

**PROFFERS
PULTE HOME CORPORATION
RZ 2000-MD-048**

MARCH 23, 2001

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, the undersigned applicant, its successors and assigns, (hereinafter collectively referred to as the "Applicant") and owners for both themselves and their successors or assigns, filed for a rezoning on property identified on Fairfax County Tax Map 74-2 ((1)) 4, 5 and 6 (hereinafter referred to as the "Application Property") hereby agree to the following proffers, provided that the Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property to the PDH-2, WS and R-C Zoning Districts.

1. GENERALIZED DEVELOPMENT PLAN ("GDP"), CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN ("CDP/FDP")

Development of the Application Property shall be in substantial conformance with the ~~GDP/CDP/FDP prepared by Dewberry & Davis LLC, dated August 21, 2000, as revised through February 7, 2001.~~

2. MINOR MODIFICATION

Pursuant to Paragraph 4 of Section 16-403 and Section 18-204 of the Ordinance, minor modifications from the GDP/CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the internal lot lines of the proposed subdivision at time of subdivision plan submission based on final house locations and building footprints, but there shall be no encroachment into the limits of clearing and grading as shown on the GDP/CDP/FDP.

3. TRANSPORTATION

- a. At time of subdivision plan approval, or upon demand by VDOT or Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way within the Application Property for the public street system as shown on the GDP/CDP/FDP, which is forty-five (45) feet from centerline and ninety (90) feet overall on Compton Road; and fifty (50) feet on the internal streets, with cul-de-sac radii of fifty-five (55) feet. Dedication along Compton Road matches the right-of-way that exists on abutting properties.
- b. Prior to issuance of the first Residential Use Permit ("RUP"), the Applicant shall remove the pavement within the temporary cul-de-sac at the end of Bunkers Court, install curb gutter adjacent to the existing edge of right-of-way and re-sod any grassy areas.



- c. The Applicant shall construct a 5-foot wide sidewalk on both sides of all public streets within the Application Property, in accordance with Public Facilities Manual (“PFM”) Standards.
- d. A trail shall be constructed along the Compton Road frontage in accordance with the Comprehensive Plan recommendations. Construction shall be to PFM standards and shall be located in consultation with the Urban Forester.

4. ARCHAEOLOGY

- a. Prior to land disturbing activities, the Applicant shall conduct a Phase I Archaeological Survey of the Application Property and submit a written report to the County Archaeologist for review and approval, prior to subdivision plat approval. Heritage Resources shall notify the applicant, in writing, within forty-five (45) days of the submission of the study results if additional investigations are warranted.
- b. If, based on the Phase I survey, the County Archaeologist concludes that a Phase II and/or Phase III archaeological study is warranted, the Applicant shall retain a qualified archaeological consultant, who shall be approved by Heritage Resources, to perform such study(ies) up to a maximum total amount of \$15,000.00. Access to the property shall be provided to Heritage Resources for a period of four (4) months from the date of notification as established in 4(a). This time period may be extended if mutually agreed to by the Applicant and Heritage Resources.

5. GEOTECHNICAL STUDY

- a. Prior to subdivision plan approval, if required by the Department of Public Works and Environmental Services (“DPWES”) and in accordance with the provisions of the Public Facilities Manual, the Applicant shall submit a geotechnical study of the Application Property to the Geotechnical Review Board and shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES into the design to alleviate potential structural problems, to the satisfaction of DPWES.
- b. Prior to subdivision plan approval, a Phase I investigation of the Application Property shall be submitted to DPWES for review and approval in coordination with the Fire and Rescue Department, the Health Department, and other appropriate agencies as determined by DPWES (the “Reviewing Agencies”). This investigation shall be generally consistent with the procedures described within the American Society for Testing and Materials document entitled “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process,” as determined by DPWES in coordination with the Reviewing Agencies. If warranted by the results of the Phase I investigation, as determined by DPWES in coordination with the Reviewing Agencies, a Phase II monitoring program shall be pursued in order to determine if soil, surface water, or ground water contaminants are present on the

Application Property and/or have migrated from the Application Property. If such a program is pursued, monitoring parameters shall be subject to the approval of DPWES in coordination with the Reviewing Agencies. If contaminants are detected in concentrations requiring remedial action, a remediation program shall be performed in accordance with all applicable Federal, State, and County requirements. Sufficient documentation of completion of the remediation program (with the possible exception of long-term follow-up monitoring efforts) or an appropriate corrective action plan consistent with the proposed development, as determined by DPWES in coordination with the Reviewing Agencies, shall be provided to DPWES prior to subdivision plan approval.

