

RZ 2000-MV-051

April 2, 2002

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 themselves, their successors and assignees in RZ 2000-LE-051 and FDP 2000-LE-051, filed for property identified as Tax Map 101-3 ((10)) Parcels 1, 2, 3, 4, 5, part of 6, part of 7, 8, 9 part of 10, 101-3 ((11)) parcels 2 through 10, Tax Map 101-3 ((1)) parcels 39 A and parcels 40 through 42 part of parcel 43 (hereinafter referred to as the "Application Property"), proffer the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-16 and HC Districts.

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 13 sheets dated August 31, 2000 and revised through July 9, 2001

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 lot lines of the proposed lots at the time of subdivision submission based upon final house locations and building footprints provided such changes are in substantial conformance with the FDP, and do not increase the number of units or decrease the amount and location of open space, lot widths, rear yard setbacks for the proposed single-family detached dwellings, peripheral setbacks, distance between units, access or parking spaces, without requiring approval of an amended FDP.

3. A. Construction of Private Streets and Provision of Sidewalks:

All on site streets will be private streets. Sidewalks will be provided in the location as generally shown on the CDP/FDP. Both the streets and sidewalks will be constructed in conformance with the Public Facilities Manual [PFM] TS 5A. The pavement design for the private streets will conform to public street standards. Future homeowners shall be notified of their maintenance responsibilities for the streets and other HOA owned and maintained facilities within the HOA documents that will be made available for review prior to entering into a contract of sale and also to be contained in the HOA documents provided at closing.

At time of site plan/subdivision plat approval the Applicant, subject to the approval of the County Attorney will develop a 10 year annual HOA budget for both maintenance and replacement costs of all on site infrastructure such as private streets, recreation facilities, barriers, and Etc. The applicant will ensure that the initial first year monthly deposits to the HOA escrow funds are sufficient to establish the fund in a timed progression based upon the needs of maintenance and a replacement schedule and anticipated construction of the dwelling units over 10 years. The applicant will contribute the cost share for constructed but unoccupied units.

B. Construction of Public Streets:

Applicant: (i) will dedicate and convey in fee simple to the Board of Supervisors right of way; and (ii) construct frontage improvements along the subject site's Frye Rd., Manor Dr., and Skyview Dr. frontage as shown on the CDP/FDP. Dedication will be made at the time of site plan/subdivision plat approval or upon demand of the Board of Supervisors or the VDOT, whichever occurs first.

Applicant will dedicate and convey in fee simple to the Board of Supervisors the right of way up to 75 feet from the existing centerline along the subject site's Richmond Highway frontage. The Applicant will construct the Richmond Highway frontage improvements (up to 75 feet of pavement from existing centerline); provided however, that subject to the approval of DPWES in lieu of construction, the Applicant may escrow funds for such costs in an amount to be determined by DPWES at the time of site plan/subdivision plat approval process. Dedication shall be made upon demand by the Board of Supervisors but no later than final bond release.

4. Streetscape:

Irrespective of the note on the CDP/FDP, the Applicant will provide for the frontage of the property along Richmond Highway, Skyview Ave., Manor Dr. and Frye Rd as shown on the CDP/FDP exhibit in detail on sheet 8 of 11. Applicant will construct the streetscape in front of parcels 101-3 ((10)) lots 6,7,10 101-3 ((1)) Parcel 43 within the ROW and by signing these proffers the owners consent to the streetscape improvements to be made by the applicant.

B) The brick frontage wall along Richmond Highway will begin the transition to the 6 ft. high masonry walls 20 feet before reaching the 6 ft. masonry wall as depicted on Sheet 4 of the CDP/FDP.

C) All masonry walls on the site will be architecturally solid from the ground up with no gaps or openings, except for the brick wall along Richmond Highway which will have an opening for a gate. The proposed masonry wall finish will reflect the building material color and texture used for the proposed single-family attached units.

5. 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.

