

## **PROFFERS**

### **THE RYLAND GROUP, INC.**

#### **RZ 2000-SU-050**

**June 29, 2001**

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, The Ryland Group, Inc., their successors and assigns, and owners for themselves, their successors and assigns (hereinafter referred to as the "Applicant"), in RZ 2000-SU-050, filed for property identified on Fairfax County Tax Map as 56-1 ((1)) Parcels 42, 43 and 56-2 ((1)), Parcel 68, (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R-1 District to the PDH-2 District

#### **1. CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN (CDP/FDP)**

- a. Subject to the provisions of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by Bowman Consultants Group, dated June 29, 2001.
- b. The illustrative architectural rendering as shown on Sheet 5 of the CDP/FDP is provided to illustrate the design intent of the proposed units. The building elevations shall be generally consistent in terms of character and quality with the illustration, and the materials on the exterior of the units will consist of a mix of either masonry or siding. The specific features, such as the exact location of windows, doors, shutter and roofline, number of stories and other architectural details are subject to modification with final engineering and architectural design.

#### **2. TRANSPORTATION**

- a. At the time of subdivision plat approval or upon demand from the Virginia Department of Transportation (VDOT) or the Department of Public Works and Environmental Services (DPWES), whichever occurs first, the Applicant shall dedicate in fee simple to the Board, a right-of-way along the Property's Lee Highway frontage as shown on the CDP/FDP.
- b. Prior to the issuance of the first residential use permit (RUP), the Applicant shall construct a service drive along the Application Property's Lee Highway frontage and along the Lee Highway frontage on Tax Map 56-2 parcel 67 located to the east of the Application Property, as depicted

on the CDP/FDP, to facilitate access to Lee Highway and full turns at the existing median break. In lieu of the VDOT required 250 foot long turn lane, the Applicant shall construct a 350-foot long right turn lane with a 100-foot taper on eastbound Lee Highway as shown on the CDP/FDP. The cost of the 100 foot long portion of the right turn lane that exceeds VDOT minimum length standards will be credited toward the contribution to the Fairfax Center Road Fund.

- c. The Applicant shall contribute funds, subject to credit for the additional segment of turn lane to the Fairfax Center Road Fund in conformance with the procedural guidelines adopted by the Board on November 22, 1982 and as subsequently revised.
- d. Prior to final bond release, the Applicant shall construct a 10-foot wide trail within dedicated right-of-way along the Application Property's Lee Highway frontage as shown on the CDP/FDP.
- e. The Applicant, at its sole expense, shall arrange for the vacation of the ingress/egress easement called Holiday Lane, either through private agreement with the two parcel owners served by the easement or through judicial order. Prior to subdivision plat approval, the Applicant shall provide documentation to Fairfax County that the ingress/egress easement serving Tax Map 56-1 ((1)), Parcels 27 and 28, known as Holiday Lane, will be vacated in favor of access via the public street system. The vacation of said easement shall be recorded upon completion of a public street connection to Lee Highway from the remaining easement segment, which connects to the two parcels. In the event the vacation is not accomplished in order to permit the development as shown on the CDP/FDP, the Applicant will apply for a Proffer Condition/Final Development Plan Amendment application, which may result in the loss of lots.
- f. During construction of the public street system as shown on the CDP/FDP, the Applicant shall construct curb returns for the possible interparcel access to the parcels to the east (Tax Map 56-4 ((1)) Parcel 1). At time of subdivision plat approval, the Applicant shall dedicate right-of-way from the proposed public street system to the eastern property line along with ancillary temporary grading and construction easements for the future construction of the public street segment. The Applicant shall disclose the potential interparcel access to the east (Tax Map 56-4 ((1)) Parcel 1) and west (Tax Map 56-1 ((1)) Parcel 46) within Homeowner's Association documents and in writing to all initial prospective purchasers.
- g. The Applicant shall dedicate the 44 foot wide outlot located between Lots 8 and 9 to the HOA for a possible public interparcel access to and from Tax Map 56-1 ((1)), parcel 46. In the event Tax Map 56-1 ((1)), parcel 46 redevelops with adequate, alternative access, the outlot will be maintained by the HOA as open space. In the event that Tax Map 56-1 ((1)), parcel

46 redevelops and requests dedication, the outlot shall be dedicated and conveyed in fee simple by the HOA to the Board of Supervisors. The possible dedication of the outlot shall be disclosed in writing to all initial purchasers and within the HOA documents.

