

RZ 2002-MV-007

Proffers
November 19, 2002

PROFFERS

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PALMER PROPERTY

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Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950 edition as amended, upon approval by the Board of Supervisors of rezoning application RZ 2002-MV-007 to rezone the property identified on the Fairfax County Tax Map as 98-1((1))50 (hereinafter referred to as the "subject property") from the R-1 District to the R-3 District, to permit the development of 4 single-family detached units in accordance with the provisions of the R-3 District and the Generalized Development Plan dated November 16, 2001, as revised through September 3, 2002, prepared by BC Consultants, the undersigned hereby proffers the following conditions:

1. **Definition.** Each reference to "applicant" in this proffer will include within its meaning, and will be binding upon, applicant, owner and/or their successor(s) in interest and/or the developer(s) of the subject property or any portion thereof.
2. **Generalized Development Plan.** Development of the subject property will be in substantial conformance with the Generalized Development Plan (GDP), which consists of two (2) sheets, prepared by BC Consultants, and dated November 16, 2001, as revised through September 3, 2002 ("GDP"). Applicant shall not receive building permits for any dwellings on the subject property until the earlier to occur of (i) such time as access to Pohick Road via the internal street Covington Woods Court has been constructed (i.e.,

curb, gutter, base rock and the first coat of asphalt have been installed) by the adjacent property owner, or (ii) the subject property and the adjacent Covington Woods property comes into common ownership or control.

3. Minor Modifications. Minor Modification(s) shall be permitted pursuant to Section 18-204 of the Fairfax County Zoning Ordinance. The applicant shall have the right to make minor adjustments to the building footprints and parking configuration, provided such changes are in substantial conformance with the GDP and do not increase the number of units or decrease the amount of open space, peripheral setbacks, access or parking spaces.
4. Homeowners Association. The applicant shall request that the proposed development be incorporated into the adjacent Covington Woods Homeowners' Association ("CWHO A"). In the event that the proposed development is not incorporated into the CWHO A, the Applicant will establish a separate Homeowners' Association ("HOA") for the proposed development to own, manage, and maintain the open space and all other community-owned land and improvements. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the applicant of the maintenance responsibilities of the subject property and said purchasers shall be required to acknowledge receipt of this information in writing; this information shall be included in the HOA documents.
5. Dwelling Units. The number of dwelling units shall not exceed four detached single-family dwellings. Each dwelling unit shall have a two-car garage and minimum driveway lengths of 18 feet. Any conversion of garages that precludes 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 a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the HOA, which shall be established, and the Board of Supervisors. Prospective purchasers shall be advised of the use restriction, in writing, prior to entering into a contract of sale; this information shall be included in the HOA documents.

6. Tree Preservation Area. The applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision 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 that includes the location, species, size, crown, spread and condition rating percentage of all trees 12 inches in diameter and greater 20 feet to either side of the limits of clearing and grading shown on the GDP and the interior boundary of Parcel A. The tree survey shall also include areas of clearing and grading not shown on the GDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. The condition analysis ratings 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 that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

The Tree Preservation Plan (TPP) shall provide relevant information on individual trees and specify protection measures and activities to enhance their survivability for the future project. The TPP shall be prepared by a certified arborist or landscape architect in consultation with the design professional preparing the full plan set information.

7. Root Pruning and Mulching. The applicant agrees to root prune, mulch, and/or provide the tree protection fencing as provided in paragraph 9 hereof for the following: the area depicted as Parcel A on the GDP. All three treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the Urban Forestry Division, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist.
- Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root-pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 4 inches extending 10 feet inside the undisturbed area without the

use of motorized equipment.

- Mulch shall consist of a type approved by the certified arborist.

An Urban Forestry Division representative shall be informed when all root pruning and tree protection fence installation is complete.

