

**PROFFERS**  
**ROSEWOOD BUILDING & DEVELOPMENT, L. L. C.**  
**RZ 2001-SP-007**  
**RZ 2001-SP-009**  
**July 31, 2001**

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950 as amended, the owners and the Applicant, for themselves and their successors or assigns (herein collectively referred to as the "Applicant") in this rezoning application filed on property identified on the Fairfax County Tax Maps 97-4-001 as Parcel 14 and 97-4-002 as Parcels 1-6, both inclusive, (for RZ-2001-SP-007) and Parcels 8-11, both inclusive, (for RZ-2001-SP-009), both inclusive (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property from the R-1 zoning district to the R-3 [Cluster] zoning district for RZ 2001-SP-007 and the R-3 Conventional zoning district for RZ 2001-SP-009:

**1. DEVELOPMENT PLAN**

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance ("the Ordinance"), development of the portion of the Application Property identified on the Fairfax County Tax Maps 97-4-001 as Parcel 14 and 97-4-002 as Parcels 1-6 shall be in substantial conformance with the Generalized Development Plan ("GDP") entitled "Silverbrook Farms, Phase One" (for RZ-2001-SP-007) containing two sheets and prepared by Land Design Consultants, Inc., dated May 2001 and last revised July 12, 2001.
- b. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance ("the Ordinance"), development of the portion of the Application Property identified in the Fairfax County Tax Map 97-4-002 as Parcels 8-11, shall be in substantial conformance with the Generalized Development Plan ("GDP") entitled "Silverbrook Farms, Phase Two and Three" (for RZ-2001-SP-009) containing two sheets and prepared by Land Design Consultants, Inc., dated May 2001 and last revised July 12, 2001.
- c. Pursuant to Paragraph 4 of Section 18-204 of the Ordinance, minor modifications from the GDP may be permitted as determined by the Fairfax County Zoning Administrator. The Applicant reserves the right to

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make minor adjustments to the internal lot lines of the proposed subdivision, at the time of subdivision plan submission based upon the final house locations, building footprints and final engineering without decreasing the total open space provided, as shown on the GDP.

**2. HOMEOWNERS ASSOCIATION**

The Applicant will establish Homeowners Associations for the proposed development to own, manage, and maintain the open space, and all other community-owned land and improvements. One or two Homeowners Association may be established. Parcel 7 of tax map 97-4-002 can be annexed into the Homeowners Association(s) upon future rezoning or subdivision. The Homeowners Association documents shall provide that the Homeowners Association shall assume responsibility for maintenance of the open space and disclose the fact that the internal public street will be extended and the cul-de-sacs removed. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Applicant of the maintenance responsibility of the open space areas on the Application Property and the fact that the internal public street will be extended through Parcel 7 and the cul-de-sacs removed and said initial purchasers shall be required to acknowledge receipt of this information in writing. The Applicant shall establish the Homeowners Association prior to any record plat recordation.

**3. TRANSPORTATION**

a. At the time of Record Plat approval for each Phase or upon demand by Fairfax County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board, right-of-way up to 45 feet from the existing centerline along the Application Property's Silverbrook Road frontage for Phase One, Two, and Three subject to the approval of VDOT and the Fairfax County Department of Public Works and Environmental Services ("DPWES").

b. The applicant shall provide the frontage improvements,

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as shown on the GDP including the right turn lane along Silverbrook Road.

- c. Density credit shall be reserved as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Ordinance for all eligible dedications described herein or as may be reasonably required by DPWES or VDOT at the time of the subdivision plat approval.
- d. Temporary Cul-de-sacs: The proposed subdivision street shall terminate in two temporary cul-de-sacs as depicted on the GDP. At the time of subdivision approval, the Applicant for each phase shall escrow funds for the future removal of the temporary cul-de-sac for that phase in an amount determined by DPWES. All purchasers shall be advised in writing that the internal public street will be extended through Parcel 7 and the cul-de-sacs removed. A sign shall be erected along each of the cul-de-sacs stating that "this street will be extended through Parcel 7 and this cul-de-sac removed". The cul-de-sacs shall be noted as "temporary" in the Homeowners Association document.
- e. All access to the lots shall be from the new public street, and not Silverbrook Road with the exception of Lot 17, Phase One and Lot 8, Phase Three, on which existing homes may remain. For these two lots, if and when the existing home is removed, at such time access from Silverbrook Road shall be closed and access shall be from the new internal public street.