### 3. ENVIRONMENTAL

- a. In order to reduce interior noise to a level of approximately DNL 45 dBA, units within a highway noise impact zone of DNL 65-70 dBA at 370 feet from the centerline of Route 28 shall employ the following acoustical treatment measures:
  - i. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
  - ii. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any facade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20 percent of an exposed facade, then the glazing shall have an STC rating of at least 39.
  - iii. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials (ASTM) to minimize sound transmission.
- b. In order to reduce exterior noise levels below DNL 65 dBA, noise attenuation structures such as acoustical fencing, walls, earthen-berms, or combination thereof shall be provided for unscreened common and private outdoor recreational areas. If acoustical fencing or walls are used, they shall be architecturally solid from the ground up with no gaps or openings. The structure must be of sufficient height within the maximum limitations permitted by the Zoning Ordinance to adequately shield the impact area from the source of the noise.
- c. As an alternative to the above, the Applicant may elect to have a refined acoustical analysis performed subject to approval by DPWES, in coordination with Environmental and Design Review Branch, DPWES, to verify or amend the noise levels and impact areas as 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 side.
- d. Stormwater Management (SWM) and Best Management Practice (BMP) shall be provided in accordance with the Public Facilities Manual (PFM) requirements subject to waivers as noted on the CDP/FDP as determined by DPWES. If the southernmost SWM/BMP pond is waived and not constructed, the area around the facility as shown on the CDP/FDP shall remain undisturbed.

- e. Applicant shall cap any existing wells as approved by DPWES.

#### 4. LANDSCAPING AND OPEN SPACE

- a. Street trees, peripheral, and interior landscaping shall be provided by the Applicant generally as shown on Sheet 3 of the CDP/FDP. The exact location of the proposed plantings may be modified, as necessary, by the Urban Forester DPWES for the installation of utilities.
- b. Prior to the issuance of the first RUP, a berm along the Application Property Lee Highway frontage shall be constructed in substantial conformance with the berm detail shown on Sheet 3 of the CDP/FDP. Landscaping on the berm shall be installed during the next appropriate planting season as determined by the Urban Forestry Division.
- c. The landscaped median at the entry area to the service drive shall be provided, subject to VDOT approval.
- d. The SWM pond shall be landscaped in conformance with Board policy, as approved by DPWES.

#### 5. TREE SAVE AND PRESERVATION

- a. As part of subdivision plat submission, the Applicant shall prepare a tree preservation plan along the limits of clearing and grading line as shown on the CDP/FDP for the Application Property to be submitted as part of final site plan submittal. The tree preservation plan shall, *inter alia*, show individual trees to be preserved, transplanted, the limits of clearing, and the easements, all as indicated on the CDP/FDP, and 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 of all trees 12 inches or greater in diameter, measured 4 ½ feet from the ground, within 20 feet on the tree preservation side of the limits of clearing and grading shown on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the eighth 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.
- b. All trees shown to be preserved on the tree preservation plan shall be protected at all times during construction. Tree protection shall be in accordance with PFM Section 12-0802.2 standards.
- c. The tree protection shall be made clearly visible to all construction personnel. The tree protection shall be installed prior to the performance

of any clearing and grading activities on the site, including the demolition of any existing structures.

- d. The demolition of existing 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. These methods are to be included in the tree preservation plan.
- e. The limits of clearing and grading shall conform to the limits as shown on the CDP/FDP, subject to installation of utilities if necessary as approved by the Department of Public Works and Environmental Services (DPWES). If necessary, utilities outside the limits of clearing and grading will be located and installed in the least disruptive manner possible considering cost and engineering. A replanting plan in accordance with the Public Facilities Manual will be developed and implemented, as approved by the Urban Forestry Division for any areas outside the limits of clearing and grading that must be disturbed
- f. Buffer plantings along the eastern and western property lines as shown on Sheet 3 of the CDP/FDP, are to be installed if and only if Applicant is unable to preserve the existing trees in the open space areas.

