

PROFFERS
RZ/FDP 2002-MV037
NATIONAL CAPITAL LAND & DEVELOPMENT, INC./
MEEKER PROPERTY
DATED: July 29, 2003

Pursuant to Section 15.2-2308 (A) of the Code of Virginia, 1950, as amended, the undersigned Applicant/Owners for both themselves and their successors and assigns (hereinafter collectively "Applicant") for property identified as Tax Map 107-2((1))-11; 108-1((1))-43; 108-1((1))-45A (hereinafter referred to as the "Application Property") hereby agree to the following Proffers, provided the Board of Supervisors approves the rezoning to the PDH-5 District and the Conceptual and Final Development Plan identified below for the Application Property.

CONCEPTUAL/ FINAL DEVELOPMENT PLAN:

1. Development of the Application Property shall be in substantial conformance with the Conceptual and Final Development Plan prepared by Bowman Consulting Group dated May 29, 2002 and revised through May 23, 2003 ("CDP/FDP").
2. Street lights shall be located as depicted on Sheet 2 of 7 of the CDP/FDP; designed to meet the specifications shown as the "Lighting Detail" on Sheet 5 of 7 of the CDP/FDP; and shall be fully shielded and directed downward and will be in conformance with provisions of Paragraph 9, Article 14 of the Zoning Ordinance.

MINOR MODIFICATIONS:

3. Pursuant to Paragraph 4 of Section 16-403 of the Fairfax County Zoning Ordinance, minor modifications from the approved CDP/FDP may be permitted as determined by the Zoning Administrator.
4. The Applicant reserves the right to make minor adjustments to the internal lot lines of the proposed subdivision at the time of subdivision plan submission based on final house locations and building footprints, without reducing peripheral setbacks, distance between proposed units, open space, or tree preservation areas, if such are in substantial conformance with the CDP/FDP. Applicant will commit to the typical lot layouts illustrated on Sheet 2 of the CDP/FDP and a minimum of ten feet between units.
5. Applicant shall construct single-family detached homes in substantial conformance with architectural attachments as Sheet 5 of 7 to the CDP/FDP. The exterior shall be constructed of brick and siding of similar quality to the homes in Lorton Station constructed by Ryan.

DENSITY CREDIT:

6. The Applicant hereby reserves density credit as may be permitted by the Zoning Ordinance for all eligible dedications described herein or as may be reasonably

required by Fairfax County or other state or local government organizations at the time of subdivision plan approval.

HOMEOWNERS ASSOCIATION:

7. The Applicant shall prepare all the necessary documentation to form a homeowners association ("HOA") which HOA will eventually be controlled by the Homeowners as provided by state law. The HOA documents prepared by Applicant shall disclose that the commercial development to the west known as Tax Maps 107-2((1))-12 and 107-2((1))-13 (hereinafter "Nursery") will not be a part of this development but that the HOA can be expanded into the existing Nursery should the Nursery decide to develop at a residential density as called for in the Comprehensive Plan. The Nursery will be added to this HOA should the owners thereof choose to do so at any time in the future upon agreeing to allow the aforesaid Covenants, Conditions and Restrictions to be recorded against the title of said Tax Maps in the land records of Fairfax County. If, per Proffer 10, the HOA is merged into Lorton Station, the expansion would not occur except upon agreement of Lorton Station.

The HOA documents will contain the following: (i) a covenant which shall be recorded providing the garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles); (ii) a covenant that no deck or patio shall be closer than five (5) feet to the rear lot line. The aforesaid covenants 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, to be established, and the Fairfax County Board of Supervisors. Prospective purchasers shall be advised in writing of the use restrictions prior to entering into a contract of sale.

8. The record subdivision plat shall contain easements between adjacent homeowners to permit one another to use temporarily each other's property to conduct house maintenance such as painting, roof repairs, siding replacement, etc., provided that all property shall be reasonably restored to its prior condition.

9. Prior to approval of the record subdivision plat for development lots within the Application Property, the Applicant shall submit the documents establishing the HOA to the County of Fairfax (hereinafter "County") for review and approval. The HOAs shall be established of record prior to approval of the record subdivision plat for developmental lots within the Application Property.

10. Applicant will also make a good faith effort to have Lorton Station, the development to the north and west, incorporate this approved development into their existing HOA.

LIMITS OF CLEARING AND GRADING:

11. The Applicant shall strictly conform to the limits of clearing and grading as shown on the CDP/FDP. Placement and positioning of all utilities shall be done in the least disruptive manner possible, as determined by the Director of Department of Public Works and Environmental Services ("DPWES"). If it is determined necessary to install

utilities outside the limits of clearing and grading, they shall be located in the least disruptive manner possible. In the event that tree preservation areas shown to be protected are damaged, a tree replacement plan shall be submitted for review and approval by the Urban Forester.

