

## PROFFERS

LORTON VALLEY, L.C.

RZ 2000-MV-045

June 4, 2001

Pursuant to Section 15.1-2303 (A), Code of Virginia, 1950, as amended, the undersigned applicant and property owners for themselves and for their successors and assigns (hereinafter "Applicant"), filed for a rezoning and final development plan approval for property identified as Tax Map reference 107-3 ((1)), Parcel 3A (hereinafter referred to as "Application Property") hereby agree to the following proffers, provided the "Board of Supervisors" (hereinafter referred to as "Board") approves the rezoning of the Application Property to the PDH-5 zoning district. If accepted, these proffers shall supersede any previously approved and governing development of the property, which shall become null and void upon approval of the following proffers:

### I. CONCEPTUAL/FINAL DEVELOPMENT PLAN

- a. Development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by Bowman Consulting Group, dated May 31, 2001, showing a maximum of 270 units.
- b. In order to preserve and protect the EQC, the limits of clearing and grading shall strictly conform to the limits as shown on the CDP/FDP, subject to installation of only those utilities which cannot be reasonably accommodated elsewhere on the site as determined by the Urban Forestry Division and approved by the Director, Department of Public Works and Environmental Services (DPWES). Any such utilities shall be located and installed in the least disruptive manner possible to minimize damage to trees as determined by DPWES. A replanting plan in accordance with the Public Facilities Manual shall 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. The EQC shall remain as undisturbed open space with the exception for removal of dead or dying vegetation, roadway crossings, SWM facilities (i.e. bioretention facilities, swales) within the EQC area to be revegetated south and east of the pool, and clearing and grading as shown on the CDP/FDP, Archaeology Activities, and subject to the necessary installation of utilities as described above.
- c. Site amenities, including benches, entry monument, decorative lighting, fencing, special paving and mail boxes, in general character with those shown on Sheet 9 of the CDP/FDP, shall be provided within the Application Property.

**2. FINAL DEVELOPMENT PLAN AMENDMENT**

Notwithstanding that the CDP/FDP is the subject of Proffer 1 as set forth above, it shall be understood that the CDP shall be the entire Plan relative to the points of access, the maximum total number and type of units, the general location of residential lots, common open space and limits of clearing and grading, and that the Applicant has the option to request a Final Development Plan Amendment (FDPA) for elements of other than the CDP elements from the Planning Commission for all of, or a portion of the CDP/FDP in accord with the provisions as set forth in Section 16-402 of the Fairfax County Zoning Ordinance, dated August 14, 1978, as amended ("Ordinance").

**3. MINOR MODIFICATIONS**

Pursuant to paragraph 4 of Section 16-403 of the Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make adjustments to the internal lot lines of the proposed subdivision at time of subdivision plan submission based on final house locations and building footprints, without decreasing the peripheral setbacks, landscaping or total open space provided, as shown on the CDP/FDP. The Applicant may make minor lot location modifications as referenced in the Notes on the CDP/FDP, but in no event shall they encroach into the limits of clearing and grading.

**4. TRANSPORTATION**

a. **1. Dedication.**

At time of site/subdivision plan approval for each section or upon demand by Fairfax County or Virginia Department of Transportation (VDOT), whichever, occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way as shown on the CDP/FDP as follows:

- i. Right-of-way dedication as generally shown on the CDP/FDP for the public spine road to serve as primary access through the Application Property.
- ii. Right-of-way dedication as generally shown on the CDP/FDP for a future cul-de-sac connection to Cooper Drive.
- iii. Ancillary grading easements for road improvements along the Property's Lorton Road frontage and Cooper Drive.

**2. Reservation.**

The area of land along the Application Property's Lorton Road frontage shall be subdivided into an outlot to be owned by the HOA and reserved for right-of-way dedication in fee simple to the Board of Supervisors at no cost upon demand if requested, by Fairfax County to provide for a half section of a 6-lane divided/road way section for Lorton Road. This reservation and potential dedication shall be

disclosed in the HOA documents.

