

PROFFERS

RZ 2000-PR-064

September 19, 2001

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950 as amended, S & R, Developers, Inc., their successors and assigns, and owners for themselves, their successors and assigns (hereinafter referred to as the "Applicant"), in RZ 2000-PR-064, filed for property identified on Fairfax County Tax Map as 48-1-1-70 (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property from the R- 1 District to the PDH-2 District.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN

- a. Subject to the provisions of Section 16-203 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Conceptual/Final Development Plan (CDP/FDP), consisting of four (4) sheets, prepared by christopher consultants Ltd., dated November 22, 2000, and revised September 19, 2001. The development shall consist of a maximum of three single family detached units. The dwelling on lot 1 shall not have direct access to Sutton Road.
- b. The illustrative architectural renderings as shown on Sheet 4 of the CDP/FDP are provided to illustrate the design intent of the proposed units. The building elevations shall be generally consistent in terms of character and quality with the illustrations. The materials on the exteriors of the front and the sides of the units will consist of either brick, stucco, stone, Hardiplank or a combination thereof except that the unit on Lot 1 shall face Sutton Road and have the same material on the sides as on the front. Vinyl or aluminum siding shall not be used on the exterior of the units.
- c. 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 and total open space provided, as shown on the CDP/FDP. The Applicant may make minor lot location modifications as referenced in Note number 24 on the CDP/FDP, as long as minimum yards and setbacks as shown on sheet 1 of the CDP/FDP are met. None of the lots shall provide for walkout basements. The driveways serving Lots 1-3 shall have a minimum length of 20 feet.

2. TRANSPORTATION

- a. At the time of subdivision plan review, or on demand of VDOT or Fairfax County, which first occurs, the Applicant shall dedicate at no cost in fee simple to the Board of Supervisors, the right of way located generally parallel to Sutton Road and identified as "proposed dedication" on the CDP/FDP.
- b. In conjunction with the appropriate subdivision review process, private streets and common areas shall be dedicated to the homeowners association. Prior to entering into a contract of sale, prospective initial purchasers of houses shall be notified in writing by the Applicant of the maintenance responsibility of the private street and open space area by the Homeowner's Association and shall acknowledge receipt of this information in writing. The Applicant shall include within the Homeowner's Association documents the maintenance responsibility of the Private Street and open space by the Homeowner's Association. Each deed of conveyance shall expressly contain these disclosures. Prior to conveying ownership of Private Street and common areas to the HOA, the Applicant shall establish and fund an initial escrow in the amount of \$ 1,000 for the purpose of maintenance of Private Street.

Any conversion of garages that will preclude the parking of vehicles within garages is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of homeowners association (HOA), which shall be established, and the Board of Supervisor. Prospective initial purchasers shall be advised of this use restriction at the time of entering into a contract of sale and the restrictions shall be included in the HOA documents.

- c. All private streets shall be constructed pursuant to PFM section standards as to the thickness for public subdivision streets.
- d. Trail requirements that apply to the subject property shall be determined by DPWES at time of site plan review. The Applicant shall comply with the determination.

3. RECREATION

- a. At the time of subdivision plat approval, Applicant shall contribute the sum of \$ 955 per unit to the Fairfax County Park Authority for development or maintenance of recreation facilities in Nottoway Park.

4. ENVIRONMENTAL

- a. The Applicant shall provide BMPs through the protection of open spaces, as approved by DPWES. Applicant shall request the DPWES to grant a waiver of the requirements to construct a SWM Pond. If the waiver request is denied by DPWES, the Applicant will submit an application for Proffer Condition Amendment and CDP/FDP Amendment which may result in the loss of lots. Storm Drainage shall be designed such that there is no increase in storm water runoff on to adjacent properties, (Tax Map # 48-1-1-69A,69B,69C& 69D) to the north and (Tax Map # 48-1-1-77) to the south, from the subject property. If the drainage outfall on Sutton Road is not approved by DPWES and VDOT, the Applicant will submit an application for a Proffer Condition Amendment.
- b. All homes on the Property 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 gas or electric energy systems as may be applicable.

