

PROFFERS: RZ 2000-MV-038

December 20, 2000

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, the owners, and Landmark Property Development, LLC (hereinafter referred to as "Applicant") for the owners, themselves, successors and assignees in RZ 2000-MV-038, filed for property identified as Tax Map 101-3 ((1) Parcel 25 (hereinafter referred to as the "Application Property")), proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-8 District.

1. Development Plan:

Development of the Application Property shall be in substantial conformance with the CDP/FDP prepared by Charles P. Johnson & Associates consisting of four sheets dated June, 2000 and revised through November 27, 2000. Internal and frontage improvements to the property will be constructed as shown on the CDP/FDP.

2. Minor Deviations:

Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the right to make minor adjustments to the internal lot lines of the proposed at the time of subdivision submission based upon final house locations and building footprints provided such changes are in accordance with the CDP/FDP without requiring approval of an amended CDP/FDP, and do not increase the number of units or decrease the amount of open space or peripheral setbacks.

3. Construction of Private Streets and Provision of Sidewalks:

All on site private streets will be constructed to public street standards. Sidewalks will be constructed on each side of the private streets as shown on the CDP/FDP. Future homeowners shall be notified of these maintenance responsibilities within the HOA documents and as noted in proffer 12A.

4. Bus Shelter:

The applicant shall provide funds for a bus shelter to serve transit vehicles north bound on Richmond Highway. The shelter shall be located in the general vicinity of the subject site in a location to be deemed appropriate by the Fairfax County Transit Operations Division.

5. Mount Zephyr Community Sign

At the entrance to this development, the applicant will construct an entrance feature and sign which will also acknowledge the Mount Zephyr Community. If the Mount Zephyr Community Association is able to secure all necessary public or private easements, the Applicant will construct a separate sign of no more than 4 feet in height and 6 feet in length in lieu of the proposed development entrance sign. It will be constructed in a separate location of the Mount Zephyr Community Associations choosing.

6. Energy Efficiency

All homes on the subject site shall meet the thermal guidelines of the Virginia Power Energy Saver programs for energy efficient homes, or its equivalent, as determined by DPWES, for either gas or electric energy systems as may be appropriate.

7. Noise Attenuation:

A) To achieve maximum interior noise level of approximately 45 dba ldn the Applicant will construct all residential units within 150 feet of the centerline of Richmond Highway impacted by highway noise levels between 65 and 70 dBA (decibels A scale) Ldn (Level Day Night) with the following acoustical attributes.

(i) Exterior walls will have a (STC) rating of 39.

(ii) Doors and windows will have a STC rating of 28

(iii) If glazing exceeds 20% of the building facades facing Richmond Highway Street they shall have the same STC rating as the walls.

(iv) Measurements to seal and caulk between surfaces shall follow ASTM standards to minimize sound transmission.

B) In order to reduce the maximum exterior noise in affected rear and side yards of proposed lots 1, and 33 through 38 to a level of approximately 65 dBA, noise attenuation barriers shall be provided for outdoor recreation areas as shown on the CDP/FDP.

Acoustical fencing or a wall shall be architecturally solid from the ground up with no gaps or openings and of sufficient height (requested waiver by the BOS of up to 7 Feet) to adequately shield the impacted area from the source of noise.

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8. Landscaping/Tree Save:

A) Landscaping will be provided in substantial accordance with the CDP/FDP landscape plan dated June, 2000 revised through November 27, 2000. As part of 1st submission of the subdivision plan review, the Applicant shall prepare and submit a landscape plan for review and approval by and in consultation with the Urban Forestry Division, DPWES. All streetscape trees shall be at least 2.5 inches in caliper, for Richmond Highway, Radford Ave., and the internal streets, in the number and locations indicated in the CDP/FDP. The species and exact locations shall be depicted on the landscape plan. All landscaping shall be planted as recommended in the landscape elements section of the Comprehensive Plan urban design recommendations for the Richmond Highway Corridor Area, specifically the sections titled "*Tree Selection Criteria, Recommended Tree Species, and Tree Plant Maintenance.*" All landscaping shall be irrigated and maintained, and dead and dying material shall be replaced in order to keep it in good health and appearance.

B) Within the open space areas of the site, and as part of the Landscape plan, if individual trees as determined by the Urban Forestry Division may be accommodated, saved and stand a reasonable chance of survival, the open space area design will accomplish the tree save by incorporating these trees into the overall landscape design plan. The area identified as the tree save area shall be mulched with wood chips to a depth of 2 inches, dead or dying trees will be cut and left in place, vines will be removed from existing trees and additional shade tolerant evergreens will be planted as a supplement to the area. Prior to commencement of any of the forgoing, the Fairfax County Urban Forester will visit the site with the applicants forester and mark (with tape) the trees to be removed and identify with clearly marked stakes the locations of the additional tree plantings.