8. Tree Preservation Walk-Through. The applicant shall retain the services of a certified arborist or landscape architect, and 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's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forestry Division representative 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. 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.
9. Tree Protection Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing consisting of four foot high, orange plastic fence attached to 6 foot steel posts driven 18 inches into the ground

and placed no further than 6 feet apart, shall be erected at the limits of clearing and grading as shown on the demolition and phase I & II erosion and sediment control sheets in all areas. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing, except super silt fence, shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading, or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

10. Storm Water Management; Dry Pond Facility Management. Unless waived or modified by the Department of Public Works and Environment Services ("DPW&ES"), Storm Water Management ("SWM") and Best Management Practices ("BMP") for the subject property shall be provided in accordance with the requirements of the Public Facilities Manual and the Chesapeake Bay Preservation Ordinance, as approved by DPW&ES. Should the waivers of the SWM requirement and modification of BMP requirements sought by the Applicant in general note #5 of the GDP be denied, the Applicant shall construct the on-site storm water management facility as depicted in Parcel A of the GDP as "Potential S.W.M. If Needed". In order to restore a natural appearance to the proposed stormwater management pond in Parcel A, a landscape plan shall be submitted as part of the first submission of the subdivision plan. The plan shall show the restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of

Fairfax County.

11. Conservation Area. Parcel A will be preserved as undisturbed open space and no structures or fencing will be constructed on it except in the event the waivers requested in general note #5 are denied and the Applicant is required to construct an on-site storm water management facility.
12. Limits of Clearing and Grading. The applicant shall conform to the limits of clearing and grading as shown on the GDP subject to the installation of necessary utilities, as determined necessary by the Director of DPWES. If it is determined necessary to install utilities outside of the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the Urban Forestry Division. A replanting plan shall be developed and implemented, subject to approval by the Urban Forestry Division, for any areas outside the limits of clearing and grading that must be disturbed.
13. Snow Fencing. Applicant will provide snow fencing around home sites under construction.
14. Schools Contribution. The Applicant shall contribute the sum of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) per unit approved on the final subdivision plan. These funds are to be applied towards design and engineering costs for a future southern Fairfax County high school; provided, however, should the need for funds for such designated purpose no longer exist at the time the funds are payable by Applicant, these funds shall be applied toward the replacement/capital repairs or facility expansion needs of

Newington Forest Elementary School. Said contribution shall be made payable to the Fairfax County Board of Supervisors at the time of subdivision plan approval for the subject Property.

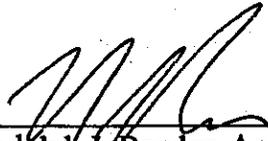
15. FCPA Contribution. At the time of subdivision plan approval, the Applicant will contribute to the Fairfax County Park Authority Two Thousand Six Hundred Twenty Four Dollars (\$2,624.00), to establish neighborhood park facilities in the vicinity of the subject property.
16. Housing Trust Fund Contribution. The Applicant will contribute to the Fairfax County Housing Trust Fund an amount equal to 0.5% of the sales value of all of the units approved on the subject property, as determined by the Department of Housing and Community Development. Said contribution shall be made payable to the Fairfax County Board of Supervisors prior to subdivision plan approval.
17. Signs. 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 sale of homes on the Property.
18. Utilities. All utilities on the subject property will be installed underground.
19. Off-Site Improvements. The Applicant shall provide a four foot wide sidewalk on the north side of Covington Court from the intersection of Covington Woods Court and Pohick Road to the terminus of the sidewalk to be provided by the adjoining property

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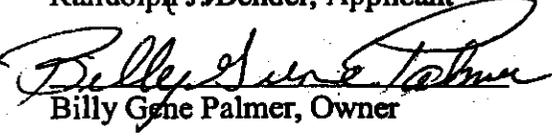
owner, generally located at Lot 9 of Covington Woods Subdivision, subject to the grant(s) of necessary permission and/or easement(s) to accommodate the improvements. The Applicant shall make reasonable effort to obtain such consent and will provide documentation to the County demonstrating such efforts in the event such consent is withheld

November 21, 2002



Randolph J. Bender, Applicant

November 22, 2002



Billy Gene Palmer, Owner

