

**PROFFERS**

**LORTON VALLEY, L.C.**

**LORTON VALLEY EAST, L.C.**

**RZ 2001-MV-039**

**PCA 2000-MV-057**

**February 25, 2002**

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 for property identified as Tax Map reference 107-3 ((1)) 15, and Proffered Condition Amendment plan approval for property identified as Tax Map reference 107-3 ((1)), Parcels 13 pt., 14 and 16 (hereinafter referred to as "Application Property") hereby agree to the following proffers, which supercede the proffers accepted with RZ 2000-MV-057, provided the "Board of Supervisors" (hereinafter referred to as "Board") approves the rezoning of Tax Map 107-3 ((1)) 15 to the PDH-4 Zoning District and PCA 2000-MV-057.

**1. 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 sheets 1 - 8), prepared by Bowman Consulting Group, dated February 25, 2002.
- b. Site amenities, including benches, fencing, decorative lighting, entry monument, special paving and mailboxes, in general character with those shown on the CDP/FDP Exhibit entitled "Illustrative Site Details" shall be provided within the Application Property.

**2. FINAL DEVELOPMENT PLAN AMENDMENT**

- a. 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 limits of clearing and grading, general location of residential lots and the location and amount of common open space, 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").
- b. Public street access to Tax Map 107-3 ((1)) Parcel 15 will be provided via the cul-de-

sac to be constructed at/near the northern property line as generally shown on the CDP/FDP.

### 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, and 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.

### 4. TRANSPORTATION

- a. At time of subdivision plan approval 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 subdivision plan for the public streets for that phase of development as generally shown on the CDP/FDP and ancillary easements for the future street connection to Furnace Road.
- b. The Applicant shall construct the public streets and private streets during development of the Application Property, as shown on the CDP/FDP.
- 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 prospective purchasers shall be notified in writing and within Homeowner's Association documents, that several segments of road serving the Application Property as shown on the CDP/FDP will be private and the responsibility for maintenance will rest with the Homeowner's Association.
- e. With regard to road and sidewalk improvements along existing 5<sup>th</sup> Place:
  - i. Prior to the issuance of the first building permit, 5<sup>th</sup> Place as it exists north of the Application Property shall be improved with new pavement within the existing 50 foot right of way and open to traffic as shown on Sheet 6 of the CDP/FDP contingent upon granting of all necessary easement for grading, utilities, etc. at no cost or at appraised cost to the Applicant.
  - ii. Prior to the bond release on the public road extension of 5<sup>th</sup> Place within the Application Property, a sidewalk will be constructed within the existing 50

foot right of way as shown on Sheet 6 of the CDP/FDP contingent upon granting of all necessary easements for grading, utilities, etc. at no cost or at appraised cost to the Applicant.

Applicant shall make all reasonable efforts to acquire the property necessary for the reconstruction of existing 5<sup>th</sup> Place as shown on the CDP/FDP. In the event the Applicant is not able to acquire the right-of-way and associated utility and construction easements necessary for the 5<sup>th</sup> Place construction, Applicant shall submit a written request to Fairfax County to acquire the right-of-way and associated utility and construction easements by means of its condemnation powers. In conjunction with such request, the Applicant shall forward to the appropriate County agency: (1) plat, plans and profiles showing the necessary right-of-way and/or easements to be acquired; (2) an appraisal, prepared by an independent appraiser approved by the County, of the value of the property to be acquired and of all damages, if any, to the residue; (3) a sixty (60) year title search certificate of the property to be acquired; and (4) cash in an amount equal to the appraised value of the property and of all damages to the residue. In the event the owner of the property is awarded more than the appraised value of the property and of the damages to the residue in a condemnation suit, the amount of the award in excess of cash amount shall be paid to the County by the Applicant within fifteen (15) calendar days of said award. It is understood that all other costs incurred by the County in acquiring the property shall be paid to the County by the Applicant upon demand. Prior to and during the contemplated condemnation proceedings described above, the Applicant, its successors and assigns, shall be permitted to submit, process and receive approval of subdivision plat(s) or site plan(s) and development permits for other portions of the Application Property as described herein. If the County cannot obtain necessary easements, or chooses not to utilize its power of eminent domain to do so, the Applicant shall undertake any road/sidewalk improvements for which easements are not necessary.