TREE PRESERVATION, LANDSCAPING AND OPEN SPACE:

12. (a). 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 and reviewed and approved by the Urban Forestry Division. The certified arborist responsible for preparation of the tree preservation plan shall be referred to as the Project Arborist. The tree preservation plan shall consist of a tree survey which includes the location, species, size, crown spread and condition rating percent of all trees ten (10) inches or greater in diameter. The area to be surveyed shall be fifteen (15) feet on the inside to the limits of clearing and grading reflected for all tree preservation areas on the approved CDP/FDP. Individual trees or grouping of trees to be preserved as reflected on the approved CDP/FDP shall be included. The condition analysis shall be prepared using methods outlined in the latest addition of the Guide Plant Appraisal. Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities should include, but not be limited to: crown pruning; root pruning; mulching and fertilization.

b. All trees to be preserved in the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall conform to the following standard:

Four foot high fourteen/gage welded wire attached to six foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart. The tree protection fencing shall be made clearly visible to all personnel. Fencing shall be installed prior to the performance of any clearing and grading activities on site. All tree preservation activities including the installation of tree protection fencing shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing and grading activities on the site the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

c. All open space areas shown on the CDP/FDP shall be dedicated and conveyed to the HOA and shall remain undisturbed before, during and after development activity except for necessary crossings for placement of utilities as approved by DPWES, and/or for the installation of recreation facilities, and/or for grading related activity.

d. In order to restore a natural appearance to the proposed stormwater management pond, a landscape plan shall be submitted as part of the first submission of the site or subdivision plan. The plan shall show the restrictive planting easement for the

pond, and extensive landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County.

e. All utilities on the property shall be located so as to not interfere with the landscaping shown on the proffered CDP/FDP, subject to the approval of the Urban Forestry Division.

AFFORDABLE DWELLING UNITS:

13. Applicant hereby proffers a contribution to the Housing Trust Fund a sum equal to .5% of the value of all of the residential units approved on the Application Property. This contribution shall be payable prior to issuance of the first building permit. The .5 % shall be calculated based upon the aggregate sale prices of all the residential units subject to the contribution as if all of those units were sold at the time of the issuance of the first building permit. The aforesaid projected sale price shall be determined by the Department of Housing and Community Development, in consultation with the Applicant and the DPWES.

ENERGY CONSERVATION:

14. 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 DPWES for either electric or gas energy homes, as applicable. All homes on the Application Property will meet the thermal guidelines of the Virginia Power Energy Saver Program for energy efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems.

OFF-SITE CONTRIBUTIONS:

15. The Applicant shall make a one-time contribution of \$955.00 to the Fairfax County Park Authority per residential unit for outdoor recreation facilities to serve the development population. For twenty-six (26) residential units, this contribution is \$24,830.00. Should the Property not be incorporated into the Lorton Station per Proffer Number 10, Applicant further proffers to provide an additional \$19,179.68 to the Park Authority (or \$737.68/unit) for recreation facility development at one of the Park Authority sites located within the service area of this development.

PUBLIC SCHOOLS:

16. The Applicant shall make a one-time monetary "Public Schools" contribution of \$7,500.00 per student to the Fairfax County Board of Supervisors for the projected increase in students attributed to the approved rezoning. Said contributions shall be used for capital improvement to Gunston Elementary School, Hayfield Middle School and Hayfield High School. Pursuant to the analysis of the number of perspective new students generated by this rezoning, there will be an increase of ten (10) students or \$75,000.00. This contribution shall be made at subdivision plan approval.

ROAD DEDICATION AND CONSTRUCTION:

17. Subject to Virginia Department of Transportation ("VDOT") and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of not to exceed sixty-eight (68) feet (VDOT may request less upon final design) from the existing center line of Pohick Road along the Application Property's frontage as shown on the CDP/FDP. Dedication shall be made at time of recordation of the record subdivision plat or upon demand of VDOT and/or from Fairfax County, whichever occurs first. At the same time, Applicant shall escrow funds sufficient to construct a one-half (1/2) section along its Pohick Road frontage not to exceed \$20,000.00. Applicant shall relocate and underground all utilities along the Application Property frontage outside of the ultimate edge of payment of the one half (1/2) section in conjunction with the development of the Property.

18. Applicant shall construct to VDOT standards a left turn lane off of Pohick Road and onto the "Public Street" on the site, if required by VDOT.

19. Applicant shall make a one-time contribution to Lorton Road Fund in the amount of \$550.00 a unit. This amount will be paid prior to issuance of the Building Permit for each unit. The contribution will total \$14,300.00.

20. Applicant shall escrow eight-thousand dollars (\$8,000.00) for removal of paving and restoration of areas covered by the cul-de-sac on Baker's Drive should Bakers Drive be extended as a public street in the future. If future development proffers that Baker's Drive will remain a private street and/or pays for the removal of the cul-de-sac and restoration of the paved area, then the escrowed funds shall be returned to Applicant.