- b. Road Improvements.
  - i. The Applicant shall construct the public Spine Road, interim left and right turn lanes on Lorton Road at the Property's site entrance to VDOT standards, and private streets during development of the Application Property, as shown on the CDP/FDP.
  - ii. At the time of issuance of the 150<sup>th</sup> building permit, the Applicant shall escrow funds for the construction of one-half section of a planned 6-lane road for the distance of the Application Property's Lorton Road frontage. The escrow amount as approved by DPWES shall be based upon the County Comprehensive Unit Price Schedule for construction of half of a typical 6-lane road section along the north side of Lorton Road, including drainage improvements. Any interim improvements to Lorton Road constructed under paragraph 4.b.(i) above that are useable in the ultimate design/construction, will be given credit under this contribution at the discretion of DPWES.
  - iii. At time of issuance of the 150<sup>th</sup> building permit, the Applicant shall escrow funds as determined by DPWES for traffic signalization for the existing roadway section at the intersection of the spine street and Lorton Road. In the event that the intersection signalization is not warranted within two years of the final bond release on the Application Property, then the above escrowed funds shall be applied towards transportation improvements in the vicinity of the Application Property.
- c. The segments of private streets as shown on CDP/FDP shall conform to the pavement thickness standards for public streets as set forth in the Public Facilities Manual, as determined by the Department of Public Works and Environmental Services (DPWES).
- d. All initial prospective purchasers shall be notified in writing and within Homeowner's Association documents that, with the exception of the public spine road serving the Application Property, the street system as shown on the CDP/FDP will be private and that responsibility for maintenance will rest with the Homeowner's Association.
- e. An ingress/egress easement will be recorded over any private road(s) which provides access to the public spine road for the benefit of Parcels 1 and 2, located to the west of the Application Property, as generally shown on the CDP/FDP. The easements will be provided subject to prorata maintenance of the private street segment in the event Parcels 1 and 2 develop with single-family attached units. Prorata maintenance will not apply in the event Parcels 1 and 2 develop with single-family detached units. The easement shall be disclosed in the HOA documents.
- f. The minimum driveway length for all units will be 18 feet measured from the front of the garage to the inside edge of sidewalk.

## **5. LANDSCAPING AND AMENITIES**

- a. The Applicant shall provide landscaping as generally shown on the CDP/FDP landscaping plan, in coordination with the Urban Forestry Branch subject to final engineering and necessary placement of utilities as approved by DPWES. Street trees along the spine road may be relocated elsewhere on the Application Property where they conflict with VDOT's sight distance requirements, as determined by DPWES and the Urban Forestry Branch.
- b. The open space area adjacent to the swimming pool that is within the EQC but subject to grading, as indicated on the CDP/FDP, shall be replanted with a woody seed mix and native seedlings and grasses as approved by the Urban Forestry Branch in order to restore a natural appearance.
- c. The entry feature landscaping shall include one magnolia tree on both sides of the entrance to the development along Lorton Road.
- d. In order to restore a natural appearance to the proposed SWM pond, a landscape plan shall be submitted as part of the first submission of the site plan for the pond showing landscaping in all possible planting areas of the pond, in keeping with the planting policies of the DPWES as determined by Urban Forestry Branch and approved by the Director, DPWES.
- e. Landscape treatment comprised of medium/large shade trees and columnar evergreens shall be provided in the common open space areas between rear yards of attached units in Land Bays B1, C1 and E, except where landscaping interferes with utility and drainage easements or interferes with privacy yard access, as determined by DPWES.
- f. The rear yards of single family detached lots which abut other rear or side yards shall be planted with landscaping with a minimum growth height of 6 feet and a minimum 3 feet in height at planting, and/or a 6-foot high fence or a combination of both, subject to utility location, in order to provide visual privacy in the rear yards.

## **6. RECREATION**

- a. The Applicant shall construct a swimming pool/bath house, multi-purpose court, tot lot and park area with seating area/benches in the areas as generally shown on the CDP/FDP for the use and enjoyment by the residents of this development and other residents that may become future members of the same Homeowner's Association. The facility shall be provided pursuant to the provisions of Article 16-404 of the Ordinance.
- 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 a nearby park.