- f. Prior to the issuance of the first building permit, the Applicant shall construct a 20-foot wide ditch section roadway within the existing right of way of Dixon Street along the Application Property's Dixon Street frontage.
- g. Prior to the issuance of the first building permit, the Applicant shall construct 5<sup>th</sup> Place (base paving) from Lorton Road through the Property subject to RZ 2000-MV-045 to the improved 5<sup>th</sup> Place roadway section within Shirley Acres.
- h. All driveways on lots shall be a minimum length of 18 feet measured from the front edge of the garage to the inside edge of the sidewalk.
- i. All public streets will be constructed with 5-foot sidewalks, and all private street segments will be constructed with 4-foot sidewalks, as generally shown on the

CDP/FDP.

- j. The Applicant shall design a driveway turnaround that will serve Lots 200 and 203, as illustrated on the attached Exhibit A.

**5. LANDSCAPING AND AMENITIES**

- a. The Applicant shall provide landscaping as generally shown on Sheet 4 of the CDP/FDP landscaping plan, in coordination with the Urban Forestry Division, subject to final engineering and placement of utilities as approved by DPWES.
- b. Street trees (2 ½ to 3 inches in caliper) consisting of small, medium and/or large deciduous trees will be provided as generally shown on the landscape plan, subject to driveway location, streetlights, and placement of utilities. The exact location and type of other trees/shrubs shown on the landscape plan will be determined at the time of subdivision plan approval but will be in substantial accord with that shown, subject to necessary grading and utility placement.
- c. In order to restore a natural appearance to the SWM pond, a landscape plan shall be submitted as part of the first submission of the subdivision plat showing extensive landscaping in all possible planting areas of the pond, in keeping with the plant policies of DPWES as determined by the Urban Forestry Division with approval by the Director, DPWES.
- d. Applicant shall plant supplemental trees and/or shrubs and plants along Dixon Street between the AT&T easement and the tree save area as generally shown on the landscape plan on Sheet 4 of the CDP/FDP, in coordination with the Urban Forester.
- e. The deciduous trees shown in the rear yards of the 36 ft. x 100 ft. and 42 ft. x 100 ft. lots shall be small to medium sized deciduous trees having a caliper of 2 to 3 inches. The evergreen trees shall have a planting height of 6 to 8 feet.
- f. The rear yards of single family detached lots which abut other rear yards shall be planted with landscaping with a minimum growth height of 6 feet and a minimum height of 3 feet 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. Park/recreation areas shall be provided as generally shown on the CDP/FDP. Recreational facilities shall include a playground and two tot lots as shown on Sheets 2 and 3 on the CDP/FDP. Tot lot equipment shall be provided from the following categories: swings, slides, crawl tubes, age appropriate climbing and fitness/activity apparatus.

- b. Trail connections shall be made through the open space/EQC area of the Application Property as generally shown on the CDP/FDP.
- c. The Applicant shall contribute \$500 per unit, excluding ADU units, to the cost of construction of the pool and bath house approved with RZ 2000-MV-045, and provided pursuant to the provisions of Article 16-404 of the Ordinance for the use and enjoyment by the residents of this development and other residents as may become members of the same Homeowner's Association. The contribution shall be made on a per unit basis and shall be paid to the Application Property's HOA upon issuance of each RUP. When submitting requests for credit for recreation facilities under this paragraph, the Applicant shall coordinate its request with the request of the Applicant in RZ 2000-MV-045, so that DPWES can review a combined request for credit for the facilities where both developments are entitled to a credit. All credit requests shall be accompanied by the documentation required by DPWES in its administration of the park contribution.
- d. In the event that the sum of the facilities noted in a., b., and c. above 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. Variations in architectural features such as porches, stoops, elevations, fenestration, trim, shutters, and garage door treatments, and variable building setbacks shall be implemented along individual streets as a means of creating visually appealing and varied streetscape views.
- c. In the event end units are located in a manner, which results in the side of units facing the public street, a minimum of fifty-percent (50%) of the side facade of each such unit 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.