6. Noise Attenuation:

A) In order to reduce interior noise to approximately 45 dBA-Ldn within a highway noise impact zone of DNL 65 to 70 dBA (380 feet from the Richmond Highway centerline) the Applicant shall employ the following:

(i) Exterior walls shall have a laboratory and transmission class (STC) rating of 39

(ii) Doors (excluding garage doors) and glazing shall have a STC rating of at least 28 unless glazing constitute more than 20% of any façade exposed to noise levels of DNL65dBA or above. If glazing constitute more than 20% of an exposed facade then the windows shall have a STC rating of at least 39.

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

B) In order to reduce interior noise level of approximately 45 dBA within a highway impact noise zone of DNL 70-75 dBA (175 feet from the existing centerline for Richmond Highway) the Applicant shall employ the following acoustical treatments:

(i) Exterior walls shall have a (STC) rating of 45

(ii) Doors (excluding garage doors) and windows shall have a STC rating of at least 37 unless windows constitute more than 20% of any façade exposed to noise levels of DNL65dBA or above. If windows constitute more than 20% of an exposed facade then the windows shall have a STC rating of at least 45.

(iii) All surfaces shall be sealed and caulked in accordance with methods approved by the ASTM to minimize sound transmission.

C) In order to achieve a maximum exterior noise level of 65 dBA or less Ldn in the open space areas identified as Parcel A, the applicant shall provide a six (6) foot high, architecturally solid masonry and/or brick wall with no gaps or openings wall adjacent to proposed units 170-171 and 186-187 as depicted on the CDP/FDP.

D) The Applicant reserves the right to pursue other methods of mitigating highway noise impacts through an independent noise study as reviewed and approved by DPWES, which demonstrates that these methods will be effective in reducing interior noise levels to 45 dBA Ldn or less.

7. Landscape and Streetscape:

Irrespective of the note on the CDP/FDP, landscaping and streetscape will be provided in substantial accordance with the location quality and quantity of plantings depicted on the CDP/FDP, which is as prescribed in the Urban Design Recommendations contained in the Comprehensive Plan for the Richmond Highway Corridor. The Applicant shall submit a landscape plan as part of the site plan/subdivision plat review. This plan will be coordinated with and approved by the Urban Forestry Division, DPWES, and will contain the landscaping shown on the CDP/FDP. Streetscaping located within the Right of Way subject to VDOT approval will be irrigated and maintained by the Applicant and thereafter by the HOA. All new deciduous trees will be 2.5 to 3.0 inches in caliper at the time of planting; new evergreen trees will be a minimum of 6 feet in height.

8. Recreational Facilities:

The Applicant will comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance regarding developed recreational facilities. Irrespective of the provisions of that section, the Applicant proffers that the expenditure for the recreational facilities will be a minimum of \$1,050.00 per residential unit. The Applicant shall receive credit for the on-site recreational facilities that may include but not be limited to, a community gathering area with Gazebo, outdoor seating, picnic tables, tot lots and a play field in accordance with section 16-404 of the Zoning Ordinance and as depicted on the CDP/FDP. The

Applicant agrees that no credit (of the \$1,050) will be applied for the cost of the land and landscaping on any portion of the site that is not designated as recreation space. Further, the Applicant agrees that the cost of the land for the designated on site recreation facilities will not be calculated as part of the \$1,050 contribution. If the on site recreational facilities do not meet the \$1,050.00 per residential dwelling unit for on-site recreational facilities is not spent on site, as determined by DPWES, then any remaining funds shall be provided to the Fairfax County Park Authority for the maintenance, improvements and/or provision of recreational facilities in Woodlawn Park.

9. Environmental Remediation:

The applicant will comply with all conditions of the Virginia Department of Environmental Quality (VDEQ) Voluntary Remediation Program (VRP) for the site area. Prior to site plan/subdivision and plat approval, the applicant shall submit documentation to the County Health Department and DPWES that a program for site remediation has been presented to the VDEQ. The applicant will comply with all conditions established by the VDEQ VRP prior to issuance of the first residential use permit.

10. 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 & etc.) that are installed.

B) Any restrictions placed on the use of Common Open Space areas, potential for inter-parcel access and the prohibition on use of the garages for any purpose other than to park motor vehicles shall be disclosed in a separate disclosure in the HOA documents for the initial and future purchasers in the development. A covenant in a 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.