## **6. AFFORDABLE HOUSING**

At the time of final subdivision plat approval, the Applicant shall contribute to the Fairfax County Housing Fund the sum equal to one percent (1%) of the projected sales price of the house to be built on each lot 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.

## **7. ARCHAEOLOGY**

Prior to any land disturbing activities on the Application Property, the Applicant shall conduct a Phase 1 archaeological study. If within 30 days of submission of the Phase I study, the County Archaeological Services of the Fairfax County Park Authority (Archaeological Services) has determined and notified Applicant in writing that a Phase 2 study is necessary, Applicant shall conduct a Phase 2 archaeological study on those areas of the Application Property identified by Archaeological Services at a cost not to exceed \$10,000.00. A qualified archaeological professional approved by Archaeological Services shall perform the studies. The results shall be reviewed and approved by Archaeological Services. The studies shall be completed prior to subdivision plat approval. If the Phase 1 and/or Phase 2 studies conclude that significant artifacts are present on the Application Property, and if Archaeological Services notifies the Applicant in writing within 30 days of the submission of the study results to Archaeological Services of its desire to conduct additional investigations, the Applicant shall provide access to the Application Property so that Archaeological Services may

conduct additional investigations for a maximum period of 3 months from the date of notification or until such time as land disturbing activities commence. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and Archaeological Services.

**8. HOMEOWNERS ASSOCIATION**

At the time of subdivision plat approval, the Applicant shall create a homeowner's association to own and maintain all of the open space areas shown on the CDP/FDP.

**9. RECREATION**

- a. Prior to the issuance of the 24<sup>th</sup> RUP, the Applicant shall construct the tot lot, garden structure and open space trail system as shown on the CDP/FDP for passive recreational purposes.
- b. In the event the value of the improvements set forth in paragraph a. do not equal or exceed the sum of \$955.00 per unit as required in Article 6 of the Zoning Ordinance, then the Applicant shall contribute the difference between the value of the recreational improvements and \$955.00 per unit to the Fairfax County Park Authority for use in Stringfellow Park.

**10. LIGHTING**

Streetlights in locations as shown on the CDP/FDP, which substantially conform to the light standard shown on Sheet 3 of the CDP/FDP shall be installed with full cut-off luminary devices diverted downward to reduce glare.

**11. SEWER SERVICE**

All homes as shown on the CDP/FDP are located within an approved sewer service area or within 400 feet of an approved sewer service area, as required by Board policy. Any homes to be constructed within 400 feet from the approved sewer service area shall be connected to the public sewer system by gravity flow and no pumps shall be permitted. If a lot cannot be connected to public sewer, it will be deleted.

**12. COMMUNITY SIGNAGE**

Applicant reserves the right to construct an entry feature including community identification within the open space area along the Lee Highway frontage as shown on Sheet 5 of the CDP/FDP in conformance with Article 12 standards of the Zoning Ordinance.

**13. TEMPORARY SIGNAGE**

No temporary signs (including "Popsicle" style 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 the homes on the Application 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.

**[SIGNATURES BEGIN ON FOLLOWING PAGE]**

Title Owners

Tax Map 56-1 ((1)), Parcels 42 and 43

ER & MR, LLC

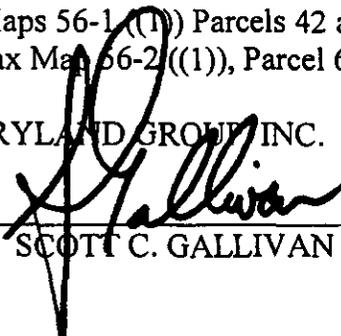
*Linda Kathleen H. Seek*

LINDA KATHLEEN H. SEEK, MANAGER

APPLICANT/CONTRACT PURCHASERS OF  
Tax Maps 56-1((1)) Parcels 42 and 43  
and Tax Map 56-2((1)), Parcel 68

THE RYLAND GROUP INC.

BY



SCOTT C. GALLIVAN