

## PROFFERS

### RZ 2002-SU-011 EASTWOOD PROPERTIES, INC.

September 19, 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. **Generalized Development Plan.** Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance development of the property shall be in substantial conformance with the plan entitled "Generalized Development Plan, Leroy Harris Property ("GDP")," consisting of three (3) sheets prepared by Charles P. Johnson & Associates, Inc., revised as of September 12, 2002.
2. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the CABO Model Energy 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 homes, as applicable.
3. **Tree Preservation.** 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 that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater twenty (20) feet to either side of the limits of clearing and grading shown on the GDP for the areas shown to be protected by the limits of clearing and grading. 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 eighth 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 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. The Applicant shall advise the President of Willoughby Woods Homeowners Association of the date and time of said walk and invite Willoughby Woods to have a representative in attendance. 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.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing 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, shall be erected at the limits of clearing and grading as shown on the demolition, and Phase I and II erosion and sediment control sheets for the areas shown to be protected by the limits of clearing and grading.

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 (3) 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 properly installed.

4. **Parcel A.** No fences or structures (other than sanitary sewer facilities, storm sewer, waterlines, stormwater management and related facilities or other utilities where requested by a utility provider) shall be allowed in any part of Parcel A. Those areas of Parcel A which are shown to be protected by the limits of clearing and grading shall be preserved as "undisturbed open space," in that no clearing will occur in these areas, except for the removal of dead, dying, and diseased trees or noxious or invasive vegetation.
5. **Road Dedication.** At the time of recordation of the record plat for the subdivision, or upon demand by Fairfax County, whichever occurs first, right-of-way for the public street extension of Nicholas Schar Way, necessary for public street purposes and as shown on the GDP, shall be dedicated and conveyed to the Board in fee simple.
6. **Pipe Stem.** The portion of the pipe stem driveway serving as maintenance access to the stormwater management pond shall be constructed in accordance with Section 6-1306.3F(1) of the Public Facilities Manual.

7. **Density Credit.** 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.
8. **Homeowners' Association.** The Applicant shall file and pursue an application for incorporation of the Subject Property into the Willoughby Woods Homeowners Association, so that the Subject Property can be governed by the by-laws and covenants of Willoughby Woods, including, without limitation, the provisions of pro rata maintenance contributions for the common facilities of Willoughby Woods and the Subject Property and architectural review of dwellings to ensure that the dwellings on the Subject Property are compatible with the existing dwellings in Willoughby Woods (The maintenance costs for the pipe stem driveway west of the maintenance access road will not be a part of the maintenance costs for common facilities. Maintenance costs for the pipe stem driveway west of the maintenance road shall be shared by the owners of Lots 1 and 2.). In the event that the Applicant's application for incorporation into Willoughby Woods is not accepted, the Applicant shall establish a Homeowners Association ("HOA") for the proposed development to own, manage and maintain the open space areas and all other community owned land and improvements.
9. **Stormwater Management Pond.**
  - a. At the time of subdivision plan review and approval, the Applicant shall diligently pursue the approval of the necessary waivers or modifications of the applicable stormwater management requirements, to allow a full waiver or the use of a Facility of smaller size than that identified on Sheet 2 of the GDP. To further this objective, the Applicant reserves the right to employ "rain gardens" or similar alternative measures. In the event a rain garden or similar measure is employed, it shall be maintained by the HOA in accordance with Attachment A and such maintenance responsibilities shall be disclosed in the HOA documents. Should DPWES fail to approve the necessary permits and/or waivers or modifications, the Applicant reserves the right to provide a dry pond in substantial conformance with that shown on Sheet 2 of the GDP. In order to restore a natural appearance to the proposed stormwater management facility, a landscape plan shall be submitted as part of the first submission of the subdivision plan. The plan shall show the restrictive planting easement for the facility and extensive landscaping in all areas outside of that restrictive planting easement, in accordance with the planting policies of Fairfax County. The homeowners association established pursuant to Proffer No. 8, above, shall be responsible for maintaining this landscaping.
  - b. Stormwater management will be provided in accordance with the requirements of the Public Facilities Manual, as determined by DPWES, unless otherwise waived or modified. Any required stormwater management facility shall be

landscaped to the maximum extent possible and in accordance with the planting policies of the County.

