

PROFFERS

RZ 2001-PR-032

STANLEY-MARTIN HOMEBUILDING, L.L.C.

March 18, 2002

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Conceptual/Final Development Plan.** Development of the property shall be in conformance with the plan entitled "Smeltzer Property Conceptual/Final Development Plan/Oakton Park" ("CDP/FDP"), prepared by The BC Consultants, Inc. (Sheets 1 through 8), revised as of February 6, 2002. Notwithstanding, the CDP/FDP is combined on one sheet, the CDP portion (Section 16-501) shall constitute the entire plan relative to the points of access, the total number of units, type of units and general location of residential lots and common open space areas and distances from peripheral lot lines. All dwelling units shall be located so as to provide a minimum distance of twelve (12) feet between each unit. No decks shall be permitted on the units on Lots 1 or 2. This prohibition as to Lots 1 and 2 shall be set forth in the protective covenants of the Homeowners' Association ("HOA") established for the community. These lots may have at-grade patios. The Applicant shall have the option to request Final Development Plan Amendments ("FDPAs") from the Planning Commission for portions of the Plan in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.
2. **Energy Saver.** 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 the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy systems, as applicable.
3. **Tree Preservation.** The Applicant shall conform to the limits of clearing and grading shown on the CDP/FDP, subject to modifications for only those necessary utilities that cannot be located elsewhere on the site, as approved by DPWES. If any trails, utility lines, or stormwater management facilities are required to be located within the area protected by the limits of clearing and grading, they shall be located and installed in the least disruptive manner feasible, considering cost and engineering, as determined by DPWES, and subject to County Urban Forester approval. Any trees which are removed in order to locate utilities, as described above, shall be replaced in accordance with Urban Forestry recommendations.

- a. **Tree Preservation Plan.** The Applicant shall retain an arborist certified by the International Society of Arboriculture 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 that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches or greater in diameter, ten (10) feet to either side of the proposed limits of clearing and grading as shown on the approved CDP/FDP. The condition analysis shall be prepared using methods outlined in the latest edition of *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.

- b. **Tree Preservation Walk-Through.** The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative and the Applicant'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. Care shall be taken during the removal of existing structures so as to minimize disturbance to adjacent trees designated for preservation. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal, at the edge of the limits of clearing and grading or within a tree preservation area, shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees, unless the Applicant's certified arborist and the Urban Forestry representative agree that use of a stump grinding machine is not required, because of the location of a stump. Trees designated to be saved that do not survive construction, shall be replaced as directed by the Urban Forestry Division.

- c. **Site Monitoring.** The Applicant's certified arborist shall monitor all construction work and tree preservation efforts in order to ensure compliance with the site plan. The monitoring schedule shall be described and detailed in the tree preservation plan. Written reports shall be submitted on a biweekly basis to the Urban Forestry Division during installation of the Phase I and II erosion and sediment controls and on a monthly basis thereafter. The reports shall document all site monitoring visits and specify any concerns associated with tree preservation issues.

- d. **Root Pruning.** Prior to the commencement of any clearing, grading or other demolition activities, the limits of clearing and grading adjacent to all tree save areas depicted on the CDP/FDP shall be root pruned to a depth of eighteen (18) inches with a trencher or vibratory plow. The Applicant's certified arborist shall verify in writing that the root pruning has taken place.
 - e. **Tree Preservation Fencing.** All areas of tree save depicted on the CDP/FDP shall be protected by tree protection fencing in the form of four (4) foot high, 14-gauge welded wire, attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart. This fencing type shall be shown on the Phase I and II erosion and sediment control sheets. The tree protection fencing shall be made clearly visible to all construction personnel, and shall be installed immediately after root pruning has taken place and prior to any clearing and grading activities on the site, including the demolition of any existing structures. The installation of tree protection fencing shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading or demolition activities, the Applicant's certified arborist shall verify in writing to DPWES that the tree protection fencing has been properly installed.
 - f. **Mulching.** Immediately after the Phase I erosion and sediment controls have been installed, all areas of tree save shall be mulched ten (10) feet inside the limits of clearing and grading with four (4) inches of shredded hardwood bark mulch or equivalent.
4. **Existing House.** The existing house shall be retained on Lot 11 as shown on the CDP/FDP. The Applicant shall also construct a garage in the area designated on the CDP/FDP. The exterior design of the garage and building materials shall be substantially in conformance with the architectural elevation attached to the CDP/FDP as Sheet 8 of 8. The Applicant shall establish a conservation easement running to the benefit of the Board of Supervisors in a form approved by the County Attorney to ensure the preservation and maintenance of the grounds and exterior appearance of the house and garage for historic and scenic purposes. The easement shall be perpetual and require the prior review and approval by the Board of Supervisors, or its designee, of any proposed changes to the exterior appearance of the house, the garage or the grounds of Lot 11, including removing existing trees or other plant materials as depicted on the CDP/FDP. Nothing within the terms of such easement shall preclude performing routine maintenance of the house and grounds, remodeling or rehabilitating interior features, connecting the house to sewer or other public utilities, removing or trimming dead or dying vegetation in accordance with accepted professional practice, or planting additional landscaping. If the house is vacated prior to conveyance or sale of the house to a third party, the Applicant shall stabilize and otherwise protect it from deterioration by weather or vandalism.

