

PROFFERS
RZ 2001-DR-001
EDGE MOORE-STUART ROAD LLC
JUNE 18, 2001

Pursuant to Section 15.2-2303(A) of the 1950 Code of Virginia, as amended, and Section 18-204 of the Fairfax County Zoning Ordinance, the undersigned, as the Applicant in the above-referenced Rezoning Application and the owners of the Property (the "Property") which is the subject matter thereof, for themselves and their successors and assigns, hereby proffer that the development of the Property will be subject to the following terms and conditions should the same be rezoned to R-3 in conformity with the GDP:

1. **Proffered GDP.** The Property shall be developed in substantial conformance with the Generalized Development Plan (GDP) and the notes thereon, dated October 30, 2000, revised to March 29, 2001, prepared by Planning Development Services, Inc., consisting of two sheets. The Applicant does not intend by this proffer to waive the right to make minor engineering modifications permitted and/or rendered necessary by the subdivision ordinance, the zoning ordinance, or by the Public Facilities Manual, as determined by DPWES and/or the Zoning Administrator.

2. **Tree Save/ Limits of Clearing and Grading -**

The limits of clearing and grading shown on the GDP shall be adhered to, and subject to the approval of the Urban Forestry Division of DPWES, the Applicant shall perform the following measures relating to tree preservation on the property:

- The applicant shall retain a certified arborist to prepare a tree preservation plan to be reviewed by the Urban Forestry Division as part of the first subdivision plan submission. A copy of the approved tree preservation plan shall be forwarded to representatives of Union Mill and Stuart Ridge Homeowners' Associations. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches or greater in diameter twenty (20) feet to either side of the limits of clearing and grading for the entire site as shown on the approved GDP. The condition analysis shall be prepared using the 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 provided. Activities may include but are not limited to, crown pruning, root pruning, mulching, and fertilization.

- The Applicant shall have the limits of clearing flagged prior to construction.

- All tree save areas shown on the GDP shall be protected by temporary fencing a minimum of four feet in height placed at the border of the areas. This fencing shall be fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart installed prior to any clearing and grading work on the Property. Prominent signs shall be placed on the fencing stating "TREE SAVE AREA-DO NOT DISTURB" to prevent construction personnel from encroaching in these areas. The installation of the tree protection fence shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading, or demolition activities, the project's certified arborist shall verify in writing that the tree protection fence has been properly installed.

3. **Trees/Landscaping.** Street trees and other landscaping features shown on the GDP will be provided generally in the locations and as shown on the GDP, subject to the approval of DPWES/Urban Forestry Division.

4. **Energy -Saving Homes.** All homes shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes, or the equivalent for gas or other power.

5. **Public Parks Contribution** Applicant shall contribute to the Fairfax County Park Authority at the time of final subdivision plat approval the sum of \$700 per approved lot for recreational purposes to be used in a nearby public park.

7. **Construction Traffic.** Sole construction access for the development shall be by way of Stuart Road, with appropriate signage, as permitted by VDOT warning of construction traffic activity and requiring all construction traffic to use only Stuart Road. No construction vehicles shall park on Stuart Road (except north of Cheviot Drive and north of Stuart Ridge Lot 1) or Heather Down Drive or any other public street. Heather Down Drive shall be barricaded until final pavement topping is installed on Heather Down Drive on the Property. Stuart Road shall be regularly inspected and kept free of mud, rocks, nails and other debris, and washed as required by VDOT and DPWES. A construction vehicle wash rack shall be installed at the construction entrance.

8. **Homeowners Association.** The open space shall be conveyed to a homeowners' association in a form approved by the County Attorney. The open space shall be subject to a restriction that prohibits construction of residences, sheds, or pools, and denuding therein, except as required for maintenance and

utilities. Maintenance of the open space, including the stormwater management pond on Parcel A, shall be the responsibility of the Homeowners Association. Maintenance of Parcel B, which contains the VDOT stormwater management pond, shall be the responsibility of VDOT.

9. Noise Attenuation.

Applicant shall achieve a maximum interior noise level of approximately 45dBA Ldn in any area identified as affected by levels above 65 dBA Ldn (450 feet from the centerline of Fairfax County Parkway). All units within this impacted area will have the following acoustical attributes as determined by DPWES:

- (a) Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 39.
- (b) Doors (excluding garage doors) and windows shall have an STC rating of at least 28. If glazing (excluding any glazing in a garage door) constitutes more than twenty percent (20%) of any façade, then such glazing shall have the same STC rating as that façade.
- (c) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- (d) Exterior noise levels in the rear and side yards impacted by noise from the Fairfax County Parkway shall be reduced to 65 dBA Ldn or less through the construction of berms and/or architecturally solid wood fencing from the ground up with no gaps or openings and at least six to eight feet in height, as approved by DPWES.

The applicant reserves the right to pursue any other or additional methods of mitigating highway noise impacts if it can be demonstrated, through an independent noise study as reviewed and approved by DPWES, that such method will be effective in reducing noise levels in the affected areas to the maximum noise levels as described above.

10. Erosion/Sediment Control.

Prior to and during construction activity the Applicant shall install and maintain erosion and sediment control facilities, including super-silt fencing in areas approved by DPWES to aid in preventing erosion and sediment from entering Union Mill and Stuart Ridge stormwater management facilities. A double-tier system of control measures, incorporating super-silt fencing, shall be provided in the lower portion of the site adjacent to the open space.

11. Sidewalks.

Sidewalks shall be provided on both sides of the public streets in accordance with PFM standards, as determined by DPWES.