- c. The Applicant shall file a copy of any final report required by county, state or federal requirements regarding the disposal of the underground tanks and the presence and elimination of any contaminated soil with Fairfax County.

6. CONSTRUCTION ACCESS

- a. Subject to VDOT and DPWES approval, the Applicant will utilize the existing driveway via Compton Road for construction equipment/vehicle access for the Application Property during construction activity until such time as it may become impossible to utilize that access point (i.e., a house is under construction at the point where the driveway enters the construction area.)
- b. Subject to VDOT approval, the Applicant will provide appropriate signage on Compton Road, Union Mill Road, Laurel Rock Drive and Bunkers Court warning of construction vehicle activity.
- c. All construction vehicles shall be parked within the Application Property. There shall be no construction vehicle parking along, Bunkers Court, Compton Road, Union Mill Road, Laurel Rock Drive or any other Little Rocky Run subdivision public street.
- d. The Applicant shall erect a sign at the construction access point directing all construction traffic to use the Compton Road access point, as qualified by Proffer 6a.
- e. The Applicant shall inspect Compton Road (and, if necessary, Bunkers Court, Laurel Rock Drive and Union Mill Road) on a regular basis, as required by DPWES and VDOT, and shall remove all mud, rocks, nails and other construction debris and shall wash those roads as required by VDOT and DPWES to remove dirt and debris.
- f. The Applicant shall install a construction vehicle dirt rack at the construction entrance to the Application Property.

7. CONSTRUCTION HOURS

- a. All construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday. This proffer shall only apply to the original house construction and not to future additions by homeowners.
- b. Construction activity on Sundays shall be limited to interior work only and to the hours of 7:00 a.m. to 6:00 p.m. This proffer shall only apply to the original house construction and not to future additions by homeowners.

8. SITE SUPERINTENDENT

The Applicant shall provide the name and phone number of the construction site superintendent to the Little Rocky Run community manager and the owner's of the Bunkers Court properties immediately abutting the Application Property (Union Mills Estates, Lots 8 and 9), who will coordinate Little Rocky Run's and Union Mills Estates' concerns during construction.

9. TREE PRESERVATION

- a. The limits of clearing and grading shall be honored in accordance with the approved GDP/CDP/FDP. 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. 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 12 inches or greater in diameter within 20 feet on either side of the limits of clearing and grading. The condition analysis shall be prepared using 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 Tree Preservation Plan shall include the following elements:

- A pre-construction evaluation of the existing vegetation designated to be saved to determine the condition of the trees.
- All interior boundaries of the limits of clearing and grading, and individual trees outside the limits of clearing and grading designated to be saved shall be protected by four (4) foot high, 14 gauge welded wire attached to six (6) foot steel posts driven 18 inches into the ground and placed no further than ten (10) feet apart, placed along the limits of clearing and grading contiguous to the trees designated to be saved. Further, fencing shall be adjusted, to the extent possible and in coordination with the Urban Forester, in order to protect root zones

underneath the canopies of trees within the limits of clearing and grading. The fencing shall be installed prior to the commencement of clearing and grading activities. Signage affirming "restricted access" shall be provided on the temporary fence highly visible to construction personnel. An arborist contracted by the Applicant shall monitor the construction of the proposed development to ensure consistency with the Tree Preservation Plan. Prior to the commencement of any clearing or grading activities, the Applicant's arborist shall verify in writing to DPWES that the protection fence has been properly installed.

- In addition, where the Urban Forester determines it feasible, adjustments to the proposed grading and location of the proposed units on the application property may be modified at time of final engineering to enhance specific tree preservation.
- b. Prior to subdivision plan approval, the replacement value of all trees to be preserved, which are 12 inches or greater in diameter, within 20 feet of the limits of clearing and grading as shown on the GDP/CDP/FDP, will be determined by the Director of DPWES. Trees recommended for removal on the tree preservation plan shall not be assigned a value. The calculated replacement values for these designated trees shall be assigned by a certified arborist according to methods contained in the latest edition of the Guide For Plant Appraisal, published by the International Society of Arboriculture, subject to review and approval by the Urban Forestry Division. At the time of subdivision plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees. The terms of the bond or letter of credit shall be subject to approval by the County Attorney. The total amount of the insurance bond, cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees, but shall not exceed \$10,000.