C) In order to restore a more natural appearance to the proposed stormwater management pond in the Northwest corner of the site, the landscape plan at subdivision plan submission shall show extensive landscaping in all possible planting areas of the pond, in keeping with the planting policies of the DPWES and the BOS.

D) The applicant shall provide off-site landscaping on Tax Map parcel 101-3 ((3)) 23, abutting proposed lots 12 through 19. This landscaping shall consist of a single row of evergreen trees six (6) to eight feet (8) in height planted at ten feet (10) on center. The obligation to plant the off-site trees is contingent upon the owner of Tax Map parcel 101-3 ((3)) parcel 23 providing a written letter of permission of entry onto the property to plant the specified trees. The Applicant shall plant these offsite trees after final subdivision approval and before commencing clearing and grading on the application.

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property at a time determined by the Urban Forestry Division (UFD). If UFD determines that the proposed time for off-site planting is not an appropriate planting season, the clearing and grading on the application property may start and the off-site trees shall be planted at a later time as determined by UFD, but not to exceed six months from the commencement of clearing and grading. If a letter of permission from the owner of Tax Map 101-3 ((3)) parcel 23 on which the off site planting is to occur is not delivered within thirty days (30) from the Applicants written request, sent by certified mail, return receipt requested, then clearing and grading on the application property may commence without such off-site planting.

9. Recreational Facilities:

At the time of Record Plat approval, the Applicant shall contribute the sum of \$955.00 per dwelling unit to Fairfax County Park Authority to acquire, develop, and maintain recreational facilities in a nearby park.

10. Limits of Clearing and Grading:

The applicant shall generally conform to the limits of clearing and grading shown on the CDP/FDP subject to the installation of necessary sidewalks, trails and utility lines as approved by DPWES. Any trails and utility lines that may be within areas protected by limits of clearing and grading shall be located and installed in the least disruptive manner as possible considering cost and engineering as determined by DPWES. A replanting plan shall be developed and implemented, as approved by DPWES, for any areas within the areas protected by the limits of clearing and grading that must be disturbed.

11. Geotechnical Investigation:

At time of subdivision plan submission, the applicant shall submit a geotechnical investigation of the site and implement such measures as determined by the investigation that will address the small area of uncontrolled fill soils to the satisfaction of DPWES.

12. Homeowners Association:

A) The Applicant shall establish a Homeowners Association for the proposed development to own, manage and maintain streets, sidewalks, driveways, community open spaces, planting areas and community structures (Gazebo, fence) that are installed.

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B) Any restrictions placed on the use of Common Open Space areas, potential for inter-parcel access and a prohibition on use of the garages for any purpose than to park motor vehicles shall be disclosed in a separate disclosure in the HOA documents for future purchasers in the subdivision. A covenant in the form which shall be approved by the County Attorney shall be recorded which provides that garages shall be used for purposes that will not interfere with the intended purposes of garages (e.g. parking of vehicles). This covenant shall be recorded among the land records of Fairfax County prior to the sale of any lots and shall run to the benefit of the homeowners association, which shall be established, and to Fairfax County.

13. Affordable Dwelling Units (ADU's):

At the time of record plat approval the applicant shall contribute to the Fairfax county Housing Trust Fund a sum equal to 1% of the projected base sales price of each unit 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 and DPW&ES.

14. Richmond Highway Dedication of Right of Way:

At the time of subdivision plan approval or upon demand by Fairfax County or the Virginia Department of Transportation (VDOT), whichever occurs first, the Applicant shall dedicate to the Board of Supervisors, in fee simple, a maximum of 68 feet from centerline along the Richmond Highway frontage of the siet as shown in the CDP/FDP.

15. Phase 1 Environmental Study

Prior to subdivision approval the Applicant shall submit a Phase 1 Environmental investigation of the property to DPWES for review. DPWES may ask other Fairfax County or State agencies to evaluate the report findings. The investigation will be generally consistent with the procedures described by the American Society of Testing and Materials (ASTM). If warranted by the results of the Phase 1 investigation and if determined by DPWES and the State Water Control Board, the applicant shall pursue a Phase II investigation program. Subject to the findings of a Phase II evaluation program, if soil contaminants

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are found in sufficient quantities and at such levels to require a longer term monitoring program, a remedial action program and corrective action plan shall be instituted to the satisfaction of the State Water Control Board prior to subdivision approval.

