

RZ 2001-MV-030

February 18, 2001

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 2001-MV-030 and FDP 2001-MV-030 filed for property identified as Tax Map 110-1 ((1)) parcel 2 (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-5, CRD 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 4 sheets dated May 9, 2001 and revised through February 4, 2002.

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 internal lot lines of the proposed lots at the time of Subdivision Plan submission based upon final house locations and building footprints provided such changes are in accordance with the FDP, and do not increase the number of units or decrease the amount of open space, minimum building and peripheral setbacks, access or parking spaces, without requiring approval of an amended FDP.

3. Construction of Private Streets and Provision of Sidewalks:

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

4. Inter-parcel Access:

The applicant shall construct the site access/inter-parcel access and record same in the land records of Fairfax County as a public access easement to permit ingress/egress as depicted on the CDP/FDP sheet 2 of 4. Such access shall be a private road and therefore maintenance of said inter-parcel access roadway will be the responsibility of the Homeowners association as are other private streets within the development. Such maintenance responsibility shall be disclosed to all property purchasers in accordance with Proffer #3.

5. Richmond Highway Dedication:

The applicant shall dedicate to the Board of Supervisors in fee simple 75 feet from centerline across the property and Richmond Highway frontage at time of subdivision review or upon demand by Fairfax County or VDOT, whichever occurs first. The applicant proffers to escrow funds for widening the Richmond Highway frontage of this application for 180 feet.

6. 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.

7. Noise Attenuation:

7-1) In order to reduce interior noise to a level of approximately DNL 45 dBA within a highway noise impact zone of DNL 70-75 dBA (lots 1-2 and 23-25) the units shall be constructed with the following acoustical attributes:

A) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.

B). Doors and windows shall have a laboratory STC rating of at least 37 unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitute more than 20% of an exposed façade, then the windows should have an STC rating of at least 45.

C) All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

In order to reduce interior noise to a level of approximately DNL 45 dBA, units within the DNL 65-70 dBA highway noise impact zone (lots 3-7 and 20-22) shall be constructed with the following acoustical treatment measures:

- a. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- b. Doors and glazing shall have a laboratory STC rating of at least 28 unless windows constitute more than 20% of an exposed façade, then the windows should have a STC rating of at least 39.
- c. All surfaces shall be sealed and caulked in accordance with the methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

7-2) In order to reduce exterior noise to 65 dBA LDN the applicant shall construct a fence along Richmond Highway which will have no gaps or openings other than those shown on the CDP/FDP for noise mitigation. The noise fence will be extended down to lots 20 and 21 as deemed necessary based upon the applicant conducting a noise study in order to reduce exterior noise levels to 65 dBA and the applicant will increase the height of the fence as necessary to no more than 8 feet.

7-3) The applicant reserves the right to pursue other methods of mitigating highway noise impacts that can be demonstrated through an independent noise study as reviewed and approved by DPWES, that these methods will be effective in reducing interior levels to 45 dBA Ldn or less.

8. Landscaping/Tree Save:

A) Landscaping will be provided in substantial accordance with the CDP/FDP landscape plan dated May 9, 2001 revised through January 4, 2002 and as determined by the Urban Forester. A landscaping plan shall be submitted for review and approval to the Urban Forester at time of first submission of Subdivision Plan. All streetscape trees shall be at least 2.5 inches in caliper. All landscaping shall be planted as recommended in the landscape elements section of the Comprehensive Plan urban design recommendations for the Richmond Highway Corridor Area, specifically the sections titled "*Tree Selection Criteria, Recommended Tree Species, and Tree Plant Maintenance*" as determined by Urban Forester. All common area landscaping shall be irrigated and maintained by the Home Owners Association (HOA) and dead and dying material shall be replaced in order to keep it in good health and appearance. The landscaping responsibilities by the HOA will be addressed in the HOA documents provided prior to entering into a contract of sale.