The County may draw funds from the cash bond or letter of credit in order to remove or replace trees that are dead and/or dying due to construction, and are required to be removed and replaced by the Urban Forestry Division, according to the value assigned for those designated trees, if this work is not completed in a timely manner by the Applicant. If the County draws on this cash bond or letter of credit to restore or replace designated trees damaged or destroyed as a result of the development process, the Applicant shall provide the County with a replacement cash bond or letter of credit in the same form and amount as the original cash bond or letter of credit required by this proffer.

Any funds received by Fairfax County pursuant to this proffer shall be used solely to remove and replace designated trees shown to be preserved on the approved tree preservation plan.

The letter of credit or cash bond will be released one year from the date of the project's

conservation escrow, or sooner if approved by the Urban Forestry Division.

- c. The demolition of existing features and structures shall be conducted in a manner that minimizes the impact on individual trees and groups of trees to be preserved as approved by the Urban Forestry Branch. Methods, such as leaving the existing house foundation in place to minimize excavation, may be utilized to minimize root damage to the trees to be preserved. These methods shall be described in detail on the Tree Preservation Plan.
- d. Applicant shall conform to the limits of clearing and grading shown on the GDP/CDP/FDP, subject to modifications for the necessary installation of trails, utility lines and storm water management facilities in the least disruptive manner, as approved by DPWES. Any area within the limits of Clearing and Grading that are disturbed for the necessary installation of utility lines, and that area used for a construction entrance from Compton Road, shall be reforested, in consultation with the Urban Forester. Grading activity shall not alter the pre-construction elevation of any contiguous off-site properties, with the exception of grading necessary to facilitate the installation of the storm sewer and sanitary sewer outfall, or result in the increase of post-development runoff on off-site properties.

10. 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 use of blasting mats, shall be implemented. In addition, the Applicant 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 house, 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 Little Rocky Run Homeowners' Association and all residences entitled to pre-blast inspections, of the name, address and phone number of the blasting contractor's insurance carrier.
- c. Require his consultant to place seismographic instruments prior to blasting to monitor the shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their request.

- d. Notify residences within 250 feet of the blast site, ten (10) days prior to blasting. The Applicant shall place a sign at the intersection of Compton Road and Union Mill Road, Compton Road and Rock Brook Drive, and Union Mill Road and Laurel Rock Drive notifying residents of blasting.
- e. Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his 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.
- f. The Applicant will require blasting subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures that are directly attributable to the blasting activity.

11. HOUSING TRUST FUND CONTRIBUTION

At time of subdivision and plan approval, the Applicant shall contribute a sum equaling one (1) percent of the aggregate sales prices of units to Fairfax County Housing and Community Development Housing Trust Fund for Affordable Housing needs within Fairfax County.

12. TREE DISPOSAL

No trees or parts thereof may be disposed of or burned on-site, during construction.

13. EROSION/SEDIMENT CONTROL

- a. Prior to and during grading and construction activity, the Applicant shall install and maintain erosion and sediment control facilities, including super-silt fencing in areas approved by DPWES, to help prevent erosion and sediment from the Application Property from entering Little Rocky Run's storm water management pond(s). The Applicant shall enhance erosion and sediment control by providing a double tier system of control measures, along the lower portion of the site, adjacent to the undisturbed open space. The Applicant will also incorporate super-silt fence into the double tier system.
- b. Any grading of the storm water management pond area shall not result in flooding or sedimentation damage to adjacent Little Rocky Run properties, as determined by DPWES.
- c. Upon completion of grading, trail construction and utility work in the southern and eastern open space areas; the Applicant shall subject this area to a conservation easement that runs to the Homeowner's Association, in a form as approved by the County Attorney. This conservation easement shall be recorded prior to subdivision plan approval, and shall prohibit construction of residences, sheds, pools, fences and