16. Possible Interparcel Dedication:

If warranted by possible residential development of the adjacent parcel to the North (Tax Map 101-3 ((1)) 25 currently zoned commercial) an interparcel access easement (labeled "potential inter parcel access easement area") will be granted at the time of subdivision approval. This easement shall be conditioned upon residential rezoning of the adjacent parcel and will be granted for only residential interparcel access. Furthermore, all costs of implementing an interparcel access shall be borne by the owners of the adjacent parcel including but not limited to those associated with legal documents, agreements, construction, landscaping and engineering. The HOA documents shall specify that the HOA shall be responsible for only a proportionate part of the maintenance of the portion of the Mt. Zephyr Commons internal road that may be used by any adjacent residential development. An agreement by the owners of both developments setting forth a pro rata share of maintenance, repair, replacement and any necessary improvements to the roadway will be developed based on a formula for numbers of trips (ITE rates) generated from the new development versus the number of trips (ITE rates) from Mt. Zephyr Commons using the portion of the internal roadway.

17. Architecture Elevations:

The front architecture shall generally conform with the illustrative architectural elevation as shown on the CDP/FDP. The rear elevations of the second (and or third) floors of those dwelling units backing up to Richmond Highway will not have decks (to also be prohibited in the HOA documents) and have fenestration-Architectural details such as trim, window treatments and roof lines similar to those of the front elevations. The side elevations of those dwelling units next to Radford will have fenestration-Architectural details such as trim and window treatments similar to the front elevations.

18. Lighting:

Street lights along Radford Avenue and Richmond Highway shall be provided as prescribed in the Urban Design Recommendations as stated in the Comprehensive Plan for the Richmond Highway Corridor Comprehensive Plan design recommendations for the Richmond Highway Commercial Revitalization District (CRD) in terms of design,

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height, and placement. All lighting shall feature cutoff shielding and shall be directed downward to minimize offsite glare to adjacent residential uses. Lighting internal to the project shall conform to the detail as shown on the CDP/FDP.

19. Demolition:

The applicant will demolish the existing buildings on site within 60 days of transfer of property title.

20. Successors and Assigns:

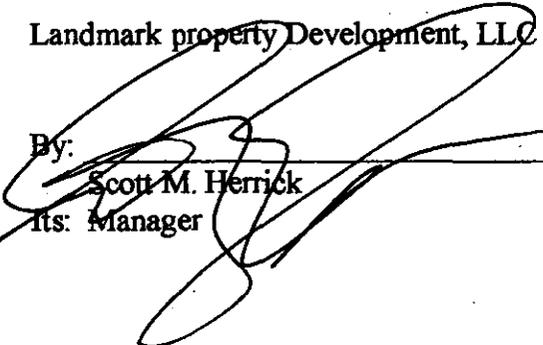
These Proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

CONTRACT PURCHASER OF TAX MAP 101-3 ((1)) 25
Eastwood Properties, Inc.

By: 
Richard L. Labbe
Its: President

APPLICANT/CONTRACT PURCHASER FROM
EASTWOOD PROPERTIES, INC.
ATTORNEY AND AGENT-IN-FACT FOR TAX MAP
101-3 ((1)) 25.

Landmark property Development, LLC

By: 
Scott M. Herrick
Its: Manager

PROPOSED FDP DEVELOPMENT CONDITIONS

FDP 2000-MV-038

December 7, 2000

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2000-MV-038 from the C-2, C-8, and Highway Corridor (HC) Overlay Districts to the PDH-8 and HC Overlay Districts for residential development located at Tax Map 101-3 ((1)) 25, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. A single row of deciduous trees shall be planted along the northern property line, behind proposed Lots 1 through 11. These trees shall be six (6) to eight (8) feet in height and planted at ten (10) feet on center.
- ~~2. Sixty (60) days after rezoning approval, a written request shall be sent by certified mail, return receipt requested, to the owner of Tax Map 101-3 ((3)) 23, seeking permission to conduct offsite landscaping on Tax Map 101-3 ((3)) 23 as described on the Conceptual/Final Development Plan. The letter shall state that offsite landscaping for Tax Map 101-3 ((3)) 23 was proffered with the rezoning of the subject site in order to provide Tax Map 101-3 ((3)) 23 with additional screening. The request letter shall also state that if a letter of permission from the owner of Tax Map 101-3 ((3)) is not delivered within thirty days (30) from the filing of the subdivision plan, then clearing and grading on the application property may commence without such off-site planting. Copies of correspondence between the applicant and the owner of Tax Map 101-3 ((3)) 23 shall be provided to the Department of Public Works and Environmental Services (DPWES) upon the filing of the subdivision plan.~~