5. **Recreational Facilities.** At the time of subdivision plan approval, pursuant to Section 6-110 of the Zoning Ordinance, the Applicant shall contribute the sum of \$955 per approved dwelling unit for the total number of dwelling units on the record plat, to the Fairfax County Park Authority for use on recreational facilities in nearby Nottoway Park.
6. **Road Dedication/Construction.** At the time of subdivision plan approval, or upon demand by Fairfax County, whichever occurs first, right-of-way along Courthouse Road necessary for public street purposes and as shown on the CDP/FDP shall be dedicated and conveyed to the Board of Supervisors in fee simple. The Applicant shall also construct road widening with curb gutter and sidewalk along the Courthouse Road frontage of the Subject Property as shown on the CDP/FDP. Construction activities on-site will be limited to 7:00 a.m. to 9:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturdays.
7. **Stormwater Management Pond Landscaping.** In order to restore a natural appearance to the proposed stormwater management pond, the landscape plan submitted as part of the first submission of the subdivision plan shall show the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond, in keeping with the planting policies of DPWES and the Applicant shall install said landscaping in accordance with said plan, subject to Urban Forestry approval. In the event final engineering requires an enlargement of the pond, any such enlargement shall take place on the southern end of the pond so as to not further encroach toward Lots 10 and 11.
8. **Homeowners' Association.** The Applicant shall establish a Homeowners' Association for the proposed development to own, manage and maintain the open space areas and all other community-owned land and improvements. The restrictions on the open space/tree save areas shall be disclosed in the Homeowners' Association documents. The protective covenants of the Homeowners' Association shall require that all perimeter privacy fences be similar as to design, height and materials, as set forth in the Homeowners' Association covenants. The maximum height of such fences shall not exceed forty-two (42) inches. The protective covenants of the Homeowners' Association shall also prohibit the installation of outbuildings or sheds on the lots within the subdivision.
9. **Public Street.** The street within this project shall be a public street.
10. **Street Lighting.** Subject to VDOT approval, street lighting installed by the Applicant shall feature full cut-off shielding, and shall be directed inward and downward to prevent this lighting from creating glare onto off-site properties.
11. **Affordable Housing Contribution.** At the time of subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to

be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.

12. **Architectural Treatment.** The building elevations for the proposed dwelling units shall be generally in character with the illustrative elevations shown on Sheet 7 of the CDP/FDP, as determined by DPWES. The exterior facades of the new homes constructed on the site shall be covered with brick, stone, or cementitious siding (e.g., HardiPlank by James Hardie Building Products), or a combination thereof. In addition, the side exterior façade of the unit on Lot 3 facing Courthouse Road, the side exterior façade of the unit on Lot 11 facing Courthouse Road, the rear exterior façade of the unit on Lot 1 and the side exterior facade of the unit on Lot 1 closest to the project entrance, and the rear exterior façade of the unit on Lot 2 shall consist of the same building materials and shall have a consistent pattern of architectural detailing and percentage of building materials as the front facades on each of these units. A four (4) foot high "estate" fence shall be constructed along the Courthouse Road frontage as shown on Sheet 6 of the CDP/FDP. This fence shall be constructed in accordance with the design detail entitled "PVC Estate Fence" shown on Sheet 5 of the CDP/FDP.
13. **Density.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and density hereby reserved to be applied to the residue of the Subject Property.
14. **Drainage.** Storm drainage shall be designed such that the post-development area and volume of sheet flow runoff draining from the Applicant's site to adjacent properties (Tax Map 48-1 ((25)) Parcels 1 through 9 and Tax Map 48-1 ((3)) Parcels 3 and 4) shall not be increased over the pre-development area and volume, and further, there shall be no increase in runoff on any individual lot, as determined by DPWES in accordance with established guidelines. All runoff from the roofs of homes adjacent to Lots 1 through 9 shall be contained and directed to drain to the on-site public street. During the construction period, the Applicant shall make every reasonable effort to minimize runoff to all of these lots.
15. **Driveways.** All driveways shall be a minimum of eighteen (18) feet in length measured from the front of the garage door to the inside edge of the sidewalk.
16. **Signs.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance or 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. The Applicant shall direct its agents and employees involved in marketing and/or home sales for the property to adhere to this proffer.