17. BUILDING STANDARDS AND SIGNAGE

- a. All homes shall consist of a minimum of 2,700 square feet of interior space, excluding garages and basements and shall be constructed of brick, stone or siding, as illustrated in the GDP/CDP/FDP.
- b. The exterior facade of the houses in terms of building materials and facade treatments shall be architecturally compatible with the existing Little Rocky Run and Union Mills Estates community. Photographs of homes within Little Rocky Run and Union Mills Estates shall be provided to DPWES, prior to subdivision plan approval, so that the Director of DPWES may make a determination that the proposed facades are compatible with existing facades in abutting subdivisions.
- c. Regardless of the entry feature locations depicted on Sheet 2 of 4, and the Entry Feature Detail depicted on Sheet 4 of 4 of the GDP/CDP/FDP, only one entry sign shall be installed at the entrance to the Property.
- ~~d. No temporary signs (including "Popsicle" style 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 by the Applicant or at the Applicant's direction to assist in the initial sale of homes on the Property.~~

18. RECREATIONAL FACILITIES

The Applicant shall comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance regarding developed recreational facilities for the residential uses. The Applicant proffers that the minimum expenditure for the recreational facilities shall be \$955.00 per residential unit. The Applicant shall receive credit for the on-site recreational facilities that may include, but not be limited to, internal trails and a community gathering area with a gazebo, outdoor seating, and picnic tables. If a minimum expenditure of \$955.00 per residential unit for on-site recreational facilities is not contributed, as determined by DPWES, then any remaining funds shall be provided to the Fairfax County Park Authority for the provision of recreational facilities in a nearby park.

19. PARCEL 6

Prior to subdivision plan approval, the applicant shall dedicate in fee simple Parcel 6 to the Fairfax County Park Authority, in accordance with Sect. 2-309 of the Ordinance, for passive recreation use. No storage of equipment, construction of structures or fences, or clearing of trees shall be permitted except for the necessary installation of utilities, installation of trails, or removal of dead or dying trees, as determined by the Urban Forester.

denuding, with the exception of that required for trail construction and maintenance, and subdivision construction access.

- d. The conservation easement abutting Compton Road on Parcels 4 and 5 shall be a minimum of one-hundred (100) feet wide, measured from the ultimate right-of-way resulting from the Compton Road dedication.

14. STORM WATER MANAGEMENT

- a. The Applicant shall provide a storm water management pond on the Application Property in the approximate location as shown on the GDP/CDP/FDP, subject to DPWES approval.
- b. Any on-site storm water management facilities shall be landscaped to maximum extent feasible by the Applicant, in coordination with the Urban Forestry Branch, pursuant to the policy adopted by the Board of Supervisors, using native species. A twenty-five (25) foot wide vegetated buffer shall be located between the stormwater management pond and the abutting properties as indicated on the GDP/CDP/FDP.
- c. The Homeowners' Association shall be responsible for trimming grassy areas in and around the storm water management pond on a regular basis, subject to approval by DPWES.

15. ASBESTOS

- a. If DPWES determines that a potential health risk exists due to the presence of asbestos-containing rock on the Application Property, the Applicant shall:
 1. Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks.
 2. Commit to appropriate construction techniques as determined by DPWES in coordination with the Health Department to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed material presenting this risk, and appropriate disposal.

16. ENERGY SAVER PROGRAM

All homes on the Application Property shall meet the thermal guidelines of the Virginia Power Energy Saver program for energy efficient homes or its equivalent for either electric or gas energy systems, as applicable.

20. **SUCCESSORS AND ASSIGNS**

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

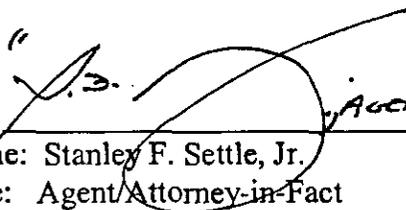
21. **COUNTERPARTS**

These proffers may be executed in one or more counterparts, each of one when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same instrument.

[SIGNATURE PAGES BEGIN ON FOLLOWING PAGE]

Applicant/Contract Purchaser of Tax Map 74-2 ((1)) 4, 5, 6

Pulte Home Corporation

By: 

Name: Stanley F. Settle, Jr.

Title: Agent/Attorney-in-Fact

AGENT/ATTORNEY IN FACT