5. LANDSCAPING AND OPEN SPACE

- a. Street trees, peripheral and interior landscaping shall be provided by the Applicant generally as shown on the CDP/FD. The proposed landscaping trees on the northern and the southern boundaries of the property shall be 6'-8' Austrian Pines, Japanese Pines or Norway Spruce. Notwithstanding what is shown on the CDP/FDP, the trees will be spaced 15' o/c. The exact location of the proposed planting may be modified as necessary by the Urban Forester, DPWES for the installation of utilities. The installation of utilities shall be done in the least disruptive manner as determined by the Urban Forestry DPWES.

6. TREE SAVE AND 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 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 1/2 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 applicant shall retain the services of a certified arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the preconstruction meeting. Before or during preconstruction meeting, the applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative and the developer's certified arborist to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. At that time additional trees on the site may be identified for preservation, if possible, given the final location of houses and driveways.
- c. Tree protection fencing used on this site shall consist of four foot high, 14 gauge welded wire attached to 6 foot steel posts, driven 18 inches into the ground and placed no further than 10 feet apart, erected at the limits of clearing and grading.
- d. The limits of clearing and grading shown on the CDP/FDP and required pursuant to these proffers shall be considered final limits and shall be strictly adhered to.
- e. Conservation Easements shall be provided in those areas labeled as "Undisturbed open space" on the CDP/FDP within the common space area depicted on the CDP/FDP. The purpose of the Easements shall be to conserve and preserve the natural vegetation located outside the limits of clearing and grading as shown on the CDP/FDP to provide water quality improvements and BMP credits. In the Easement, no live trees shall be cut down or otherwise removed, except that the removal of dead, diseased, damaged or other hazardous trees, shrubs or vines may be permitted. No structures shall be constructed within the Easements. The restriction associated with the Easement shall be clearly identified and defined in the HOA documents in a form approved by the Office of County Attorney, Prospective initial purchasers' shall be advised of these Easements. The Easements provided for the protection of the conservation area in HOA open space shall run to the benefit of Fairfax County and shall be recorded in the land records and shall be in a form approved by the County Attorney.

7. HOUSING

- a. At the time of subdivision plat approval, the Applicant shall contribute one Half of one percent of the projected sales price of the new homes to the Housing Trust Fund. The final amount of such contribution shall be determined by the Applicant in consultation with the staff of the Department of Housing and Community Development.

8. TEMPORARY SIGNS

- a. 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.

9. TREE REPLACEMENT

- a. Any existing tree/trees shown to be saved on CDP/FDP that must be removed or does not survive construction shall be replaced with landscaped tree/trees of a species, size, and number to be determined by the Urban Forestry Division.
- b. After the first submission review of the proffered tree preservation plan, a replacement value shall be assigned to all trees to be preserved, 12 inches or greater in diameter, within 20 feet of the limits of clearing and grading as shown on the CDP/FDP. 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 letter of credit shall be subject to approval by the County Attorney. The total amount of the cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated tree, but shall not exceed \$ 5,000.

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.

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 two years from the date of release of the project's conservation escrow, or sooner if approved by the urban Forestry Division.

10. SCHOOL CONTRIBUTION

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- a. At the time of subdivision plat approval, Applicant shall contribute the sum of \$ 1,000 to Oakton High School for constructions or improvements.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

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APPLICANT/CONTRACT PURCHASER OF
Tax Map 48-1-1-70

S & R DEVELOPERS, INC.

By

Name:

Title:

Shabir Poonawala
President

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THE ESTATE OF ALRIC L. NEWMAN

By: 

TAMRAH H. ROBINSON, Personal Representative

(Executrix) and Sole Heir to the Estate of

Alric L. Newman

PLANNING COMMISSION APPROVED FDP DEVELOPMENT CONDITIONS

FDP 2000-PR-064

September 20, 2001

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2000-PR-064 from the R-1 District to the PDH-2 District for single-family residential development located at Tax Map 48-1 ((1)) 70, 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 Sutton Road Property which consists of four sheets and prepared by Christopher Consultants revised to September 19, 2001.
2. BMP requirements shall be met through the preservation of open space, as determined by DPWES.
3. Drainage improvements along Sutton Road shall be accomplished entirely within the VDOT right-of-way without trespassing onto adjacent properties, unless permission to do so has been granted by the property owner.