**8. TREE PRESERVATION**

- a. Trees will be preserved in the tree save area in the northern portion of the Application Property subject to:
  - i. A 15 foot clearing and grading area between proposed lots and the tree save area; and
  - ii. A planting area 12 feet in depth running parallel to the existing AT&T easement, as generally shown on the CDP/FDP.
- b. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the related subdivision plat submission. The plan shall be reviewed by the Urban Forestry Division (UFD) and approved by the Director, DPWES. The certified arborist responsible for preparation of the tree preservation plan shall be referred to as the "Project Arborist." The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread, and condition rating percentage of all trees twelve (12) inches in diameter or greater within fifteen (15) feet of the tree preservation side of the limits of clearing and grading on the Application Property, as reflected on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the 9<sup>th</sup> edition of The Guide for Plant Appraisal. Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities should include, crown pruning, root pruning, mulching, fertilization, and tree protection fencing as outlined in paragraph 8.c. below.
- c. 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 and in coordination with 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.
- d. 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) and subject to extension of sanitary sewer per Fairfax County Plan #9101-P1-02. 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, and clearing and grading as shown on the CDP/FDP, Archaeology Activities, and subject to the necessary installation of utilities as described above.

- e. Prior to the issuance of the first building permit, Applicant shall remove debris and trash within the RPA and tree preservation areas in a manner that minimizes the impact on trees within the areas in coordination with the Urban Forestry Division.
- f. Prior to any clearing or grading on the site, the limits of the EQC and wetlands protected from 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. HOMEOWNER'S ASSOCIATION**

The Applicant shall incorporate the Application Property into one Community Association in coordination with the property that is subject to RZ/FDP 2000 MV-045 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 open space and recreational facilities that are contributed to, pursuant to Paragraph 6. (c) above. If the Application Property is not incorporated into the same Association subject to RZ 2000-MV-045, 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.

## **10. ENVIRONMENTAL**

- a. In order to reduce interior noise to a level of approximately Ldn 45 dBA, units within a highway noise impact zone of Interstate 95 of Ldn 65-70 dBA (2,000 feet from the centerline of I-95) 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 Ldn 65 dBA or above. If glazing constitutes more than 20 percent of an exposed facade, then the glazing should 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 Ldn 65 dBA, a 6-foot high solid fence shall be constructed along the rear lot lines of lots 56, 57, 58, 59, 201, 202, and 203, to the east of the four ADU units, and along the eastern portion of the rear yards of lots 44, 45, 55 and 191.
  - 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. 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.

## 11. STORMWATER MANAGEMENT (SWM)

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.

## 12. OTHER

- a. A contribution of \$550 per unit, excluding ADU units, shall be made to a specific fund designated for the Lorton Road Fund for Lorton Area road improvements. Per unit contribution will be paid at the time of issuance of individual building permits.
- b. A contribution of \$1,200 per unit, approved in RZ 2000-MV-057, excluding ADU units, shall be made to the Board for a specific fund designated for schools with \$800

Proffers

RZ 2001-MV-039

PCA 2000-MV-057

Page 9

of the per unit contribution shall be 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 contribution will be paid at the time of issuance of individual building permits. A contribution of \$2,000 per unit will be made for single family detached lots approved per RZ 2001-MV-039. A total of \$1,300 of the per unit contribution shall be allocated to predevelopment costs, and \$700 of the per unit contribution allocated for the new Lorton Station Elementary School to be built.