**4. SIDEWALKS**

A four foot wide sidewalk shall be provided along both sides of the Proposed Public Street being constructed per the Public Facilities Manual on the Application Property as shown on the GDP.

**5. TRAIL**

A trail shall be provided for each phase as each phase is constructed, along the Application Property's Silverbrook Road frontage as shown on the GDP and as determined by DPWES and the County wide Trails Planner. The Applicant shall be allowed to adjust the trail design along Silverbrook Road

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within the right-of-way or easement to avoid the relocation of utility poles or removal of significant trees as determined by DPWES.

At the time of Record Plat approval, the Applicant for RZ 2001-SP-007 shall contribute \$5,880.00 (\$ 280.00/Lot), and the Applicant for RZ 2001-SP-009 shall contribute \$1,680.00 to the Fairfax County Park Authority for construction of recreational facilities in the Springfield District of Fairfax County, as adjusted by the change to the Consumer Price Index published in the Engineering News Record by Mc Graw-Hill from the date of rezoning approval as determined by DPWES.

**6. OPEN SPACE DEDICATION**

Concurrently with recordation of the record plat for the applicable phase, the Applicant shall dedicate Parcels A, B, C and D, as applicable, and as shown on the GDP, to the Homeowners Association.

**7. LANDSCAPING**

- a. Landscaping and on-site amenities shall be generally consistent in terms of character and quantity with the GDP. Specific features such as the exact locations of plantings, driveways, sidewalk connections, etc...are subject to minor modification with final engineering and architectural design.
- b. The Applicant shall provide landscape planting in accordance with the detail shown on Sheet One of the GDP labeled "Typical Layout for Landscape Area." This planting shall not be provided on Lot 17, Phase One, Parcel B, Phase Two or Lot 8, Phase Three until such time as these two lots re-develop.
- c. The Applicant shall provide a 2½" caliper shade/street tree per lot as shown on the GDP. In addition, the Applicant shall provide one additional 2½" caliper shade tree and one 1½" caliper ornamental tree per lot as part of the landscaping package provided for each home, per the Public Facilities Manual.

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## 8. TREE PRESERVATION

- a. The Applicant shall conform to the limits of clearing and grading as shown on the GDP, subject to minor modifications, as approved by the Urban Forestry Division for the placement and installation of necessary utilities and storm water management facilities. Placement of utilities within the limits of clearing and grading, if necessary, shall be performed in the least disruptive manner possible, considering cost and engineering, as determined by the Urban Forestry Division and disturbed areas shall be re-vegetated as determined by the Urban Forestry Division.
- b. The Applicant shall contract with a certified arborist (the "project arborist") to prepare a tree preservation plan to be submitted as part of the first site plan submission. The tree preservation plan shall be reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches of greater in diameter, measured 4½ feet from the ground, and located within twenty (20) feet of the limits of clearing and grading for the entire Application Property. The condition analysis shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.
- c. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four feet high, 14 gauge welded wire or equivalent attached to six (6) feet long steel posts driven eighteen (18) inches into the ground and placed no farther than ten (10) feet apart, shall be placed at the limits of clearing and grading as shown on the Phase One and Two

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erosion and sediment control sheets in all areas. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the site, including the demolition of any existing structures. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing, grading or demolition activities on the site, the Project Arborist shall verify in writing the tree protection fencing has been properly installed.

- d. The demolition of exiting features and structures shall be conducted in such a manner as to minimize the impact on individual trees and groups of trees to be preserved, as determined in consultation with the Urban Forester.
- e. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting and shall clearly delineate the limits of clearing and grading with such flagging throughout the construction period. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with a representative of the Urban Forestry Division and the Project Arborist to determine where adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their proximity to disturbance shall also be identified at this time and the Applicant shall remove such trees as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading and within the tree preservation area shall be removed using chain saws. The stump shall be cut as close to the ground level as possible. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the tree preservation area.

