

PROFFERS
PULTE HOME CORPORATION – MULFORD PROPERTY
RZ 2001-SU-051

MAY 7, 2002

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 65-2 ((1)) 13 (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-8 and WS Zoning Districts.

1. CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN (“CDP/FDP”)

Development of the Application Property shall be in substantial conformance with the CDP/FDP prepared by BC Consultants, dated August 2001, as revised through March 5, 2002.

2. MINOR MODIFICATION

Pursuant to Paragraph 4 of Section 16-403 and Section 18-204 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 minor adjustments to the internal lot lines of the proposed subdivision at time of site plan submission based on final house locations and building footprints as shown on the CDP/FDP.

3. TRANSPORTATION

- a. At time of record plat 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 (40) feet from centerline on Old Centreville Road. Dedication along Old Centreville Road matches the right-of-way that exists on abutting properties.
- b. The Applicant shall construct the equivalent of \$85,164.00 of road and frontage improvements in the vicinity of Old Centreville Road Park. The Applicant shall not be responsible for obtaining permits or preparing construction plans for these improvements, as it is their understanding that permits and construction plans shall be obtained and provided by the Fairfax County Park Authority. If all construction plans are finalized and all permits are obtained and presented to the Applicant no later than March 1, 2003, the Applicant will begin construction no later than July 1,

2003. If so, the frontage improvements shall be completed prior to the issuance of the 20th RUP for the Application Property. However, if all construction plans are not finalized and all permits are not obtained and presented to the Applicant no later than March 1, 2003, the Applicant shall, at its discretion, either complete frontage improvements prior to the issuance of the 35th RUP or provide \$85,164.00 to the fund for road improvements in the vicinity of the Application Property.

- c. If the frontage and road improvements referenced in Proffer 2b do not equal \$85,164.00 (which shall include all staff, equipment and material costs of providing the improvements), as determined by DPWES, the Applicant shall contribute the balance of the funds to Fairfax County for road improvements in the vicinity of the Application Property.
- d. The Applicant shall construct a 5-foot wide sidewalk on both sides of the private street within the Application Property.
- e. The Applicant shall construct a 5-foot wide sidewalk along the Application Property's Old Centreville Road frontage, and shall complete the off-site sidewalk connections north and south of the Application Property to PFM standards.

4. TREE PRESERVATION

- a. The limits of clearing and grading shall be honored in accordance with the approved CDP/FDP. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division. 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 as shown on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. 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 the Urban Forestry Division of 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 site plan approval, the replacement value of all trees to be preserved including the sixteen (16) inch caliper holly tree located between proposed Units 35 and 36 as indicated on the CDP/FDP, and those others that are 12 inches or greater in diameter within 20 feet of the limits of clearing and grading as shown on the CDP/FDP, shall be determined. 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 Branch. At the time of site 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 Division.
- d. Applicant shall conform to the limits of clearing and grading shown on the 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 shall be reforested, in consultation with the Urban Forester.

5. **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 and Singleton's Grove Homeowners' Associations, 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.
- 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.

6. HOUSING TRUST FUND CONTRIBUTION

At time of site 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.

7. TREE DISPOSAL

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

8. 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).
- 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.

9. STORM WATER MANAGEMENT

- a. If waivers are not granted to permit off-site storm water management and/or Best Management Practices off-site, the Applicant shall provide a storm water management pond and/or Best Management Practices on the Application Property in the approximate location as shown on the CDP/FDP, subject to DPWES approval.
- b. Any on-site storm water management facilities shall be landscaped to maximum extent feasible, as determined by the Urban Forestry Division, pursuant to the policy adopted by the Board of Supervisors, using native or other desirable species.
- 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.

10. ENERGY SAVER PROGRAM

All homes on the Application Property shall comply with the Council of American Building Officials ("CABO") Model Energy Code for energy efficient homes or its equivalent for either electric or gas energy systems, as applicable.

