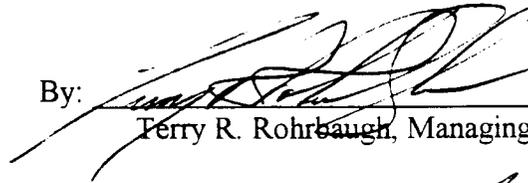
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Ricky Thomas Harrison

Owners Tax Map 45-4-((5))-A

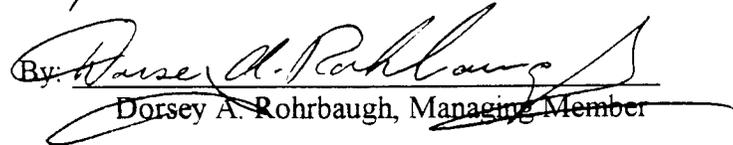
Rohrbaugh Company, L.L.C.

By:



Terry R. Rohrbaugh, Managing Member

By:



Dorsey A. Rohrbaugh, Managing Member