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## 9. STORM WATER MANAGEMENT

- a. The Applicant shall provide onsite storm water detention and a best management practices ("BMPs") pond in accordance with the requirements of the Fairfax County Public Facilities Manual ("PFM") unless waived or modified by DPWES. The pond will be constructed in the general location, within the open space, as shown on the GDP. Nothing contained herein shall preclude the use of alternative methods to provide on site detention and/or BMP's within the roadway (e.g., sand filter), on Parcel B, Phase Two or on the lots as approved by DPWES, if such methods are determined to be in conformance with the GDP.
- b. A public access and pond maintenance easement shall be provided.
- c. The Applicant shall provide landscaping around the SWM pond as shown on the GDP and to the extent possible in keeping with the planting policies of DPWES as approved by the Urban Forestry Division.

## 10. NOISE ATTENUATION

1. Interior Noise: In order to mitigate noise for the lots along Silverbrook Road (Lots 1, 2, 3, 4, 16, 18, 19, 20 and 21, Phase One and Lots 6, 5, Phase Two) the Applicant shall construct these dwelling units with the following acoustical measures to achieve a maximum interior noise level of approximately 45 dBA Ldn:
  - a. Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 35 for interior walls;
  - b. Doors and glazing shall have a laboratory STC rating of at least 28.
  - c. Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

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2. **Exterior Noise:** Exterior noise levels within the above numbered lots shall be reduced to 65 dBA Ldn or less based on final site grades. Noise attenuation measures shall included, but not be limited to, solid fences or walls, berms, landscaping or a combination thereof.

**11. EXISTING HOMES**

If the existing homes, on proposed Lot 17, Phase One, Lot 2, Phase Two and Lot 8, Phase Three remain as existing homes, the owners of said lots may make alterations and enlargements, add additions and accessory structures, etc; in accordance with the provisions of the R-3 Zoning Ordinance in accordance with the applicable provisions of the R-3 conventional or cluster provisions.

**12. HOUSING TRUST FUND**

At the time of Record Plat approval the applicant for RZ 2001-SP-007 shall contribute a sum equaling one-half of one percent (0.5 percent) of the projected sales price of the houses to be built on each lot of RZ 2001-SP-007 to the Fairfax County Housing Trust Fund 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 staff of the Fairfax County Department of Housing and Community Development (HCD) and DPWES. The timing and amount of this contribution may be modified at the Applicant's sole option based upon the adoption of a future amendment to the formula adopted by the Board.

**13. PHASES**

Phases One and Two may be developed independently. The development and subdivision of Phase Three requires the prior or simultaneous subdivision of Phase Two.

**14. ENERGY SAVER PROGRAM**

All new homes constructed on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as

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determined by DPWES for either electric or gas energy systems, as applicable.

15. SIGNS

- a. If lighting of signage is provided, the lighting shall be fully shielded and installed so that it will be angled downward.
- b. No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or at the Applicant's direction to assist in the initial marketing and sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or home sales for the Property to adhere to this Proffer.

16. 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.

(SIGNATURES BEGIN ON THE NEXT PAGE)

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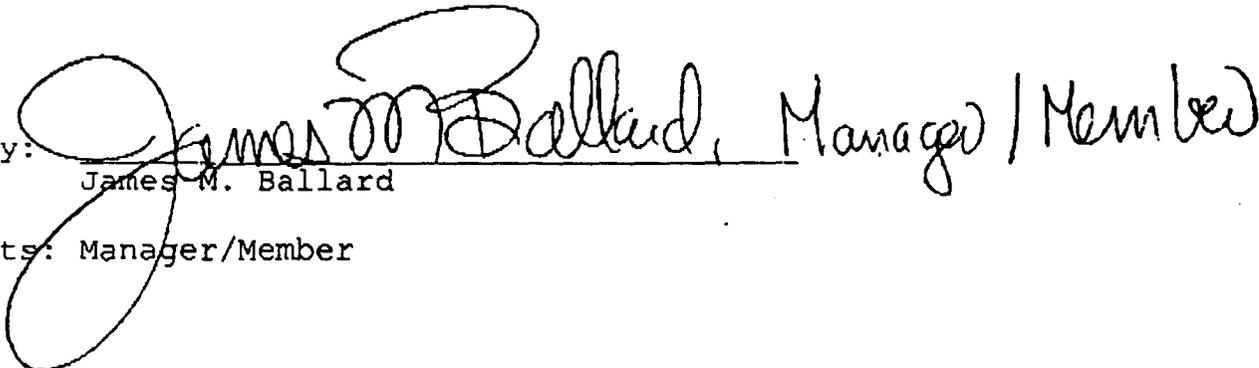
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APPLICANT/CONTRACT PURCHASER