## 7. ARCHITECTURE

- a. The illustrative architectural renderings as shown on the CDP/FDP are provided to illustrate the design intent of the proposed units. The front elevations shall be generally consistent in terms of character and quality with the illustration. The specific features such as the exact location of windows, doors, shutters, number of stories, and roofline and other architectural details are subject to modification with final engineering and architectural design.
- b. In the event end units are located in a manner which results in the side of attached and detached units facing the public road, a minimum of eighty percent (80%) of the side facade of each end unit that faces the public road shall be constructed of brick, stucco, or other masonry type finish. Such end units shall either include side entries or shall incorporate windows and architectural detailing on end walls. In the event that the back of units face the public road, a minimum of 40% of the rear facade of each unit that faces the public road shall be constructed of brick, stucco or other masonry type finish, and the rear facade will be treated with special window, door and trim treatment similar to that used on the front of the unit.
- c. All front facades of attached units shall be constructed with a minimum of eighty percent (80%) brick.
- d. All townhouse units shall be a minimum 22 feet wide.

## 8. TREE PRESERVATION

- a. At the time of site/subdivision plan submission, the Applicant shall contract with a certified arborist to prepare a tree preservation plan for the area within ten feet of the preservation side of the limits of clearing and grading line shown on the CDP/FDP. 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. 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 crown pruning, root pruning, mulching, and fertilization. The plan shall be reviewed by the Urban Forestry Division and approved by the Director, DPWES.
- b. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall conform to the following standards:

Four foot high, 14 gauge welded wire fence attached to 6-foot steel posts driven 18 inches into the ground, and placed no further than 6 feet apart. The tree protection fencing shall be made clearly visible to all personnel. The fencing shall be installed prior to the performance of any clearing and grading activities on the site. Installation of tree

protection fencing shall be performed under the supervision of the Project Arborist subject to approval of the Urban Forester. Prior to the commencement of any clearing and grading activities on the site, the Project Arborist shall verify in writing that the tree protection fence has been properly installed.

- c. Prior to any clearing or grading on the site, the limits of the EQC and the wetlands protected against clearing and grading as shown on the CDP/FDP, shall be fenced and flagged to prevent intrusions into these areas, subject to DPWES approval. The fencing or other suitable barriers shall remain in place during all phases of construction in the adjacent area, as determined by DPWES.

## **9. STORMWATER MANAGEMENT (SWM)**

- a. The Applicant shall, subject to potential waivers of requirements to provide stormwater detention, provide stormwater detention and/or Best Management Practices (BMP) facilities in accordance with the Public Facilities Manual (PFM) as shown on the CDP/FDP. Erosion and sediment control measures shall be provided in accordance with the PFM. These measures shall be implemented prior to any land disturbing activities and shall be maintained and kept effective throughout the duration of construction.
- b. In order to ensure that stormwater runoff from the Application Property will not cause erosion within the SWM outfall channel, and in order to ensure that predevelopment flooding is not exacerbated for the incipient flood event, the Applicant will determine incipient erosion and channel flooding storm events and provide stormwater management control sufficient to reduce both incipient erosion shear stresses to below predevelopment conditions and incipient flooding peak discharge to below predevelopment conditions, as determined by DPWES.
- c. In the event that the SWM pond needs to increase in size beyond the limits of clearing and grading as shown on the CDP/FDP in order to meet PFM requirements, the Applicant shall apply for a Final Development Plan Amendment application to relocate or increase the size of the pond. In no event shall there be any additional clearing in the EQC for construction of this facility beyond that shown on the CDP/FDP.