12. Geotechnical Review.

If required by DPWES in accordance with the PFM, Applicant shall submit a geotechnical study of the Property for review and approval by DPWES, and the recommendations thereof shall be incorporated in the development of the site.

13. Site Superintendent.

Applicant shall provide the name and phone number of the construction site superintendent to representatives of the Union Mill and Stuart Ridge homeowners' associations for matters of concern which may arise during construction.

14. Signs.

No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance or 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 Applicant or at Applicant's direction to assist in the initial sale of homes on the Property. Applicant shall direct its agents and employees involved in marketing and/or home sales for the Property to adhere to this proffer.

15. Affordable Housing Trust Fund.

The Applicant shall, at the time of final subdivision plan approval, contribute one half of one percent (0.5%) of the estimated sales price of each new dwelling to Fairfax County for the County's Housing Trust fund for the provision of affordable housing. The Applicant, in consultation with the staff of the Fairfax County Department of Housing and Community Development, shall determine the estimated sales price.

16. Blasting

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will insure that blasting is done per Fairfax County Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the uses of blasting mats, shall be implemented. In addition, the Application or its successors shall:

- a. Retain a professional consultant to perform a pre-blast survey of each house or residential building, to the extent that any of these structures are located within two hundred fifty (250) feet of the blast site.
- b. Require his consultant to request access to houses, buildings, or swimming pools that are located within said 250-foot range if permitted by owner, to determine the pre-blast conditions of these structures. The Applicant's consultants will be required to give adequate notice of the scheduling of the pre-blast survey. The Applicant shall provide the Union Mill, Stuart Ridge and Kingstream Homeowners Association and all residences entitled to the pre-blast inspections, of the name, address and phone number of the blasting contractor.
- c. Require his consultant to place seismographic instruments prior to blasting to monitor the shock waves. The Applicant shall provide seismographic monitoring records to the Fire Marshal upon their request.
- d. Signs shall be placed at the Heather Down Drive and Stuart Road property lines of the site prior to blasting advising of blasting activities. The Applicant shall also place a sign at the intersection of Stuart Drive and Cheviot Drive and on Heather Down Drive notifying residents of blasting.
- e. Notify residences within 250 feet of the blast site ten days prior to blasting.
- f. Upon receipt by Applicant of a claim of actual damage resulting from said blasting, the Applicant shall make diligent effort to cause its consultant to respond within five (5) days by meeting at the site of the alleged damage to confer with the property owner. Any verified claims for damage due to blasting shall be expeditiously resolved.
- g. The Applicant will require in its contracts with blasting subcontractors that they maintain liability insurance standard in the blasting industry and are bonded.

17. **Stormwater Management** Any clearing areas adjacent to the onsite stormwater management facility located on Parcel A shall be landscaped to the maximum extent feasible by the Applicant using native species, in coordination with the Urban Forestry Division. Additional plantings may be provided within the stormwater management pond, subject to DPWES approval. In the event

that the stormwater management pond is waived or modified the area identified on the GDP shall remain open space and the applicant, in consultation with the Urban Forestry Division, shall endeavor to provide additional tree preservation.

18. Notification of Plans

Applicant shall provide copies of subdivision plans to representatives of the Union Mill and Stuart Ridge HOA at the same time the plans are submitted to the County for review. The name, address and phone number of the Applicant's project manager shall also be provided.

19. Transportation

Prior to issuance of the first Residential Use Permit (RUP), the Applicant shall remove the pavement or gravel, if any, within the temporary cut-de-sac at the end of Stuart Road, and install curb and gutter adjacent to the existing edge of right-of-way, subject to VDOT approval. The applicant shall re-sod the area of the temporary cul-de-sac.

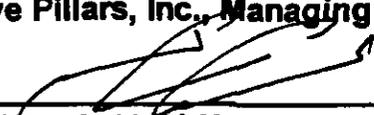
20. Tree Preservation Easement

A tree preservation easement shall be provided in those areas labeled as Tree Preservation/Conservation Easement on the GDP, which includes the areas on individual Lots 3-11 and Parcel E on the GDP. The purpose of the tree preservation easement shall be to conserve and preserve natural vegetation located outside the limits of clearing and grading as shown on the GDP. In the tree preservation easement, no living trees having a caliper of six (6) inches or greater when measured four feet above the ground shall be cut down or otherwise removed, except that the removal of dead, diseased, damaged or otherwise hazardous trees, shrubs or vines may be permitted. This tree preservation easement shall be recorded with the record plat in the land records, and shall prohibit construction of residences, sheds, or pools, and denuding. Utility placement within the tree preservation easement shall be prohibited unless deemed necessary and approved by DPWES. The tree preservation easement shall run to the Homeowner's Association. The restriction associated with tree preservation easement shall be clearly identified and defined in the HOA restrictive covenants and recorded in the land records. Initial prospective purchasers of Lots 3-11 shall be advised, in writing, prior to entering into a contract of sale of the terms of the tree preservation easement, in a form approved by the County Attorney.

Applicant:

EDGEMOORE-STUART ROAD LLC

By: Five Pillars, Inc., Managing Member

By: 

Al-Husain Y. Al-Hussain, Pres.

Owners:

Gary Yardley Davis

Dyana Davis

BINDING EFFECT

21. These proffers will be binding upon Applicant and its successors and assigns

SIGNATURE PAGE FOLLOWS

Applicant:

**EDGEMOORE-STUART ROAD LLC
By: Five Pillars, Inc., Managing Member**

**By: _____
Al-Husain Y. Al-Hussain, Pres.**

Owners:

Gary Yarbley Davis

Gary Yarbley Davis

Dyana Davis

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