ROSEWOOD BUILDING & DEVELOPMENT, L. L. C.

By:  James M. Ballard, Manager / Member

Its: Manager/Member

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TITLE OWNERS OF TAX MAP 97-4-001 PARCEL 14

Gary Raymond Wolford by James M Ballard  
his Attorney-in-fact

Gary Raymond Wolford

Gina McGuin Wolford by James M Ballard  
her Attorney-in-fact

Gina McGuin Wolford

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TITLE OWNERS OF TAX MAP 97-4-002-PARCELS 9, 10, AND 11

Suzanne B. Devlin by

James M. Ballard her attorney-in-fact  
Suzanne G. Devlin

Paul M. Devlin by

James M. Ballard his attorney-in-fact  
Paul M. Devlin

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TITLE OWNER OF TAX MAP 97-4-002-PARCEL 8

Krystopher Buchman by James M Ballard

his attorney-in-fact

KRISTOPHER BUCHMAN

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TITLE OWNERS OF TAX MAP 97-4-002-PARCEL 1

Ralph M. Mallow by James M. Ballard  
his attorney - in fact  
Ralph M. Mallow

Frances L. Mallow by James M. Ballard  
her attorney - in fact.  
Frances L. Mallow

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TITLE OWNERS OF TAX MAP 97-4-002, PARCELS 2 AND 3

Kenneth L. Dosier by James M. Ballard  
his attorney-in-fact

Kenneth L. Dosier

Brenda J. Dosier by James M. Ballard  
her attorney-in-fact

Brenda J. Dosier

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TITLE OWNERS OF TAX MAP 97-4-002-PARCEL 4

James M. Fields by James M. Ballard

his attorney-in-fact.

James M. Fields

Ethel J. Fields by James M. Ballard.

her attorney-in-fact.

Ethel J. Fields

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TITLE OWNER OF TAX MAP 97-4-002-PARCEL 5

Raymond S. Woolfrey by James M. Ballard  
his attorney - in fact.

Raymond S. Woolfrey

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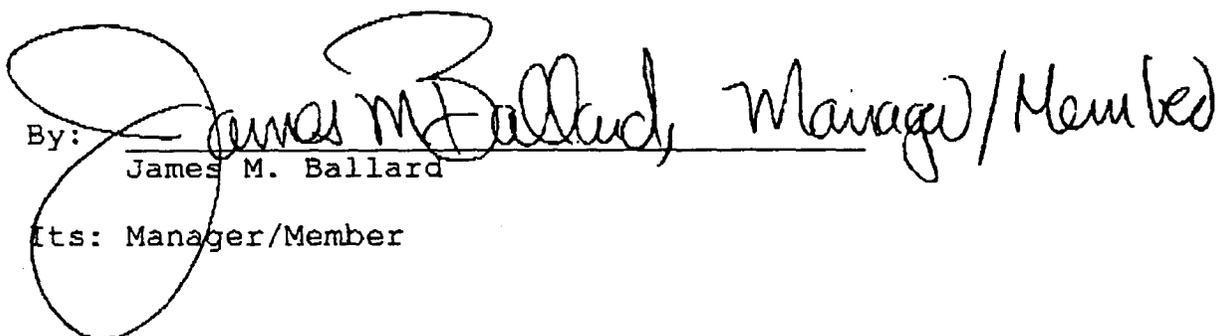
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TITLE OWNER OF TAX MAP 97-4-002-PARCEL 6

Silverbrook Farms, L. L. C.

By:  James M. Ballard  
James M. Ballard  
Its: Manager/Member

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