- c. A covenant shall be recorded 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. This covenant 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 and shall run to the benefit of the Homeowner's Association and the Fairfax County Board of Supervisors. 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 initial 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 facility located south of the Application Property) and the methane gas pipeline within Dixon Street right-of-way and the potential future westward extension of the public road to Furnace Road by others per the approved Comprehensive Plan 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. All single family detached units will be constructed with 2-car garages.

**13. PARK DEDICATION**

Subsequent to recordation of necessary easements and installation of any utility crossings, subject to paragraph 8.d. above, Applicant shall dedicate and convey in fee simple to the Board the EQC open space portion of the Application Property as shown on the CDP/FDP.

**14. SUCCESSORS AND ASSIGNS**

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

**15. LORTON VALLEY SOUTH SEWER CONTRIBUTION**

Upon completion of the Shirley Acres Sanitary Sewer Extension & Improvement Project by Fairfax County, the Applicant will provide for the payment of remaining Availability Fees or an amount of money equivalent to the fee where it has already been paid, to eligible homeowners within the Shirley Acres Sanitary Sewer Extension & Improvement District.

Homeowners will be eligible if:

- i. The property owner owns a R-1 zoned lot which is occupied at the time of the Application Property's rezoning approval; and
- ii. No other provisions have been made by Fairfax County or others to pay the Availability Fee or excuse payment of the fee; and
- iii. An agreement is signed by the property owner confirming that the property owner's land has not been subdivided or is not the subject of a rezoning request.

**16. 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.

**17. AFFORDABLE DWELLING UNITS**

Six affordable dwelling units shown on the CDP/FDP as single-family attached units shall be provided in the location generally conforming to the footprints and locations of the six units shown on the CDP/FDP.

**18. 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.

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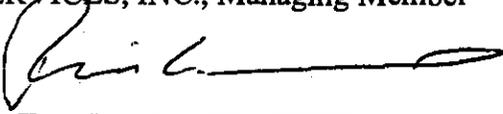
Proffers  
RZ 2001-MV-039  
PCA2000-MV-057

APPLICANT/OWNER OF  
TAX MAP 107-3 ((1)), PARCEL 13 pt.

LORTON VALLEY, L.C.

by: KSI SERVICES, INC., Managing Member

By: \_\_\_\_\_

  
Richard W. Hausler, President

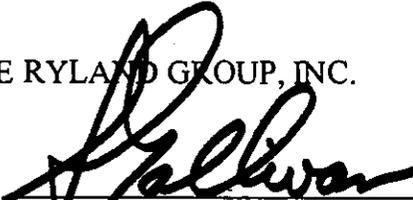
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Proffers  
RZ 2001-MV-039  
PCA2000-MV-057

CONTRACT PURCHASER OF  
TAX MAP 107-3 ((1)) PARCEL 13 pt.

THE RYLAND GROUP, INC.

By:



Scott C. Gallivan  
Washington Division President

SIGNATURES CONTINUE NEXT PAGE

Proffers  
RZ 2001-MV-039  
PCA2000-MV-057

OWNER OF TAX MAP 107-3 ((1)), PARCELS  
13 pt., 14, 16

SCC LORTON SOUTH, LLC

By: SCC-CANYON, LLC, Managing Member

By:

A handwritten signature in black ink, appearing to read 'M. Leigh Austin', is written over a horizontal line.

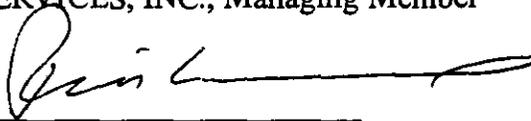
M. Leigh Austin, President

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Proffers  
RZ 2001-MV-039  
PCA2000-MV-057

TITLE OWNER  
TAX MAP 107-3 ((1)), PARCEL 15

LORTON VALLEY EAST, L.C.  
by: KSI SERVICES, INC., Managing Member

By:   
\_\_\_\_\_

Richard W. Hausler, President

END SIGNATURES