11. BUILDING STANDARDS AND SIGNAGE

- a. All homes shall be a minimum of 23 feet wide, and shall be constructed of brick and siding, with the front facades being primarily brick, exclusive of trim, windows and doors. Side facades of homes facing Old Centreville Road shall be a minimum of eighty (80) percent brick, exclusive of windows, trim and doors.
- b. All homes shall contain a two (2)-car garage, and each lot shall contain a driveway that measures a minimum of eighteen (18) feet in length from the garage to the sidewalk.
- c. Although no barrier is required, the Applicant shall replace the existing fences along the northern, eastern and southern boundaries of the Application Property with a new six (6) foot high board-on-board fence, if the abutting property owners give the Applicant permission to enter their property and replace the fence, prior to site plan approval. Maintenance of this fence after replacement shall continue to be the responsibility of the abutting property owners.
- 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 marketing and sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or home sales for the Property to adhere to this Proffer.

- e. All street lighting shall be shielded and fully cut-off.

12. RECREATIONAL FACILITIES

- a. 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 a community gathering area with a gazebo and outdoor seating, and a tot-lot. 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 Old Centreville Road Park, which is a nearby park.
- b. In addition to Proffer 11a above, the Applicant shall provide \$20,000.00 to the Fairfax County Park Authority toward recreational facilities in Old Centreville Road Park at the time of Site Plan approval if, after site plan review, forty-seven (47) dwelling units are approved for construction on the Application Property. In lieu of a cash contribution, the Applicant may provide the equivalent of \$20,000.00 in construction within Old Centreville Road Park, as determined by DPWES and in coordination with the Sully Magisterial District Supervisor, prior to final bond release.

13. HOMEOWNERS ASSOCIATION

- a. The Applicant shall establish a homeowners' association for the proposed development to own, manage and maintain open space areas, private streets and recreational equipment. The Homeowners Association's responsibilities regarding maintenance of private sidewalks, private streets, recreational equipment and landscaping shall be disclosed to all prospective homeowners in a disclosure memorandum at the time of contract execution and shall be included in the Homeowners' Association documents.
- b. A declaration stating that the resident's of the development approved pursuant to this rezoning action are not members of the Little Rocky Run Homeowners' Association and do not have that Association's permission to use any open space areas or recreational facilities owned by that Association shall be included in the Homeowners' Association documents.

- c. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). 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 homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Initial purchasers shall be advised of the use restriction prior to entering into contract of sale.

14. HERITAGE RESOURCES

The Applicant shall provide access to the Application Property so that Fairfax County Archeological Services may conduct additional investigations for a period of two (2) months from the date of site plan approval provided that said investigations shall not interfere with the proposed construction and development schedule of the Application Property or affect the number of lots or lot layout as shown on the CDP/FDP. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and Archeological Services. Further, Archeological Services shall be permitted monitor clearing and initial cutting of the Application Property, at no expense to the Applicant, provided that such monitoring does not interfere with the construction and development schedule of the Application Property or affect the number of lots or lot layout as shown on the CDP/FDP.

15. SUCCESSORS AND ASSIGNS

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

16. COUNTERPARTS

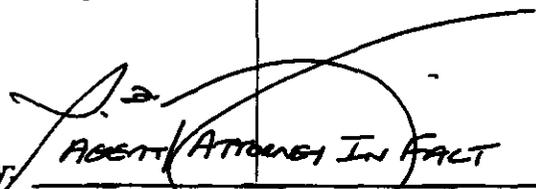
These proffers may be executed in one or more counterparts, each of one when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same instrument.

[SIGNATURE PAGES BEGIN ON FOLLOWING PAGE]

Signature Page
RZ 2001-SU-051

Applicant/Contract Purchaser of Tax Map 65-2 ((1)) 13

Pulte Home Corporation


By: AGENT/ATTORNEY IN FACT
Name: Stanley F. Settle, Jr.
Title: Agent/Attorney-in-Fact

Signature Page
RZ 2001-SU-051

Preston Mulford (nmi)
Owner of Tax Map 65-2 ((1)) 13

By: Stanley F. Settle, Jr., ATTORNEY-IN-FACT FOR
Stanley F. Settle, Jr., Attorney-in-Fact for Preston Mulford (nmi)
PRESTON MULFORD (nmi)

Signature Page
RZ 2001-SU-051

Beverly M. Mulford
Owner of Tax Map 65-2 ((1)) 13

By: Stanley F. Settle, Jr. ATTORNEY IN FACT FOR
Stanley F. Settle, Jr., Attorney-in-Fact for Beverly M. Mulford
BEVERLY M. MULFORD

[SIGNATURE PAGES END]