B) The applicant shall provide off-site landscaping in Woodmill Estates on Tax Map parcels 110-1 ((25)) 14,15,16,24,25, abutting proposed lots 8 through 19. This landscaping shall consist of a single row of evergreen trees (Leland Cypress) six (6) feet in height planted at twelve feet (12) on center. The obligation to plant the off-site trees is contingent upon the owners of the above referenced parcels providing a written letter of permission of entry onto the property to plant the specified trees. The Applicant shall plant these offsite trees after final subdivision approval and before commencing clearing and grading on the application property at a time determined by the Urban Forestry

Division (UFD). If UFD determines that the proposed time for off-site planting is not an appropriate planting season, the clearing and grading on the application property may start and the off-site trees shall be planted at a later time as determined by UFD, but not to exceed six months from the commencement of clearing and grading. If a letter of permission from the above referenced owners on which the off site planting is to occur is not delivered within thirty days (30) from the Applicants written request, sent by certified mail, return receipt requested, then clearing and grading on the application property may commence without such off-site planting

The applicant shall plant evergreen shrubbery along the rear portion of lots 4-5 as depicted on the CDP/FDP as determined by the Urban Forestry Division (UFD). These trees shall be depicted with the landscaping plan submitted during subdivision plan review. The purpose of the evergreen shrubbery is to provide a visual screen and to soften impacts of the adjacent houses. Further, the Applicant will protect the Eastern Red Cedars on the western side of the property as shown on the CDP/FDP.

D) The RPA area shall be reforested in accordance with the planting scheme and "Reforestation Area" notes as shown parcel C on sheet #2 of the CDP/FDP. A reforestation plan for the resource protection area shall be submitted as part of the first subdivision plan submission, and shall be reviewed and approved by the Urban Forestry Division. The reforestation plan shall incorporate native grasses, wildflowers, regular sized B&B native deciduous and evergreen trees and whips in the plant schedule. The plan shall include but not be limited to information regarding the timing, methods of installation, and long-term maintenance commitments to ensure establishment.

9. Recreational Facilities:

The Applicant shall comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance regarding developed recreational facilities. The Applicant proffers that the expenditure for the recreational facilities shall be a minimum of \$955.00 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 and picnic tables. If the cost of the on-site recreational facilities does not equal the required \$955.00 per unit contribution, as determined by DPWES, then any remaining funds shall be provided to the Fairfax County Park Authority for the provision of recreational facilities in the immediate vicinity of this site.

10. Limits of Clearing and Grading:

A) The applicant shall generally conform to the limits of clearing and grading shown on the CDP/FDP subject to the installation of necessary sidewalks, trails and utility lines as approved by DPWES. Any street scape material, trails and utility lines that may be within areas protected by limits of clearing and grading shall be located and installed in the least disruptive manner as possible as determined by the Urban Forestry Division. A

replanting plan shall be developed and implemented, as approved by the Urban Forestry Division, for any areas within the areas protected by the limits of clearing and grading that must be disturbed.

B) In order to preserve and protect the EQC and RPA, 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 are shown on the CDP/FDP 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 and any plant material affected will be replaced.

C) Prior to any clearing and grading on site, the limits of the EQC/RPA and the wetlands protected against clearing and grading as shown on the CDP/FDP shall be fenced and flagged with 4' high 14 gauge welded wire on steel posts 10 ft. on center to prevent intrusions onto these areas. The fencing or other suitable barriers, as determined by DPWES shall remain in place during all phases of construction on the adjacent area, as determined by DPWES.

D) The Applicant shall have limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. The applicant shall walk the limits of clearing and grading with an Urban Forestry representative to determine where minor adjustments to the clearing limits to increase the survivability of trees at the edge of the limits of clearing and grading.

E) Initial purchasers of units which abut the EQC/RPA shall be advised in writing prior to entering a contract of sale of the existence of this feature and the prohibition against clearing beyond the property line or using the area as a depository for trash, lawn clippings, or other debris. The Home Owners Association documents shall contain this information.