C) Prior to purchase, prospective purchasers of homes will have copies of the HOA documents outlining the responsibilities of owners regarding future interparcel access, maintenance of open-space, recreational facilities, private streets, and all other home owners maintenance items such as barriers and landscaping made available to them. At closing each purchaser will be given a complete set of Home Owners

Documents specifying the responsibility and containing a year by year 10 year prospective budget of the HOA and the necessary contributions by each homeowner.

D) The HOA shall be set up such that the unconsolidated residential lots along Sky View Avenue and Manor Drive will be permitted upon their request to incorporate into the HOA.

11. Affordable Dwelling Units (ADU's):

At the time of site plan/subdivision 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 DPWES.

13. Provision of a Traffic Signal and Skyview Avenue Realignment:

A) Prior to Final Subdivision Plat/Site Plan approval the Applicant shall submit a signal warrant study to VDOT for the intersection of Skyview Ave and Richmond Highway. If the warrant study is approved by VDOT the Applicant shall prior to final site plan/subdivision plat approval contribute to the Board of Supervisors \$60,000 toward the installation of a traffic signal at the Sky View Avenue Intersection with Richmond Highway. If the warrants are not met within two years of final bond release of the development, the \$60,000 shall be used, to offset the costs associated with the realignment of the Skyview intersection with Richmond highway.

B) Prior to final site plan/subdivision plat approval, the Applicant shall contribute to the Board of Supervisors \$20,000 for the realignment of the Skyview Ave. intersection at Richmond Highway.

Monies for A and B above will follow the construction bid index calculator for Northern Virginia in the year and quarter beginning at approval of the Site plan and Subdivision Plat unless the monies are remanded to Fairfax County at approval of same.

14. Architecture Elevations:

Irregardless of the note on the CDP/FDP, the Dwelling Unit architecture shall generally conform to the illustrative architectural elevation as shown on the CDP/FDP.

15. Site Construction:

During Construction applicant will inspect Skyview Ave, Manor Dr. and Frye Rd. on a regular basis as required by DPWES to ensure that mud, rocks, nails and other construction debris is removed and Applicant shall wash those roads as required by VDOT and DPWES. Applicant will also construct a vehicle wash rack at the construction entrance to the property as required by DPWES and subject to approval by VDOT.

16. Storm Water Pond:

In order to restore a natural appearance to the proposed stormwater management pond, the landscape plan shall show extensive landscaping in all possible planting areas of the pond, in keeping with the planting policies of Fairfax County.

17. School Contribution:

At the time of Final Subdivision Plat/Site Plan approval the applicant will contribute \$56,000 to the Board of Supervisors for the improvement to the elementary (s), intermediate or secondary school which serves this development.

18. Inter-parcel Access:

Applicant will grant (i) an access ingress/egress easement for the benefit of owners of the remaining portion of Tax Map Parcels 101-3 ((10)) parcels 6 and 7 over the private streets within the Application Property; (ii) an ingress/egress easement over the area delineated on the CDP/FDP as shown on Sheet 6 of 11 of the CDP/FDP to provide for future possible development on the remaining portions Tax Map Parcels 101-3 ((10)) 6 and 7. A condition of the easement will be that the owners of Tax Map Parcels 101-3 ((10)) 6 and 7 must contribute pro-rata to the HOA private street maintenance fund. Any use of the inter-parcel access and the private streets by the owners of the remaining portions of Tax Map parcels 101-3 ((10)) 6 and 7 shall be conditioned on rezoning or redevelopment of either of these parcels.

19. National US Army Museum at Fort Belvoir

The applicant will contribute the sum of \$110.00 per dwelling unit (\$20,570 total) to the US Army Historical Foundation for use in funding, planning, and developing the National US Army Museum at Fort Belvoir on Richmond Highway.

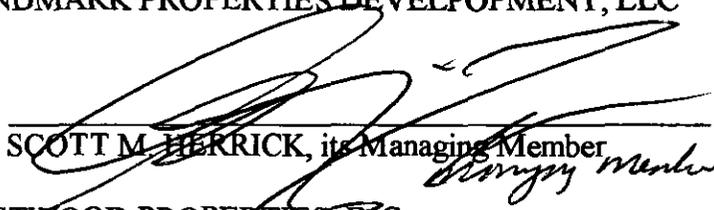
20. Lighting

All lighting shall feature cutoff shielding and shall be directed downward to minimize off-site glare to adjacent residential uses. All lighting for the site shall be of similar style, material and color.