SIGNS

21. 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 any builder or at the Applicant's or any builder's direction to assist in the initial marketing and sale of homes on the subject Property. Furthermore, the Applicant and every builder shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.

22. Applicant has shown two (2) trail connections, only one (1) of which may be constructed. Alternative A along Pohick Road connects with the public sidewalks in Lorton Station at Lorton Station Road. Alternative B connects with the sidewalks in Washington Square. Both are dependent upon easements from the respective owners of the common space along which the trails transverse. The Applicant shall make a good faith effort to obtain these easements and shall document to the satisfaction of DPWES that these efforts were made. Should Applicant receive easements from either or both owners, Applicant will construct the one with approval or both trails if owners of both give approval. Should neither owner of the area through which the trails transverse

offsite grant easements to Applicant, Applicant shall only be required to construct Alternative A to its northern property line.

23. In order to maximize the preservation of trees along the western boundary of the property the Applicant shall request a reduction in the minimum required radius of the proposed cul-de-sac at the time of subdivision plan review, subject to approval of VDOT, DPWES and the Fire Marshall. If a reduction is granted, the area which is not required for construction of the street shall be designated as a tree preservation area. If a reduction is not granted, the Applicant shall construct the cul-de-sac as shown on the CDP/FDP.

PRIVATE STREET

24. The Applicant will construct all private streets on Application Property in conformance with the Public Facilities Manual standard TS-5A with a minimum thirty-eight (38) foot easement and minimum twenty-four (24) foot pavement width. Said private streets shall be constructed with materials and depth of pavement pursuant to the provisions of Section 7-0502 of the Public Facilities Manual. Sidewalks will be provided on the private streets as shown on the CDP/FDP. The HOA will be responsible for maintenance, snow removal and general upkeep of the private street and the emergency turn around adjacent to units 15 and 22. Prospective purchasers shall be advised in writing prior to signing the contract of sale of the duty of the HOA to maintain the private streets and emergency turn around.

OWNERS

By: William G. Meeker
William G. Meeker Tax Maps 107-2((1))-11; and
108-1((1))-43; 108-1((1))-45A

By: Rosemary Meeker
Rosemary Meeker Tax Maps 107-2((1))-11; and
108-1((1))-43; 108-1((1))-45A

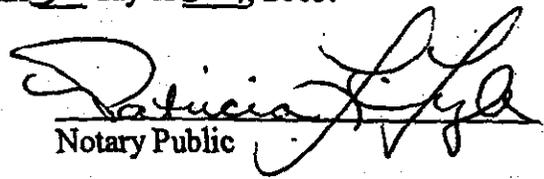
NATIONAL CAPITAL LAND & DEVELOPMENT, INC.

By: F. Gary Garczynski
F. Gary Garczynski, President

STATE OF VA)
) ss:
COUNTY OF P. Wm)

On this 31 day of July, 2002, before me, a Notary Public in and for said jurisdiction, personally appeared William G. Meeker, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that HE executed the same for the purposes therein contained.

Given under my hand and official seal, this 31st day of July, 2003.

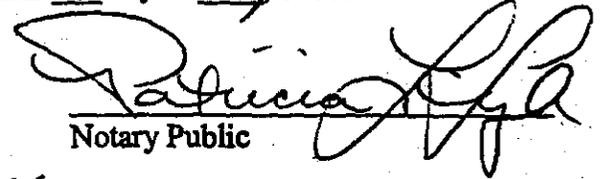

Notary Public

My Commission Expires: 9-30-04

STATE OF VA)
) ss:
COUNTY OF P. Wm)

On this 31st day of July, 2002, before me, a Notary Public in and for said jurisdiction, personally appeared Rosemary Meeker, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that SHE executed the same for the purposes therein contained.

Given under my hand and official seal, this 31st day of July, 2003.

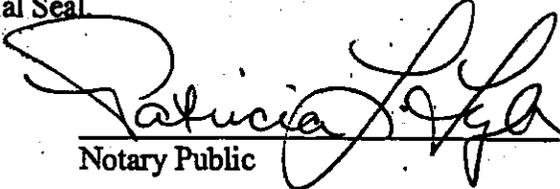

Notary Public

My Commission Expires: 9-30-04

STATE OF VA)
) In Wit:
COUNTY OF Pr. Wm)

I HEREBY CERTIFY, that on this ^{5th} 3 day of July, 2003, before me, the undersigned Notary Public of said State, personally appeared F. Gary Garczynski, who acknowledged himself to be the President of National Capital Land & Development, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized President of said corporation.

WITNESS my hand and Notarial Seal



Notary Public

My Commission Expires: 9-30-04

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