## **10. HOMEOWNER'S ASSOCIATION**

The Applicant shall incorporate the Application Property into one Community Association in coordination with the property subject to RZ/FDP 2000-MV-057 if approved by the Board, to own, manage and maintain the open space, private streets, recreational facilities and all other community owned land and improvements. All residents shall have all rights and privileges of use of all Community Association open space and recreational facilities that are contributed to, pursuant to Paragraph 6. (a) above. In the event that the Application Property is not incorporated into the same Association subject to RZ 2000-MV-057, the Applicant shall establish separate homeowners' associations for each development to own, manage and

maintain the open space, private streets, recreational facilities and all other community owned land and improvements. Joint use of the pool and recreation facilities will be insured in both sets of Association documents.

## 11. ARCHAEOLOGY

Prior to the first site/subdivision plan approval, the Applicant shall contribute the sum of \$30,000 to the Fairfax County Park Authority Archaeological Proffer Fund to permit archaeological investigation on the 3 sites identified by Staff as 107-3 #H9/P15, 107-3 #P18/H10, and 107-3 #P21. Survey and all other archaeological activities shall be implemented timely so as not to affect the construction schedule. The Applicant will give FCAS access to other identified sites located in the RPA and the western tree preservation area after rezoning approval until commencement of onsite construction activities or minimum of 4 months, whichever is longer. Applicant shall provide FCAS a construction schedule 60 days after non-appealable rezoning approval.

## 12. OTHER

- a. A contribution of \$550 per unit, (subject to credit for funds escrowed pursuant to Paragraph 4.b.iii above if a signal is not warranted), will be made to a specific fund designated for Lorton area road improvements. Per unit contributions will be paid at the time of issuance of individual building permits.
- b. A contribution of \$1,200 per unit shall be made to the Board for a specific fund designated for schools with \$800 of the per unit contribution allocated to predevelopment costs for a new secondary school serving the Lorton area, and \$400 of the per unit contribution will be allocated for the new Lorton Station Elementary School to be built. Per unit contributions will be paid at the time of issuance of individual building permits.
- c. A covenant which provides that garages shall only be used for purposes that will not interfere with their intended purpose of parking vehicles and that garages may not be converted to living space, shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots. The covenant shall run to the benefit of the Homeowner's Association and the Fairfax County Board of Supervisors. Initial purchasers shall be advised in writing of this use restriction prior to entering into a contract of sale.
- d. Applicant shall disclose in writing to all unit purchasers and within the HOA documents that major landfill operations are located nearby (the I-95 landfill complex located west of Furnace Road approximately ½ mile from the Application Property and the construction demolition debris landfill facilities located south of the Application Property) prior to entering into contracts of sale.
- e. With the exception of the aboveground stormwater management facility, all utilities on the Application Property shall be placed underground.
- f. Provisions of the Soil Erosion and Sedimentation Control Ordinance shall be strictly

enforced. Areas which are disturbed for the purpose of removing fill for transport to other sections of the site, shall be stabilized and seeded immediately following soil removal, as determined by DPWES in coordination with the Urban Forestry Division.

- g. Initial purchasers of units which abut EQC shall be advised in writing prior to entering a contract of sale of the existence of this feature and of the prohibition against clearing beyond the property line or using the area as a depository for trash, lawn clippings, or other debris. The homeowner's association documents shall contain this information.
- h. Thermal Guidelines. All homes shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems.
- i. Within 30 days of non-appealable rezoning approval, the Applicant shall provide payment to DPWES Office of Waste Management in a sufficient amount, as determined by DPWES, to pay eight (8) sanitary sewer availability fees for the benefit of the Shirley Acres subdivision sanitary sewer project.

**13. PARK DEDICATION**

Subsequent to recordation of necessary easements and installation of any utility crossings, Applicant shall dedicate and convey in fee simple to the Board the open space to be preserved beyond the designated limits of clearing and grading in the northern, eastern and western portions of the Application Property, as shown on the CDP/FDP.

**14. SUCCESSOR AND ASSIGNS**

These proffers will bind and inure to the benefit of the Applicant and his or her successors and assigns.

**15. TEMPORARY SIGNS**

No temporary signs (including 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 during the marketing of the homes on the Application property. The Applicant shall not post or cause others to post temporary signs to market the homes on the Application Property.