21. Successors and Assigns:

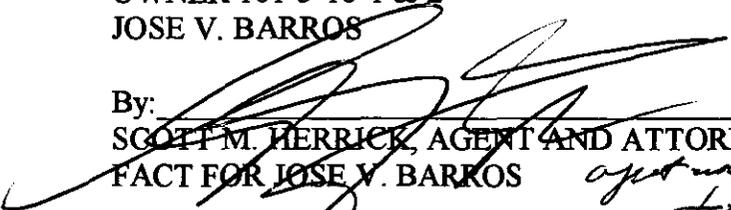
These Proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest and/or developer(s) of the site or any portion of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

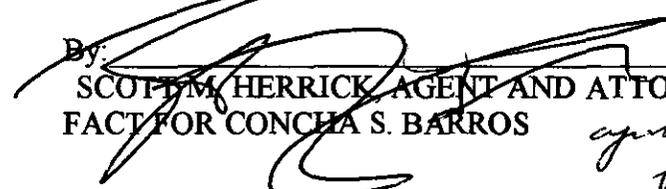
LANDMARK PROPERTIES DEVELOPMENT, LLC

By: 
SCOTT M. HERRICK, its Managing Member
EASTWOOD PROPERTIES, INC.

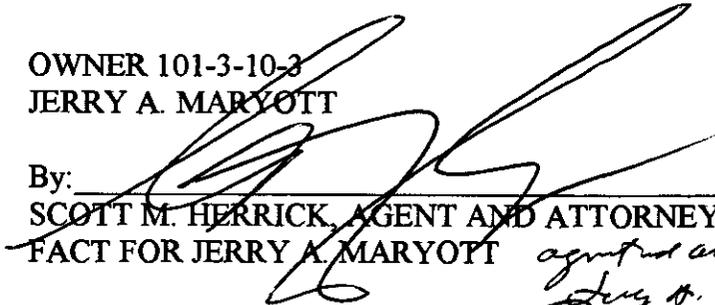
By: 
RICHARD L. LABBE, President

OWNER 101-3-10-1 & 2
JOSE V. BARROS

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR JOSE V. BARROS
CONCHA S. BARROS

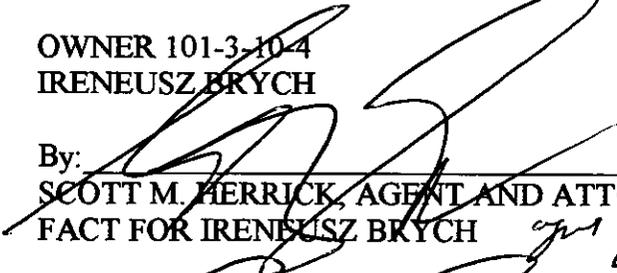
By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR CONCHA S. BARROS

OWNER 101-3-10-3
JERRY A. MARYOTT

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR JERRY A. MARYOTT

*agent and attorney in fact for
Jerry A. Maryott*

OWNER 101-3-10-4
IRENEUSZ BRYCH

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR IRENEUSZ BRYCH

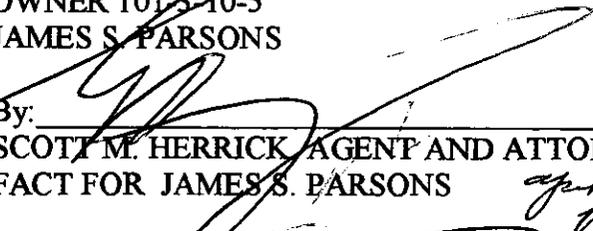
*agent and attorney in fact for
Ireneusz Brych.*