11. 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) 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 future purchasers in the subdivision. A covenant in the 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 contract of sale, initial prospective purchasers of homes will have copies of the HOA documents outlining the responsibilities of owners regarding maintenance of open-space, recreational facilities, private streets made available to them. At closing each initial 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.

12. Affordable Dwelling Units (ADU's):

Prior to time of subdivision plan approval the applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to ½ % of the projected 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. Architecture Elevations:

The Dwelling Unit architecture shall generally conform to the illustrative architectural elevation as shown on the CDP/FDP. The side elevations that face route 1 and the private street lot numbers 1, 5, 20 & 25 shall use similar building materials as used for the front elevation. Windows treatments shall be provided on the side elevations of lots 1, 5, 6, 20 and 25 except as rendered unpractical due to noise impact determinations from Rt. 1.

14. Gate at Pond Access

At the pond access road entrance a gate shall be installed to conform with the general appearance of the fence along Richmond Highway.

15. Storm Water Pond:

The applicant will request approval from DPWES of an embankment only storm water management facility and seek all necessary and appropriate modifications and waivers from DPWES to accomplish such a facility. If such a facility is not approved, the Applicant design a conventional dry storm water pond and will plant the sides of the new facility with plantings to the maximum extent permitted in accordance with the planting policies of the County, and use best efforts to preserve quality trees in the up slope areas, as determined by the Urban Forester. The applicant may apply for a waiver if warranted.

16. School Contribution:

At the time of Final Subdivision Plan approval the applicant shall contribute \$25,000 to the Board of Supervisors for improvements to the elementary (s), intermediate or secondary school which serves this development

17. National US Army Museum at Fort Belvoir

At time of Subdivision Plan approval, a sum of \$200.00 per dwelling unit (\$5,000 Total) shall be contributed to the U.S. Army Historical Foundation for use in funding, planning and developing the National US Army Museum.

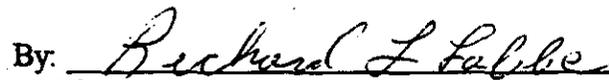
18. Successors and Assigns:

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.

CONTRACT PURCHASER, Landmark Property LLC:
CONTRACT ASIGNEE, Landmark Property LLC: Tax
Map 101-1 ((1)) parcel 2

By: 
Scott Henrick
Its: Managing Member

CONTRACT PURCHASER, Eastwood Properties: Tax
Map 101-1 ((1)) 5

By: 
Richard L. Labbe

OWNER 101-1 ((1)) Parcel 2
TALBOT FAMILY LAND TRUST

BY: Patricia S. Malone Trustee of Talbot
Patricia S. Malone Family Land Trust

Its: Trustee

**CDP DEVELOPMENT CONDITIONS
AS REVISED BY PLANNING COMMISSION
AND AS APPROVED BY BOARD OF SUPERVISORS**

RZ 2001-MV-030

FEBRUARY 19, 2002 FEBRUARY 21, 2002

If it is the intent of the Board of Supervisors to approve Rezoning Application RZ 2001-MV-030 from the R-2 District to the PDH-5 District for residential development located at Tax Map 110-1 ((1)) 2, staff recommends that the Board of Supervisors condition the approval by requiring conformance with the following development conditions:

1. The existing eastern red cedars along the western property line within Parcel "A" of the proposed development shall be preserved by the applicant as determined by the Urban Forester. The applicant shall prepare a tree preservation plan for review and approval by the Urban Forester concurrent with the first submission of subdivision plan review.
2. The applicant shall disclose to all initial purchasers of Lots 11-19 in the contract of sale, the location of the storm drain easement to be constructed within the rear yards and that such easement may limit the ability to construct patios or decks on these lots. This possible restriction shall be disclosed prior to entering into a contract of sale in the home owners association documents.
3. The applicant shall demonstrate to the satisfaction of DPWES that the exterior noise within the rear and side yards for Lots 1-7 and Lots 20-25 shall not exceed 65 dBA Ldn. If it is determined by DPWES that the noise levels in these areas exceed 65 dBA, the applicant shall take the necessary measures to reduce noise levels in these areas to 65 dBA Ldn.