17. **Supplemental Plantings On-Site.** The Applicant shall plant additional evergreen trees in the common open space area at the rear of Lots 3, 4 and 5 to provide a more effective buffer. The location and extent of these additional plantings within this area shall be determined by the Urban Forester, so as to ensure that existing vegetation within this area is not adversely affected.
18. **Supplemental Plantings Off-Site.** Prior to commencement of on-site construction, the Applicant shall install additional plantings off-site as follows:
 - a. On Tax Map 48-1 ((25)) Parcels 6, 7 and 8, additional plantings shall be installed as shown on the CDP/FDP, subject to the following conditions:
 - (1) The Applicant is granted the necessary permissions from the applicable landowners to install said plantings;
 - (2) The Applicant is also granted permission to conduct pre-installation and post-installation inspections of the retaining walls on Tax Map 48-1 ((25)) Parcels 6, 7 and 8. The pre-installation inspection will be made to determine the condition of the retaining walls prior to the installation of the off-site plantings. The post-installation inspection will be made to determine the condition of the walls after installation of the off-site plantings to determine if any damage to the walls has occurred as a result of this installation; and
 - (3) In the event that said off-site retaining walls are damaged as a result of the Applicant's installation of these off-site plantings, the Applicant shall promptly repair said damage in a good and workmanlike manner.
 - b. On Tax Map 48-1((3)) Parcel 3, the Applicant shall install additional plantings if the Urban Forester determines that one or more of the three (3) existing trees on the common property line (15" tree, 36" Poplar and 27" Twin Poplar as shown on the CDP/FDP) are dying and need to be removed. In that event, the Applicant shall remove the dying trees and stumps. In addition, the Applicant shall plant on Parcel 3, in locations selected by the owner of Parcel 3 and in consultation with the Urban Forester, three (3) additional deciduous trees (Oak and Red Maple, minimum caliper two and one-half (2.5) inches) and three (3) additional evergreen trees suitable for shade locations (as suggested by the Urban Forester, minimum height eight (8) feet) on Parcel 3, subject to receiving the necessary permission from the owner of Parcel 3. The timing and season of planting will be based on the suggestion of the Urban Forester, but no later than the end of 2003.

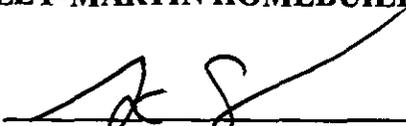
19. **School Contribution.** At the time of subdivision plan approval, the Applicant shall donate new computer equipment to Jackson Middle School ("the School") as follows: five (5) computer workstations, at a cost not to exceed \$1,440 per workstation; each workstation shall include equipment acceptable to the School Principal and compatible with the School's computer system.
20. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGE]

**APPLICANT/CONTRACT PURCHASER OF
TAX MAP 48-1 ((1)) PARCEL 113-B; OWNER
TAX MAP 48-1 ((1)) PARCEL 113-A**

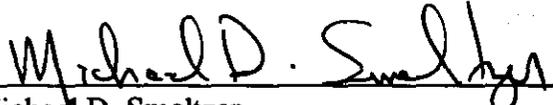
STANLEY-MARTIN HOMEBUILDING, L.L.C.

By:



Steven B. Alloy, Managing Member

OWNERS OF TAX MAP 48-1 ((1)) PARCEL 113-B



Michael D. Smeltzer



Linna M. Smeltzer

FDP DEVELOPMENT CONDITIONS

FDP 2001-PR-032

February 6, 2002

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2001-PR-032 from the R-1 District to the PDH-4 District for single-family residential development located at Tax Map 48-1 ((1)) 113A and 113B, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. The azaleas and rhododendrons located on the west side of the existing dwelling to be preserved shall be protected during construction activities on that lot, as recommended by the Urban Forester.
2. No modifications to the SWM pond which require additional clearing and grading adjacent to proposed Lots 10 and 11 or existing Parcels 1, 2, and 3 to the east, or which decrease the amount of landscaping from that depicted along Courthouse Road shall be permitted without approval of a FDPA.
3. A dense evergreen screen planted with Arborvitae, Foster's Holly, Eastern Red Cedar, or an equivalent approved by the Urban Forester shall be provided in the 5 foot wide area located between the proposed SWM pond maintenance road and the eastern property line to provide year round screening of the pond, subject to Urban Forestry approval.
4. At the time of each subdivision plan submission, a copy of the subdivision plan shall be submitted to the Providence District Planning Commissioner for review and comment.