RENATA E. BRYCH

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR RENATA E. BRYCH

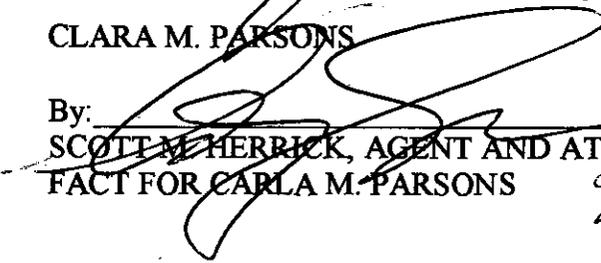
*agent and attorney in fact for
Renata E. Brych*

OWNER 101-3-10-5
JAMES S. PARSONS

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR JAMES S. PARSONS

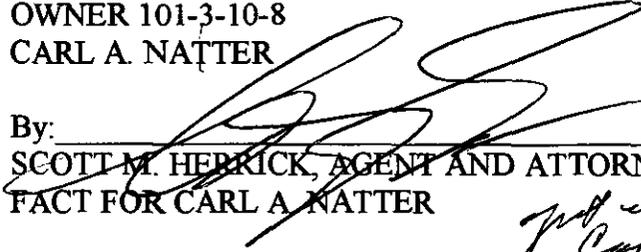
*agent and attorney in fact for
James S. Parsons*

CLARA M. PARSONS

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR CARLA M. PARSONS

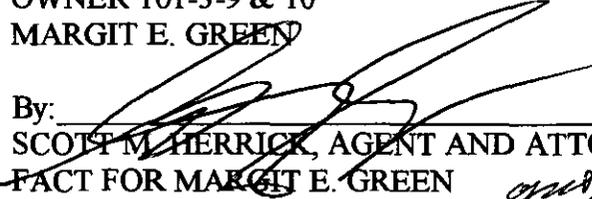
*agent and attorney in fact
for Carla M. Parsons*

OWNER 101-3-10-8
CARL A. NATTER

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR CARL A. NATTER

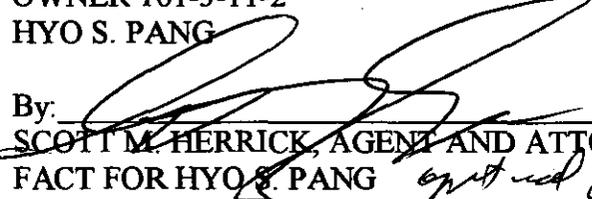
*agent and attorney in fact for
Carl A. Natter*

OWNER 101-3-9 & 10
MARGIT E. GREEN

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR MARGIT E. GREEN

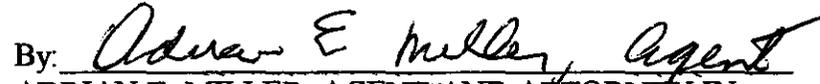
*agent and attorney in fact
for Margit E. Green*

OWNER 101-3-11-2
HYO S. PANG

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SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR HYO S. PANG

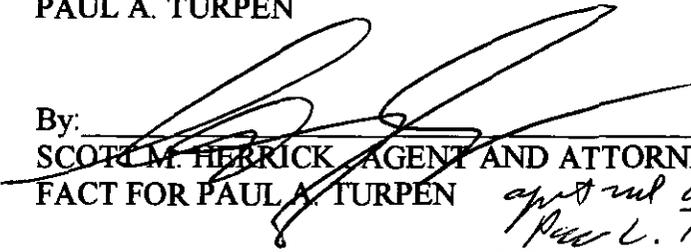
*agent and attorney in fact for
Hyo S. Pang*

OWNER 101-3-11-3
HOPE C. MILLER

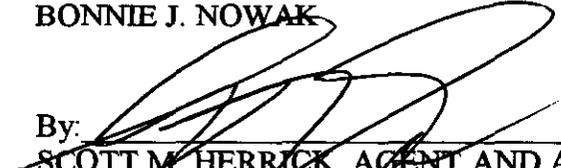
By: 
ADRIAN E. MILLER, AGENT AND ATTORNEY IN
FACT FOR HOPE C. MILLER