- c. The location and configuration of the stormwater management facility shown on Sheet 2 of the GDP is conceptual and subject to change based on final engineering, so long as such changes do not encroach into designated tree save areas. In the event that the final design and engineering indicates that the applicable water quality/quantity requirements can be met without the use of a dry pond or if the required stormwater management pond requires less land area than that shown on the GDP, or if the stormwater management requirements are waived or modified pursuant to Proffer 7b those areas not required in connection with the stormwater pond or its associated grading shall be examined jointly by the Applicant and the County Urban Forester for feasibility as additional tree preservation areas. If found to be viable for tree preservation purposes, these areas shall be protected in accordance with the requirements of these proffers.
10. **Landscaping.** Landscaping for the site shall be in substantial conformance with the landscaping shown on the Sheet 2 of the GDP, subject to minor adjustments approved by DPWES.
  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. **Blasting.** If blasting is required, and before any blasting occurs on the Subject Property, the Applicant shall insure that the Fairfax County Fire Marshal has reviewed the blasting plans, and all safety recommendations of the Fire Marshall shall be implemented. In addition, the Applicant shall:
    - a. Retain a professional consultant to perform a pre-blast survey of each house, to the extent that any of these structures are located within one hundred fifty (150) feet of the blast site.
    - b. Require his consultant to request access to houses, that are located within said 150 foot range, 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.
    - c. Require his consultant to place seismographic instruments near these structures prior to blasting if permitted by property owners, to monitor the shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their requests.

- d. Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his consultant to respond expeditiously by meeting at the site of the alleged damage to confer with the property owner. The Applicant will require subcontractors to maintain adequate liability insurance to the extent necessary to cover the costs of repairing any damages to structures which are directly attributable to the blasting activity.
13. **Lot 3.** The dwelling on Lot 3 shall be located a minimum of twenty (20) feet from the southern boundary line of the Subject Property.
14. **Geotechnical Analysis.** If required by DPWES, the Applicant shall provide a geotechnical analysis of the site, and implement the requirements of DPWES.
15. **Park Authority.** At the time of subdivision plan approval, the Applicant shall contribute \$4,775 to the Fairfax County Park Authority to be utilized for recreational facilities in the Park Authority's Old Centreville Road Park.
16. **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. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the Subject Property to adhere to this proffer.
17. **Centreville Area Road Fund Contribution.** At the time of subdivision plan approval, the Applicant shall contribute One Thousand Eight Hundred Twelve Dollars and No Cents (\$1,812.00) per dwelling unit shown on said approved subdivision plan to the Board. Said funds shall be utilized as determined by the Board for road improvements on Mt. Olive Road. Said contribution amount shall be adjusted by the increase to the Construction Cost Index from the *Engineering News Record* from the date of Board approval of this rezoning application to the date of subdivision plan approval.
18. **Fence.** Subject to receiving permission from the property owners of Tax Map 65-1 ((1)) Parcels 30 and 31 for access through their properties for fence construction purposes, the Applicant shall construct a forty-two (42) inch high chain link fence on said parcels. Said fence shall be installed so as to be parallel with and adjacent to the property line of the Subject Property. The Applicant will not be required to maintain the fence after installation is completed.

[SIGNATURE ON THE FOLLOWING PAGE]

Attachment

APPLICANT/OWNER OF TAX MAP 65-3 ((1))  
PARCEL 7

EASTWOOD PROPERTIES, INC.

By:

  
Richard L. Labbe, President

SPECIFICATIONS FOR MAINTENANCE OF RAIN GARDENS

Description	Method	Frequency	Time of the year
<b>SOIL</b>			
Inspect and Repair Erosion	Visual	Monthly	Monthly
<b>ORGANIC LAYER</b>			
Remulch any void areas	By hand	Whenever needed	Whenever needed
Remove previous mulch layer before applying new layer (optional)	By hand	Once every two to three years	Spring
Any additional mulch added (optional)	By hand	Once a year	Spring
<b>PLANTS</b>			
Removal and replacement of all dead and diseased vegetation considered beyond treatment	See planting specifications	Twice a year	3/15 to 4/30 and 10/1 to 11/30
Treat all diseased trees and shrubs	Mechanical or by hand	N/A	Varies, depends on insect or disease infestation
Watering of plant material shall take place at the end of each day for fourteen consecutive days after planting has been completed	By hand	Immediately after completion of project	N/A
Replace stakes after one year	By hand	Once a year	Only remove stakes in the spring
Replace any deficient stakes or wires	By hand	N/A	Whenever needed
Check for accumulated sediments	Visual	Monthly	Monthly