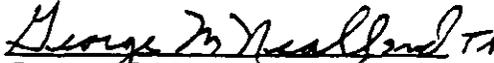
**16. COUNTERPARTS**

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.

[SIGNATURE LINES BEGIN ON FOLLOWING PAGE]

RZ 2000-MV-045

TITLE OWNER OF TAX MAP 107-3 ((1)) 3A

  
George M. Neall, II, Trustee

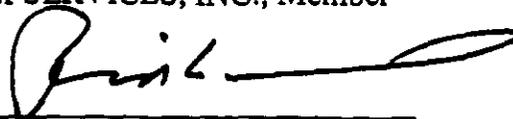
[SIGNATURES CONTINUE ON NEXT PAGE]

RZ 2000-MV-045

APPLICANT/CONTRACT PURCHASER:

LORTON VALLEY, L.C.

by: KSI SERVICES, INC., Member

By: 

Richard W. Hausler, President

[END SIGNATURES]

# REVISED STAFF PROPOSED FDP DEVELOPMENT CONDITIONS

FDP 2000-MV-045

~~April 4~~ June 21, 2001

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2000-MV-045 in the PDH-5 District for single-family residential development located at Tax Map 107-3 ((1)) 3A, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the subject property shall be in substantial conformance with the CDP/FDP entitled Lorton Valley North which was prepared by Bowman Consulting Group. Ltd. and is dated July 28, 2000 and revised to ~~April 29~~ May 31, 2001.
- ~~2. Any affordable dwelling units (ADUs) which are relocated from the development to the south included in RZ/FDP 2000 MV 057 (Tax Map Parcels 107-3 ((1)) 13, 14, 16) shall conform with the conditions specified in the letter dated March 21, 2001, from the ADU Advisory Board to Keith Martin which is attached.~~
2. The total maximum number of units on the site shall not exceed ~~279~~ 270, including any ADUs that may be relocated to this site, pursuant to #2 above.
3. The Homeowner's Association (HOA) documents shall specify that parking vehicles in the driveways so they overhang the sidewalk is prohibited. Enforcement of this restriction shall be the responsibility of the HOA.
4. Final approval of the applicant's tree preservation plan which shall be submitted with the first submission of the subdivision/site plan shall be the responsibility of the Urban Forestry Division.
5. A minimum 25 foot wide landscaped buffer shall be provided adjacent to the Shirley Acres development, as approved by the Urban Forestry Division. The plants located in this buffer shall be of a species, quantity, and size to provide a substantial buffer. It is understood that plants which exceed the minimum sizes permitted may be required to compensate for the fact that the undisturbed buffer of mature vegetation called for in the Plan is not being provided.
6. A minimum 35 foot rear yard shall be provided for each of the dwellings constructed on the two (2) easternmost lots in Land Bay C-2 which includes the 25 foot landscaped buffer against Shirley Acres. Prospective purchasers of those lots shall be informed in writing and shall acknowledge, in writing, receipt of the disclosure that the 25 foot landscaped area at the rear of the lots must be maintained and may not be removed. This restriction shall be contained in all documents of the Homeowner's Association (HOA) and shall be enforced by the HOA.

7. Full Transitional Screening 1 shall be provided adjacent to Parcels 1 and 2 as required by Article 13 of the Zoning Ordinance, subject to Urban Forestry Division approval.
8. Measures will be employed in the design and engineering of the SWM/BMP facility to minimize and reduce impacts to the stream valley in the EQC below the facility to the maximum extent feasible, subject to DPWES and Urban Forestry Division approval. Such measures may include, but are not limited to, adjusting the size of the outfall pipe, positioning of the outfall pipe along the same alignment as the swale, and use of rip rap.
9. All single-family attached units which are adjacent to single-family detached lots within the development and those units located in Land Bays B1 and C2 which are adjacent to off-site single-family detached zoning or uses and for which a waiver of the barrier requirement has been requested shall be built with privacy yards which are fully enclosed on three (3) sides.