*+ attorney in fact for
Hope C. Miller*

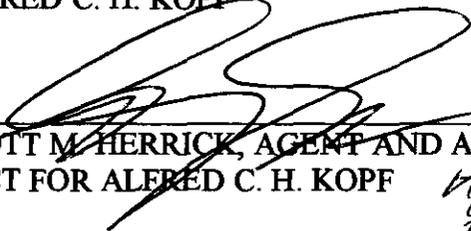
OWNER 101-3-11-4
PAUL A. TURPEN

By: 
~~SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR PAUL A. TURPEN~~ *agent and attorney in fact for Paul A. Turpen*

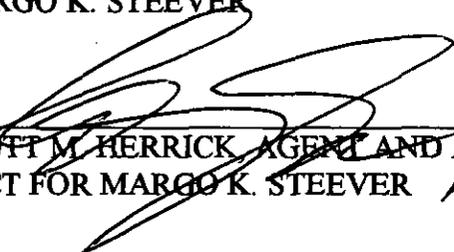
BONNIE J. NOWAK

By: 
~~SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR BONNIE J. NOWAK~~ *agent and attorney in fact for Bonnie J. Nowak*

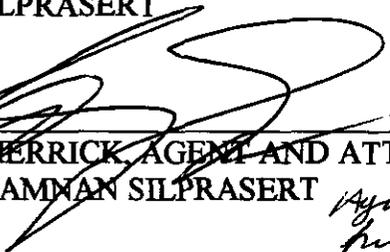
OWNER 101-3-11-5
ALFRED C. H. KOPE

By: 
~~SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR ALFRED C. H. KOPE~~ *agent and attorney in fact for Alfred C. H. Kope*

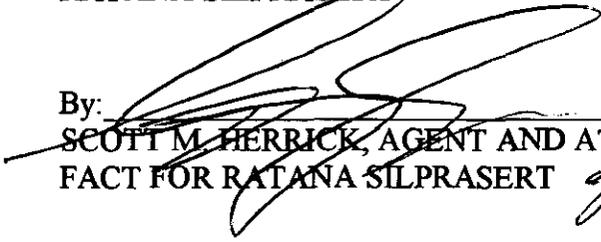
MARGO K. STEEVER

By: 
~~SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR MARGO K. STEEVER~~ *agent and attorney in fact for Margo K. Steever*

OWNER 101-3-11-6
JAMNAN SILPRASERT

By: 
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FACT FOR JAMNAN SILPRASERT~~ *agent and attorney in fact for Jamnan Silprasert*

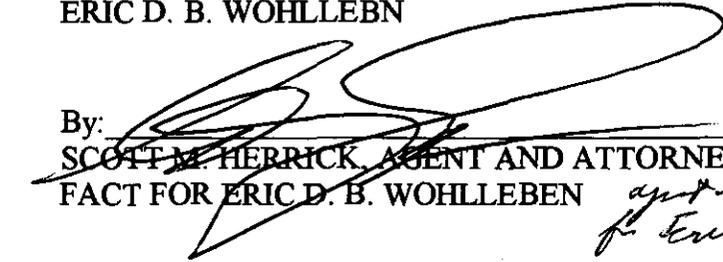
RATANA SILPRASERT

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SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR RATANA SILPRASERT *agent and attorney in fact
for Ratana Silprasert*

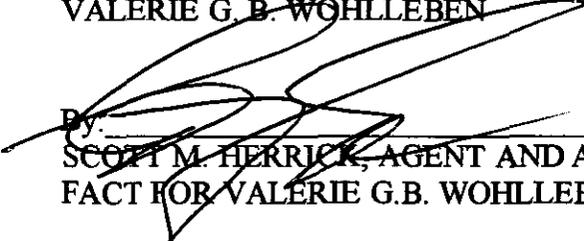
OWNER 101-3-11-7, 101-3-01-42
ELEANOR J. MAY

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR ELEANOR J. MAY *agent and attorney in fact for
Eleanor J. May*

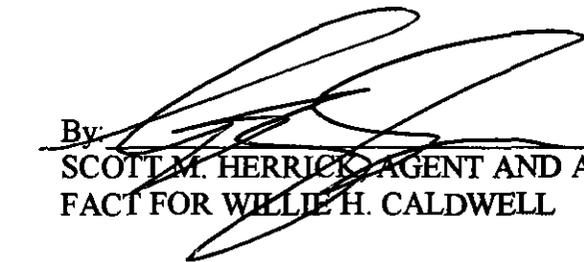
OWNER 101-3-11-8
ERIC D. B. WOHLLEBN

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR ERIC D. B. WOHLLEBN *agent and attorney in fact
for Eric D. B. Wohlleben*

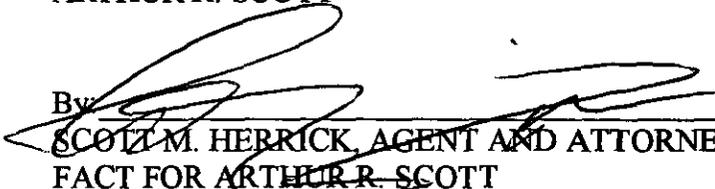
VALERIE G. B. WOHLLEBEN

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR VALERIE G.B. WOHLLEBEN *agent and attorney in
fact for Valerie G.B.
Wohlleben*

OWNER 101-3-11-9
WILLIE H. CALDWELL

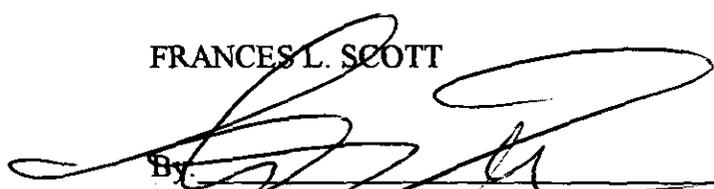
By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR WILLIE H. CALDWELL *agent and attorney in fact
for Willie H. Caldwell*

OWNER 101-3-11-10
ARTHUR R. SCOTT

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR ARTHUR R. SCOTT

*agent and
attorney in
fact for Arthur
R. Scott*

FRANCES L. SCOTT

By: 
SCOTT M. HERRICK, AGENT AND ATTORNEY IN
FACT FOR FRANCES L. SCOTT

*agent and attorney in
fact for Frances L.
Scott*

OWNER 101-3-01-39A & 40
L & M ASSOCIATES

By: 
MARC N. LEEPSON, its Managing General Partner

OWNER 101-3-10-6 & 7

By: Roland D. Blevins
ROLAND D. BLEVINS

By: Valice V. Blevins
VALICE V. BLEVINS

OWNER 101-3-01-43

By: Stephen E. Monk
STEPHEN E. MONK

By: Laura Dian C. Monk
LAURA DIAN MONK

OWNER 101-3-01-41
MARY MARGARET HANRAHAN

Laurie Frost Wilson
By: *Agent and Attorney in fact for Mary Margaret Hanrahan*
LAURIE FROST WILSON, AGENT AND ATTORNEY
IN FACT FOR MARY MARGARET HANRAHAN

SHIRLEY REGINA WILSON

Laurie Frost Wilson
By: *Agent and Attorney in fact for Shirley Regina Wilson*
LAURIE FROST WILSON, AGENT AND ATTORNEY
IN FACT FOR SHIRLEY REGINA WILSON

JANET GAY ROSE

Laurie Frost Wilson
By: *Agent and Attorney in fact for Janet Gay Rose*
LAURIE FROST WILSON, AGENT AND ATTORNEY
IN FACT FOR JANET GAY ROSE.

SHELBY JEAN DANIEL

Laurie Frost Wilson
By: *Agent and Attorney in fact for Shelby Jean Daniel*
LAURIE FROST WILSON, AGENT AND ATTORNEY
IN FACT FOR SHELBY JEAN DANIEL

PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS

FDP 2000-MV-051

July 25, 2001

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2000-MV-051 from the R-2, C-8, and HC Districts to the PDH-16 and HC Districts for residential development at Tax Map 101-3 ((1)) 39A, 40, 41, 42, 43 pt.; 101-3 ((10)) 1 through 10; and 101-3 ((11)) 2 through 5, 6 pt., 7 pt., 8, 9 and 10 pt., staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. An underground conduit for future utility use shall be installed along the site's Richmond Highway frontage prior to the issuance of the first Residential Use Permit (RUP). The exact placement of the conduit shall be subject to approval by Virginia Power.